# Fishing for Change in EU Governance

*Excursions into the Evolution of the Common Fisheries Policy*

Hegland, Troels Jacob

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INNOVATIVE FISHERIES MANAGEMENT
- an Aalborg University Research Centre

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**Troels Jacob Hegland**

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Thesis supervisor:
**Jesper Raakjær, PhD, DSc**
Professor and Head of Centre
Innovative Fisheries Management, Aalborg University

Thesis co-supervisor:
**Staffan Zetterholm, PhD**
Jean Monnet Professor Emeritus
Aalborg University

**Innovative Fisheries Management**
**– an Aalborg University Research Centre**
Department of Development and Planning
Aalborg University

# Outline of the Thesis

# Preface

I have been fascinated by the sea and the creatures that live in it since I was small. But besides recreational fishing when vacationing in the family cottage in Norway, I have never had any particular contact with fishing in practice—least of all commercial fishing. It was therefore not written in the cards that fisheries would one day come to play such a large part of my career. However, sometimes the world works in mysterious ways…

The present PhD thesis represents the latest step in an academic career, which has so far turned out to have a significant focus on issues of European fisheries management and European Union (EU) policy-making. Whereas the interest for European Union policy-making resonates with my studies at the Master Programme of European Studies at the Department of International Affairs at Aalborg University from 2002 to 2004, fisheries management first caught my attention during an internship at the European Anglers' Alliance in Brussels in 2003 at a time where the outcome of the 2002 reform of the Common Fisheries Policy (CFP) of the EU was heavily debated among fisheries stakeholders in Brussels and across Europe.

After having returned to Denmark and finalised my Master thesis on the subject of the reform of the CFP at European Studies in May 2004, I became employed at the Institute for Fisheries Management and Coastal Community Development (IFM), an independent, Danish research foundation, from November the same year. Later I became employed at Aalborg University when activities in IFM were transferred to a newly established research centre, Innovative Fisheries Management—an Aalborg University Research Centre (IFM-AAU), in 2007. At Aalborg University I became enrolled as a PhD student in 2008, and the last three years I have been working on the thesis that I am now submitting.

At this point I would like to thank all those without whose assistance, encouragement, understanding and patience, this PhD thesis would not have materialised. First, I would like to express my gratitude to my two supervisors, Jesper Raakjær and Staffan Zetterholm. Without your immense support—in particular in the latest year, I severely doubt that I would have made it this far. Thank you for being at my side!

I am of course also particularly indebted to those with whom I have co-authored the papers constituting Part 2 of the thesis: Stig S. Gezelius (Norwegian Agricultural Economics Research Institute), Hilary Palevsky (University of Washington), Douglas C. Wilson (IFM-AAU), Jesper Raakjær (IFM-AAU) and Kristen Ounanian (IFM-AAU / University of Rhode Island). Of these, who have all been a great help in my PhD work, a special credit has to go to the two latter, Kristen and Jesper, who have been my closest colleagues in the little more than three years where I have been enrolled as a PhD. Thank you for putting up with me!

However, my academic support team extends much wider than supervisors and co-authors, and I would therefore also like to extend my gratitude to former and present colleagues at IFM and IFM-AAU, as well as to external colleagues, which I have been collaborating with on different research projects. None mentioned, none forgotten.

Finally, I remain forever grateful to those who have perhaps had to put up with the most when it comes to the frustrations, which are definitely also part of being enrolled as a PhD: my wife, Lotte, my son, Noah, and my mother, Lissy. Thank you for standing behind me all the way! As I hand in this thesis, my thoughts also go to my late father. I hope that you are somewhere rejoicing and watching over me…

Troels J. Hegland
Aalborg, January 2012

# About the Structure of the Thesis

There are within my area of research in principle at least two distinct approaches (incl. an unlimited number of variations and combinations) to writing a PhD thesis: the monograph approach and the article-collection approach. The typical 'traditional' PhD thesis is presented in the form of a monograph starting with an introduction outlining the topic and research questions followed by a logical flow from chapter to chapter ending up in a concluding chapter summarising the findings and concluding on the research questions. The typical 'modern' PhD thesis, however, comes in the form of a collection of papers (often published in one way or the other) tied together in some way by a brief synthesis article.

Each approach has its merits. As an example, where the monograph approach might facilitate that the PhD project remains one coherent, large research endeavour, the article-collection approach might in this respect entail a risk of the PhD project becoming fragmented and divided into smaller research endeavours, which are ultimately only marginally and with difficulty tied together by the synthesis. Oppositely, where the article-collection approach might be in harmony with recent years' increased focus on (and emerging distribution of research funds based on) publications in peer reviewed outlets as well with securing on-going—broader than the supervisor(s)—peer review of parts of the PhD thesis, the monograph approach might entail a risk of not leading to publications.

For my PhD thesis I have—between the two approaches described above—decided on a variation of the article-collection approach that serious the aspiration of 'one large research endeavour', which is the hallmark of the monograph. Consequently, my PhD thesis is, as it should be evident to the reader, presented in two parts: Part 1, which in many ways follows the logic of the traditional monograph PhD thesis though in a much shorter, more condensed format of a substantial synthesis-article, supplemented by Part 2, which consists of a collection of papers dealing with the overarching theme of changes and challenges related to the way the Common Fisheries Policy of the European Union arrives at decisions and implements them.

Part 1 can be read in isolation but draws, nonetheless, on material obtained and published in the context of three distinctly different research projects, SAFMAMS, ITAC and MEFEPO. In practice this means that the bulk of empirical data-gathering were carried out in connection with the specific research projects and publications. Subsequently, the empirical materials, as well as the insights of the publications as such, are put to use in the new context of Part 1 and answers pursued therein. The three research projects together with the research techniques used in them are further introduced in an appendix placed at the end of Part 1.

The seven papers included in Part 2 of this thesis include one published journal article, three published book chapters, as well as three draft journal articles submitted for review.[*] However, the commitment to developing Part 1 with its own distinct topic has ensured that the material obtained in otherwise diverse research projects has been put to use in a joint context and contribute to academic thinking in a broader sense.

[*] The papers in Part 2 are reproductions of how they appeared when published (or when submitted) in the first instance. Consequently, in some papers invalid references can be found due to the paper being out of its original context (e.g. references to other chapters in the original volume).

# Part 1

# Moving Out, Moving Down

## - Towards new modes of governance or 'more of the same' in the Common Fisheries Policy?

# List of Contents

# Abbreviations

| | |
|---|---|
| **ACFA** | Advisory Committee on Fisheries and Aquaculture |
| **CFP** | Common Fisheries Policy |
| **Commission** | Commission of the European Communities |
| **Council** | Council of the European Union |
| **DG MARE** | Directorate-General for Maritime Affairs and Fisheries |
| **EBAFM** | eco-system based approach to fisheries management |
| **EC** | European Community |
| **ECJ** | Court of Justice of the European Communities |
| **EEZ** | exclusive economic zone |
| **EFZ** | exclusive fishing zone |
| **EFEP** | European Fisheries Ecosystem Plan |
| **EU** | European Union |
| **HCR** | harvest control rule |
| **ICES** | International Council for the Exploration of the Sea |
| **IFM** | Institute for Fisheries Management and Coastal Community Development |
| **IFM-AAU** | Innovative Fisheries Management - an Aalborg University Research Centre |
| **ITAC** | Implementation of TACs in the Atlantic Fisheries |
| **LME** | large marine ecosystem |
| **LTMP** | long-term management plan |
| **MEFEPO** | Making the European Ecosystem Plan Operational |
| **MSC** | Marine Stewardship Council |
| **NGO** | non-governmental organisation |
| **nm** | nautical miles |
| **OMC** | Open Method of Coordination |
| **Parliament** | European Parliament |
| **RAC** | Regional Advisory Council |
| **SAFMAMS** | Scientific Advice for Fisheries Management on Multiple Scales |
| **STECF** | Scientific, Technical and Economic Committee for Fisheries |
| **TAC** | total allowable catch |
| **UK** | United Kingdom |
| **WWF** | World Wildlife Foundation |

# 1 Introduction

Part 1 of the PhD thesis draws on insights from research carried out in the context of three different research projects and subsequently reported in seven different papers included in Part 2 of the thesis—as well as of course on a large pool of own and others' material beyond this thesis.

What constitutes the link between the different papers (and for that sake also between projects) and makes it possible actually to synthesise the research and put it to play in a joint context is the papers' common preoccupation with changes and challenges related to the way the Common Fisheries Policy (CFP) of the European Union (EU) arrives at decisions and implements them. In this regard the papers are concerned with changes that have indeed taken place throughout the history of the policy-framework, which extends back to at least 1983[1] when a full CFP for the EU fisheries sector[2] was initially adopted, as well as with changes that could potentially be made to improve the performance of the policy in the future. For a general overview of the history of the CFP, please refer to Hegland and Raakjær (2008a, Part 2:1)[3].

## *1.1 The Paradox of the Reforms of the CFP*

One of the great paradoxes of the history of the CFP is the amount of 'reform' compared to the amount of 'change'. Due, in principle, to the existence of a time-limited derogation to a general rule of equal access rights for fishing vessels from one member state in the waters of another member state contained in the basic framework regulation for the CFP, presently Council Regulation 2371/2002 (Council, 2002), the CFP is subjected to a regime of decadal reforms—basically because the derogation call for reconfirmation in order for it to be upheld. Since 1983 the policy has, consequently, undergone reform in 1992/93 (Council, 1992), in 2002/03 (Council, 2002), and the next reform is scheduled for 2012/13.

In practice this regime has by and large led to a situation where the CFP is either in the process of implementing a reform or, as is the case at the time of writing, on the way to a new reform—or in fact it might be fair to say that the CFP is continuously doing both at the same time. As an example, the latest reform (2002/03) introduced long-term management plans (LTMP) for commercially exploited fish stocks. However, developing good management plans is demanding and time-consuming and it has therefore been necessary to develop and adopt management plans for stocks in an order determined by importance and perceived emergency. As a consequence, LTMPs have not in fact been developed for all the relevant stocks yet.

Anyhow, that the CFP is continuously under reform does of course not in itself constitute a paradox; in fact looking back at the changes that has happened in the fisheries sector and the context within which it is operating, it seems quite logical to evaluate the

[1] The CFP was in its present, comprehensive form, covering conservation, markets, structures and external relations, basically completed in 1983 (Council, 1983). The first acts relating to markets and structures were, however, adopted as early as 1970 (Council, 1970a, 1970b).

[2] The 'fisheries sector' can be defined as economic sector consisting of the catching (recreational, subsistence and commercial harvesting of wild, living aquatic resources), the aquaculture and the processing sub-sectors. The catching sub-sector consists predominantly of fleets, the aquaculture sub-sector consists predominantly of rearing facilities, and the processing sector consists predominantly of factories.

[3] 'Part 2:1' indicates that the paper is included in Part 2 of the thesis as paper number 1. This will constitute the standard for referring to papers included in Part 2.

situation every once in a while and adapt the policy-framework accordingly. What does constitute a paradox, however, is the fact that over an almost 30-year period surprisingly little has apparently changed in the way the CFP arrives at decisions, implements them, as well as the nature of the interventions agreed. Although everything around it has been changing, the CFP has proved itself extremely resilient to change.

A tendency of the rhetoric surrounding reform surpassing actual results has left an impression of 'much ado about nothing' when looking back at previous reforms. The apparent 'reform-resistance' of the CFP has been the focus of and noted by several scholars (e.g. Gray and Hatchard, 2003; Hegland, 2004; Hegland and Raakjær 2008a, Part 2:1; Raakjær, 2009). Both Raakjær and Hegland provide analyses of why the CFP is resistant to reform by pointing in particular to path-dependence rooted in historical experiences, the political environment and the cleavages within it, as well as the original institutional design of the policy. Actually, to a large extent it can be argued that the CFP rests today on the same fundamental principles as it did when adopted in 1983; an impressive stability of a policy-regime, which likely would—in circumstances of good performance *vis-à-vis* objectives—attract envious eyes from other policy-domains.

Unfortunately, however, the CFP has not been performing particularly convincing and significant problems have been continuously apparent since at least the late 1980s (Hegland and Raakjær, 2008a, Part 2:1) and the results that the CFP has delivered in respect to core objectives of fisheries management have been far from impressive. Following an evaluation by Sissenwine and Symes (2007), the situation under the CFP is characterised by:

- significant overcapacity[4] in the EU member states' fishing fleets compared to available resources;
- poor profitability in large parts of the catching sub-sector;
- stocks overfished[5] more than in comparable places elsewhere in the world;
- lack of legitimacy of the management framework among fisheries sector stakeholders and conservationists alike;
- continuation of environmentally destructive practices of fishing; and
- uneven and generally poor implementation and enforcement of conservation measures.

Although the magnitude of the failure cannot exclusively be blamed on the internal properties of the policy, which arguably is operating within a particularly complicated context of 'mixed and multi-everything'[6], there seems as of today to be broad agreement

[4] Overcapacity: In the short-term, fishing capacity that exceeds the capacity required to capture and handle the allowable catch. In the long-term, fishing capacity that exceeds the level required to ensuring the sustainability of the stock and the fishery at the desired level. Fishing capacity in excess of what is required to reach the agreed catch or effort objectives materialised by agreed target reference points (shortened from glossary of the Food and Agriculture Organization of the United Nations: http://www.fao.org/fi/glossary/default.asp, accessed 6 April 2009).

[5] Overfished: A generic term used to refer to the state of a stock subject to a level of fishing effort or fishing mortality such that a reduction of effort would, in the medium term, lead to an increase in the total catch (shortened from glossary of the Food and Agriculture Organization of the United Nations: http://www.fao.org/fi/glossary/default.asp, accessed 6 April 2009).

[6] The CFP covers the waters of more than 20 coastal member states with very diverse fishing fleets; the fleets of the member states apply a multiplicity of fishing practices and gears; many of the important fisheries inside the EU are 'mixed fisheries' (i.e. fisheries where multiple species are caught at the same time), a feature that is known to be a challenge for any fisheries management system due to the inability to fully control the composition of the catch.

on the fact that the policy regime seen in isolation has functioned far from optimally over the years and that much still needs to be done (e.g. Raakjær, 2009; Sissenwine and Symes, 2007; Hegland and Raakjær, 2008a, Part 2:1; European Court of Auditors, 2007), a perspective shared by the Commission of the European Union's (Commission) own unit responsible for fisheries, the Directorate-General for Maritime Affairs and Fisheries (DG MARE), itself (Commission, 2008a; 2009).

To be fair, it has to be mentioned that the situation varies across fisheries and fleets and that the very latest years have shown improvements towards sustainable fishing[7], which may be ascribed to the results of the previous reform. The main message of the latest Green Paper[8] was, nevertheless, that the overall objectives agreed in 2002 had not been met to a satisfactory degree and that this was not likely to happen without resorting to *"whole-scale and fundamental"* (Commission, 2009, p. 4) reform in 2012/2013.

However, while fully subscribing to the fact that changes to the CFP over the years has been modest; it would on the other hand be unreasonable to claim that the CFP of 1983 is the same as the CFP of 2011. Changes have been made and, maybe more importantly, we are at the time of writing, where the Commission's proposal for reform has been released (Commission, 2011a), seeing indications that significant new steps towards change might be taken in the coming years, although expecting 'whole-scale and fundamental' reform might be optimistic in light of the many factors working against this.

## *1.2 Scope and Aims of Part 1*

As mentioned earlier, this thesis is broadly concerned with changes to and challenges related to the way the CFP arrives at decisions and implements them. This interest is reflected both here in Part 1, as well as in the accompanying papers in Part 2. However, rather than attempting to provide a broad analysis of change in the CFP, Part 1 will focus on two specific macro-developments related to respectively the 'moving down' and the 'moving out' of governance with the intention to explore whether the analysed processes show evidence of a shift towards what is commonly referred to as 'new modes of governance' (more on the concept of 'governance' to follow in Section 3.1).

Where the idea of 'moving down' in the CFP basically refers efforts to decentralise selected authorities currently held at the central EU level to lower politico-administrative levels, such as smaller groups of member states working in cooperation, individual member states, or subnational regional or local authorities, the idea of 'moving out' refers to efforts related to shifting authorities from the 'original' institutional actors—most prominently the Commission, European Parliament (Parliament), the Council of the European Union (Council), and the member states' authorities—involved in classic style EU governance or government to increasingly taking advantage of alternative set-ups, in the shape of for instance semi-independent, central-level agencies, structures of public-private cooperation, or private self-governance (Raakjær and Hegland, Forthcoming 2012). Efforts to move governance down and out have in recent years increasingly begun to be viewed as key elements in the attempt to reform the CFP.

[7] Sustainable fishing: Fishing activities that do not cause or lead to undesirable changes in the biological and economic productivity, biological diversity, or ecosystem structure and functioning from one human generation to the next (Comment: Fishing is sustainable when it can be conducted over the long-term at an acceptable level of biological and economic productivity without leading to ecological changes that foreclose options for future generations) (glossary of the Food and Agriculture Organization of the United Nations: http://www.fao.org/fi/glossary/default.asp, accessed 24 April 2009).

[8] In 1991, 2001 and 2009 the Commission issued reports on the state of the CFP as a point of departure for reform—though in 1991 the report was not entitled a Green Paper.

More specifically, the two macro-developments that Part 1 will be dealing with are the developments towards respectively increased stakeholder involvement (as an instance of moving out) and regionalisation[9] (as an instance of moving down). These macro-developments have been central to the research work behind the papers in Part 2, and they are, furthermore, developments that have had a relatively high profile in the previous reform, as well as in the process towards the coming reform. In addition, the two developments are intimately intertwined in practice and therefore constitute a good match for analysis.

Consequently, the aim of Part 1 is to investigate *whether the selected macro-developments within the CFP show evidence of new modes of governance, and, if affirmative, whether the identified changes towards new modes of governance are substantial enough to qualify as real, qualitative changes, or if they are, rather, superficial changes that in reality makes little difference.*

Studying new modes of governance specifically in the CFP gives us the opportunity to study the development of a very particular type of policy-area, namely an area in part under the exclusive competence of the EU.[10] A feature the CFP shares only with a handful of other policy areas.

Particularly interesting in this regard is that increased use of new modes of governance are commonly interpreted as upwards steps on a 'ladder' ranging from national authority at the bottom to classical hierarchical EU decision-making at the top, typically in the shape of the Community Method, or as Bartolini (2011, p. 7) describes it *"classic Community government"*, including *"initiatives coming from the Commission, mediated and modified by the inter-governmental process and applied by national administrations"* and under which exclusive competence, which key elements of the CFP fall under, could be interpreted as the supreme form.

In the conventional interpretation new modes of governance are embodiments of innovative governments trying to limit harmonisation tendencies but at the same time reap the benefits of increased cooperation without actually surrendering authority in areas perceived as core national activities where solutions have to take into consideration the complexity of the issues; examples of policy areas could be employment or social policy (Héretier, 2003; Diedrichs, 2008).

However, the CFP is the quite opposite of an area on its way towards harmonisation. Rather, the CFP is widely considered as being overly harmonised[11], which means that the CFP contributes—if a development towards new modes of governance is indeed present—to an alternative perspective, namely how new modes of governance can assist in transforming a policy-area characterised by inefficient top-down, command-control management towards a possibly more flexible, legitimate and efficient approach.[12] Although what might be at play in the CFP and policy-areas such as those mentioned

[9] Regionalisation, as the term has been employed in the context of the CFP, can be thought of as a particular instance of decentralisation, where the level between the EU central level and the member states is at the centre of interests. In addition, regionalisation is also often envisioned as entailing an element of 'moving out', which is not necessarily part of decentralisation efforts.

[10] Exclusive competence on behalf of the EU *"means that the member states cannot adopt their own legislation within the area* […] *unless that power has explicitly been given back to them"* (Hegland and Raakjær, 2008a, Part 2:1, p. 164).

[11] This seems at least to be the case in relation to the overall regulatory framework for conservation; in terms of control and enforcement, which is the competence of the member states, the picture is less clear.

[12] Together with a colleague I have previously characterised the current CFP as the *"most top-down command and control fisheries management regime in the developed world"* (Hegland and Wilson, 2009, Part 2:7, p. 79).

above, where the member states are reluctant towards harmonisation, are basically manifestations of the same search for solutions in-between classic types of national authority and EU authority, it is worth noting that in the CFP this might be entailing a process of de-harmonisation and de-integration (at least in parts of the policy) while in many other areas new modes of governance represents a movement towards increased integration and harmonisation.

Approaching reform, as the CFP is, it seems likewise to be the appropriate time to take stock of the development of new modes of governance in the CFP. Ultimately, it is an aim of the thesis to provide food for thought in relation to where the CFP could and should be heading in the years beyond 2012.

# 2 Methodology

The current section is intended to provide the reader with a degree of insight in the methodological considerations behind the thesis as a whole (that is both Part 1 and the papers included in Part 2).

In the first sub-section, the strategy for the analysis in Part 1 will be outlined. In other words, the intention is to provide the reader with an overview of how the task of delivering on the aims outlined in the previous section will be approached, as well as the motivations behind this choice. The second sub-section provides a brief introduction to my view on choice of research techniques with particular emphasis on the individual values of respectively qualitative and quantitative techniques.

As it is, the analysis here in Part 1 draws primarily on work carried out and published in connection with three research projects that I have been involved with over these last years. These research projects are in this thesis represented by the collection of seven papers included in Part 2. An introduction to each of the three research projects can be found in the Appendix placed at the end of Part 1. In addition, the Appendix contains a lengthier description of how different research techniques have been employed in the different projects and why.

The intention is that the two sub-sections and the Appendix in combination will provide the reader with enough background information to enable him or her to form an own opinion on the solidity of the work upon which my conclusions both in Part 1 and the papers in Part 2 rest.

## *2.1 Strategy for the Analysis in Part 1*

As outlined in the Section 1.2, the key objects of analysis in Part 1 are two macro-developments (towards stakeholder involvement and regionalisation). The analysis departs from the understanding that 'macro-developments' can be understood as processes that have encompassing implications for the CFP, insofar that they potentially impinge on all the categories of components that together make up the CFP, as illustrated in Figure 1 beneath.

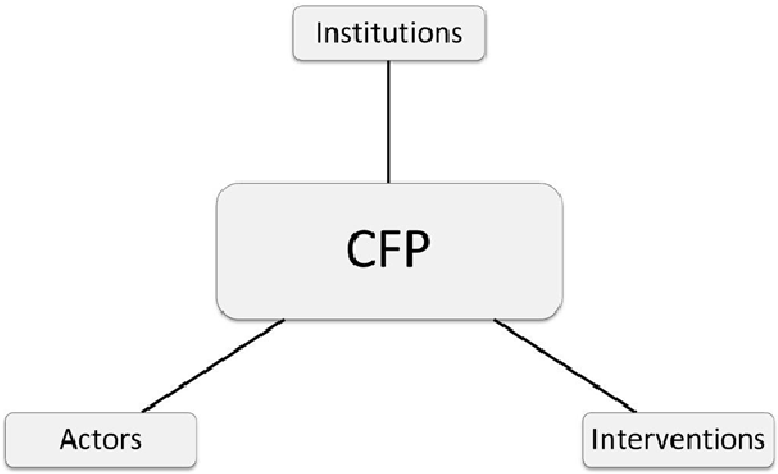


**Figure 1: Constitutive Components of the CFP**

The three categories of components can be thought of as the independent variables, whereas 'the CFP' can be viewed as the dependent variable. 'Actors' are the actual players in the CFP (such as fishers, scientists, environmentalists, but also more complex entities like member states or the Parliament), 'institutions' are the formal and informal rules, norms, structures etc. that determine how the actors come together in order to arrive at collective decisions, and the 'interventions' are the outputs that eventually comes out of the system in the shape of adopted measures but also new institutional structures with implications for which and how actors can engage in the CFP in the future. However, it should be emphasised that, although the three categories of components can be thought of as independent variables *vis-à-vis* the shape of the CFP, which is in essence a function of the combination of actors, institutions and interventions, they are not independent of each other but are rather mutually interlinked and constitutive.

The practical consequence of this understanding of the CFP is that the analysis in principle has to be encompassing, paying due notice to relevant changes related to any category of constitutive elements, in order to be able to identify whether the processes exhibit features characteristic of new modes of governance, which Section 3.1 will provide an understanding of.

Moreover, to provide a baseline enabling the identification of something as being 'new', Section 4 provides a brief introduction to the 'traditional mode' of governance under the CFP focussing in particular on actors and institutions. Consequently, Section 5, which contains the actual analysis, will take as its starting point this understanding of traditional mode of governance of the CFP and its shortcomings, which have been amply documented in recent years (e.g. Symes and Sissenwine, 2007; Raakjær, 2009) and are also generally acknowledged within the system itself, as illustrated by the Commission's recent Green Paper (Commission, 2009).

## *2.2 Research Methods*

To me the choice of research methods has always been a matter of looking first at the object of my research and subsequently looking at what methods to apply to learn about the object. Consequently, I have never bought into the idea of some methods being inherently superior to others; rather using a variety of methods on the same object is, I believe, often the most awarding. In that sense, I am a believer in methodological

pluralism. Clearly, this does not mean that I believe that all methods are equally appropriate in any case and at any time. It all depends on the nature of the object under investigation, as well as what the researcher is trying to learn about the object—and this might very well develop over time even within one research endeavour.

In the work behind this thesis, I have employed a range of qualitative techniques, most significantly observations and interviews. A qualitative technique—or simply qualitative research—is often found to be appropriate whenever the objective is to get an in-depth understanding of an issue, as has basically been the case in most of the research behind this thesis. As an example, in one of the projects contributing to this thesis, Making the European Fisheries Ecosystem Plan Operational (MEFEPO) (see Appendix for more information), we observed people discussing the issue of 'regionalisation' during meetings as well as carried out a series of interviews. This enabled us to obtain rich and detailed information about perceptions and issues relating to regionalisation—albeit from a relatively limited number of people. Nevertheless, the small 'sample' was of limited concern as our objective was primarily to identify and map the issues and perceptions at play, something which could be achieved by carefully selecting the meetings to attend and the people to interview.

However, qualitative techniques such as interviews or observations can be time-consuming in relation to both completing the data collection and analysing the often lengthy text-based material. As a consequence these techniques are not necessarily as well-equipped to measure for instance the general level of support for certain ideas or the degree of variation across different groups of individuals where larger samples are needed. This, however, was a primary objective of another part of the MEFEPO project, in which we wished to investigate how widespread certain perceptions of regionalisation were and evaluate the level of support for certain models of regionalisation. In respect to these objectives, a quantitative research technique was needed. In opposition to qualitative techniques, quantitative techniques enable the researcher to work efficiently with much larger samples, which we took advantage of by developing a classical survey for the purpose (see the Appendix for more information).

The survey technique exemplifies the usefulness and shortcomings of quantitative techniques in general quite well. By developing a questionnaire, which—with relative ease—can be administered to a large number of respondents, the researcher is able to get hold of data from a much larger population than if he or she had to talk to people personally. Moreover, the quantitative researcher will make sure that the options for answering are fixed—as opposed to open-ended—so that the answers can be associated with numerical values and treated statistically. This way of doing research provides a high level of reliability in the sense of the research being replicable. However, respondents are unable to add new aspects as they would have been able to in an interview situation; likewise the respondents have to answer according to the predetermined options—no matter if they would like to answer in another way or qualify their answer. Moreover, it can be difficult to ensure that the questions are interpreted similarly by all respondents as the one asking the question is not available for consultation.

Personally I am of the opinion that it can often be fruitful to combine qualitative techniques with quantitative techniques in order to make them complement each other. Qualitative research often scores high on validity (whether the researcher is actually investigating what he or she thinks he or she is investigating), while quantitative research often scores high on reliability (whether the research can be replicated with the same result). An appropriate integrated usage of the two approaches can, I would argue, often ensure a better 'score' on these measures than the combined score of the two approaches performed in isolation.

In the context of my research, qualitative and quantitative approaches have been different ways of learning about different governance processes and elements within the CFP and EU governance; and each approach has had its strengths and weaknesses. Although most of the research has involved qualitative techniques, the survey employed in MEFEPO and the valuable insights it provided clearly illustrates how the two approaches can cross-fertilize each other. Had we not started MEFEPO with a period of thorough qualitative research, we would definitely not have been in a position to carry out a particularly successful survey; we would simply not have known as well what to ask nor would we have had the same fundament for analysing the data collected. And likewise, had we continued solely using qualitative methods, we would in the end not have been able to say much about for instance the level of support for different models of regionalisation, something that we had a clear intension of doing. Anyway, there is always an element of trade-off in the choice of methods. Good qualitative research is time-consuming, and good quantitative research is time-consuming. And time is a scarce resource.

Looking back at the projects that I have been engaged with since I started my academic employment career seven years ago, there are certainly instances where I feel that more methodological pluralism could have been in its place. However, the three projects that have contributed with papers to Part 2 of this thesis figure in my mind as—well perhaps not perfect—but at least high-end research projects, where the results have both been significant and solid as well as have attracted interest from both stakeholders and other researchers.

# 3 Theoretical and Conceptual Framework

In the following two sections, my theoretical and conceptual framework for the analysis of change in the CFP is outlined. The framework consists of two parts: a general framework relating to the concept of 'governance' and a more specific framework for approaching the CFP, introducing the 'fisheries system' as well as a generic understanding of CFP fisheries governance objectives, which will not be fully unfolded here but is further discussed in Hegland, Ounanian and Raakjær (Forthcoming 2012a, Part 2:4).

## *3.1 Governance and New Modes of Governance*

What we are dealing with, when looking at issues such as the way the CFP arrives at decisions, implements them, as well as the nature of the interventions agreed, is broadly captured by the rather elusive concept of 'governance'.

Over the last decades the term governance has spread to referring to an incredibly wide range of phenomena and, as such, it is not straightforward to get a grasp of the concept. For the purpose of Part 1 of the thesis, I will in respect to the conceptualisation of governance take departure in the outcome of a recent, large EU research project, NEWGOV[13], which specifically studied new modes of governance in the context of the

[13] The NEWGOW project was an Integrated Project on New Modes of Governance funded under the European Union's Sixth Framework Programme. The project was co-ordinated by the European University Institute's Robert Schuman Centre for Advanced Studies and included 24 projects and 2 transversal task forces involving more than 50 participating researchers from some 35 institutions in Western and Eastern Europe. The project ran from 2004 top 2008 and examined transformation of governance in and beyond

European Union. Supporting the perception of governance as a multi-faceted concept, Bartolini (2011, p. 2) in the introduction to the 'NEWGOW book' (Héretier and Rhodes, 2011) rules the academic community guilty of *"promiscuous proliferation of concepts"* when he tries too circle in on the meaning of 'governance'. The proliferation of the governance terminology means that the concept is not easily defined and that a very specific, narrow definition is—at best—meaningless.

Building on the experiences of the NEWGOV project, a way to get hold of the term governance is to start from the perspective of what governance is not. A key point in this respect is that 'governance' is not 'government':

> *It differs from government defined as forms of 'command and control', characterised by the role of central public institutions, hierarchical relationships, electoral responsibility, hard legal instruments and erga-omnes binding decisions.* […] *The classic national government model assumes that demands from citizens, voters, consumers and taxpayers are transferred and aggregated by the political system and then generate a policy response, the implementation of which is the task of the public administration. The classic Community* [EU] *government assumes initiatives coming from the Commission, mediated and modified by the inter-governmental process and applied by national administrations. Any departure from these pure mechanisms deserves the title of governance.*
> (Bartolini, 2011, p. 7)

Likewise, Bartolini argues, governance does not cover instances of purely private dealings, traditional norms and social routines as long as these do not extent obligations to others than those (re-)producing them and that they do not require direct or indirect involvement of public authorities.

However, between the purely public governing and the purely private dealings, a space emerges in which governance plays out. Thus, governance can be broadly defined as *"a system of co-production of norms and public goods where the co-producers are different kinds of actors"* (Bartolini, 2011, p. 8). Nevertheless, how governance actually plays out varies tremendously. Based on insights from the NEWGOW project, the variation occurs over eight different dimensions, as depicted in Figure 2 beneath.

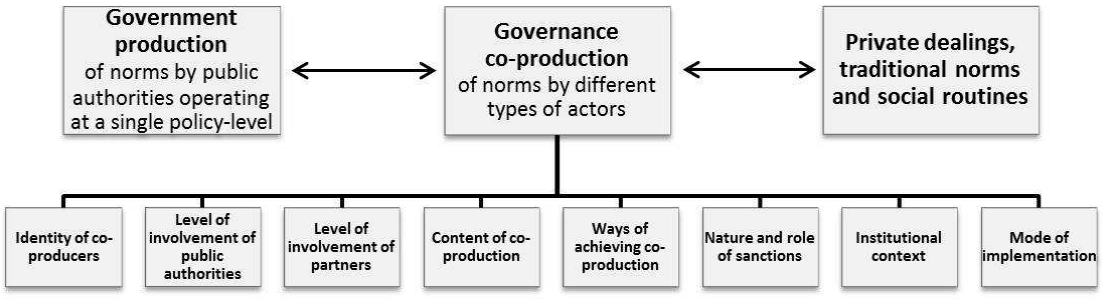


**Figure 2: The Space for Governance and its Dimensions of Variation**
(adapted from Bartolini, 2011, p. 13)

Europe by researching in the emergence, execution, and evolution of 'New Modes of Governance' (www.eu-newgov.org/, accessed 26 January 2011).

Consequently, a specific mode of governance can be perceived as a co-production mode represented by a specific set of 'choices' within each of the dimensions of variation (Bartolini, 2011).

Although the labels of some of these dimensions of variation are more or less telling, a brief explanation of each of the dimensions with examples seems appropriate:

'Identity of co-producers' refers to the fact that governance as co-production entails the involvement of different types of actors. This includes co-production by public and private actors, national as well as international, but likewise combinations of public actors at different policy-levels (from local to international) and various combinations of these. Further, acknowledging that there is always an element of government in governance, the 'level of involvement of public authorities' refers to the specific role that public authorities play in the facilitation of a governance co-production arrangement. This could, as examples, be as equal partner, the one overseeing outcomes, or as facilitator by paying the costs of initiating co-production etc. The 'level of involvement of partners' varies tremendously under different governance arrangements, ranging from merely providing information to true empowerment. 'Ways of achieving co-production' refers to the various non-hierarchical, cooperative ways in which co-production can happen, such as through negotiation or deliberation. The 'institutional context' refers, as an example, to the variation in relation to the degree of formalisation of the co-production process, from informal to highly institutionalised. The 'mode of implementation' relates to the way that implementation takes place in the co-production process. Are there for instance procedures for adjustment to circumstances, or consultation or renegotiation during implementation? 'Content of co-production' can take a large variety of shapes from deciding on binding decisions to a variety of softer instruments. Likewise, the 'nature and role of sanctions' is highly variable and notably closely linked to the shape of the outcome, ranging from strict enforcement with defined sanctions to voluntary adherence to agreed measures due to mechanisms of naming and shaming or other ways by which voluntary adherence can potentially be assured (Bartolini, 2011).

Diedrichs, Reiners and Wessels (2011) describe the three dimensions of change most relevant in the analysis of EU governance as: the 'sphere of authority between the public and the private', the 'nature of instruments between hard and soft law', and the 'pattern of decisions-making between intergovernmental cooperation and supranational procedures'. Where the first two of the dimensions mentioned by Diedrichs, Reiners and Wessels (2011) as most pertinent in the study of the EU are reflected in the variables by Bartolini (2011), the third one is less straightforward. The distinction between intergovernmental and supranational refers to one of the most long-living debates in the study of European Integration.[14]

From the 'supranational' perspective it has been argued that the member states' governments once they instigated the integration process lost the ability to control it—that the process has taken on a life of its own. This perspective has its roots in the 'liberal' school of international relations and was first applied to the European setting with Haas' (1958; 1961) neo-functionalism, which emphasised among other things functional dependencies and spill-over between policy areas (which would lead to integration spreading from one area to another and so forth), as well as the power and interests of supranational EU institutions and domestic non-state actors (and interactions between those) to explain why the European implementation process was an evolving process outside the control of member states' governments. After a standstill in EU integration

[14] The introduction to intergovernmental and supranational perspectives builds heavily on 'own grey material' in the form of Hegland (2009).

that undermined the central concepts of functional dependencies and quasi-automatic spill-over, important parts of neo-functionalism were later revitalised and developed further primarily by Sandholtz and others (Sandholtz and Zysman, 1989; Sandholtz and Stone Sweet, 1998).

The opposing perspective, the 'intergovernmental', has continuously argued that the process of integration remains under the control of the member states' governments. Based on what is determined to be in their national interest they negotiate and decide on the pace and direction of European integration. Developments in European integration are, consequently, due to convergence of the interests of member state governments—not the power of non-state actors or supranational institutions. This perspective developed from the 'realist' school of international relations and were applied to the European setting first and foremost by Hoffman in the middle of the 1960s (Hoffman, 1966). Hoffman's theory was coined intergovernmentalism and adopted a state-centric view on the dynamics behind European integration, which was primarily depicted as the product of unitary states trying to protect their relatively stable geopolitical interests. States will be highly reluctant to give up sovereignty in areas of high politics, traditionally linked to geopolitical concerns, as opposed to areas of low politics, and this is a major explanation of the varying degrees of integration across policy areas.

Intergovernmentalism was later refined by Moravcsik (1993; 1995; 1998), who in his theory of liberal intergovernmentalism, which draws on both realist and liberal international relations theory, keeps the state-centric perspective but divides the EU decision process into two stages: In the domestic arena a pluralist political process involving domestic interest groups takes place upon which national government adopts a position. As a result—in contrast to the more 'realist' intergovernmentalism—liberal intergovenmentalism regards economic interests as more important than geopolitical and holds that national preferences change over time. The government brings the national position into the negotiations with the other governments and the negotiations can in the interpretation of liberal intergovernmentalism produce positive-sum outcomes. Importantly, however, liberal intergovernmentalism keeps the state, which is regarded as a unitary actor, at the centre and supranational actors are thought to play minor roles, mainly as facilitators of interstate bargaining (Hix, 1999; George, 2004).

Anyway, having introduced the concept of governance and its dimensions of variation—and provided a small digression with the discussion of intergovernmental and supranational perspectives, Part 1 of the thesis promises to investigate 'new modes' of governance and it is therefore necessary to discuss a bit more in length what distinguishes 'old modes' of governance from 'new modes' of governance.

On a very general level it would of course be possible to define new modes of governance as any change from whatever governance arrangement was before. Clearly this would serve only to further reduce the usefulness of the governance concept by basically equating new modes of governance to any change during any time period. As a consequence, a requirement for a certain 'novelty' (Bartolini, 2011) or level of 'innovation' (Diedrichs, 2008) can be added. Specifically in respect to the European Union, Diedrichs (2008, p. 8) explains new modes of governance as present when:

- *innovative modes of decision-making, initially outside the existing treaty provisions are introduced, such as the OMC* [Open Method of Coordination; an EU soft law based governance mechanism resting on voluntary agreements and peer pressure rather than formal decision-making and sanctioning / command-control]

- *"old institutional and procedural provisions on decision-making" are transformed or further developed, particularly by up- or downgrading existing modes into more hierarchical patterns*
- *the mixture between different old and/or innovative ways of decision-making is changed by enhancing certain modes in favour of others,*
- *the nature of the policy-instruments (binding / non-binding decisions) is modified into using particularly soft law*
- *the involvement of public and private actors and institutions is extended and strengthened*

*Thus, in a particular policy-area, new modes are identified as innovative in the sense that they have so far been un-experienced and un-tested. But it may also mean that already familiar ways of decision-making in certain policy-areas are introduced in other areas, that old modes are incrementally adjusted, or that the mixture of modes has changed over time.*

This means that what is a new mode of governance in one policy area might be an old mode of governance in another area, and what is a new mode of governance in the context of the EU might be an old mode of governance at the national level or *vice versa*. This also means that whether something qualifies as a new mode of governance is not only determined by the particular content of that mode of governance, e.g. it being a soft law instrument such as the OMC, but also by its relation to previous modes of governance in the area.

One particular current of thinking under the broader heading of governance, which is often argued to be particularly apt in the study of the EU and hence deserves a few words here, is 'multi-level governance'.[15] Since coined by Marks in 1993, multi-level governance has claimed a strong position in the debate over how to understand and describe EU policy-making and governance. Marks (1993, p. 392) defines multi-level governance as *"a system of continuous negotiation among nested governments at several territorial tiers"*. Multi-level governance includes a vertical dimension, where governments operating at different territorial levels are becoming increasingly interdependent, and a horizontal dimension, represented by growing interdependence between various types of governments and non-governmental actors at and across various territorial levels (Bache and Flinders, 2004). This is a development that seemingly penetrates the member states' central administrations, as Egeberg (2006) describes how semi-independent national state agencies increasingly become 'double-hatted' in the sense of sharing the loyalty to the national government with a degree of loyalty to supranational EU institutions.

Like in the case of new modes of governance, there is not necessarily one true way of describing what characterises multi-level governance. However, the following characteristics, which are primarily inspired by Bache and Flinders (2004), Bache (2008) and Marks and Hooghe (2004), may be taken as my perception:

- Significant or increasing interdependence between various types of governmental and state actors as well as non-state actors in decision-making at various territorial levels (horizontal interdependence).

[15] The introduction multi-level governance builds heavily on 'own grey material' in the form of Hegland (2009).

- Significant or increasing interdependence of actors (various types of governmental and state actors as well as non-state actors) across territorial layers (vertical interdependence).
- Lower territorial layers are (increasingly) not necessarily neatly nested in upper layers and there might be overlapping jurisdictions and memberships. This picture emerges because of the establishment of task-specific jurisdictions as opposed to general-purpose jurisdictions.
- Significant or increasing dispersion of power in the decision-making process from the central state governments to other empowered actors (various types of governmental and state actors as well as non-state actors) across various territorial levels.

There is a clear overlap between Diedrichs' (2008) description, quoted above, of when new modes of governance are present and the above characteristics of multi-level governance. However, what defines multi-level governance as a separate current is the particular focus on (the implications of) scale and layers, which has in general also been of significant interest to scholars studying management of natural resources, hereunder not least specifically fisheries.

## *3.2 The Fisheries System and Objectives of CFP Governance*

Drawing on Charles (2001) and Raakjær (2009), an initial step of establishing the basis for understanding the CFP is the 'fisheries system', where the term system is defined as a group of interacting, interrelated, or interdependent elements forming a complex whole.

As depicted in Figure 3 beneath, a fisheries system is in my visualisation made up of four constituent parts: three subsystems (a governance arena (or system), a natural system, and a socio-economic system) and the activities of the fisheries sector, which are affected by the interventions of the governance system and complex interactions of impacts with respectively the socio-economic and the natural system.


**Figure 3: A Fisheries System**
(inspired by Charles, 2001, and Raakjær, 2009)

Following from the discussion in Section 3.1, the governance system can be understood as an arena in which governance co-production plays out. Figure 3 above provides a generic understanding of potential key activities in the governance arena taking departure in a relatively conventional perception of policies being generated in a cyclical process. Recalling Figure 2, how this cyclical process is executed can vary over a range of aspects, including the types of actors involved, the modes of interventions, how agreement is fostered, etc.—and in reality the process might not at all be that cyclical. The natural system, on its side, consists of the aquatic ecosystem[16] (and wider), including—and this is of course of particular relevance to the fisheries sector—exploitable living aquatic resources[17], and the socio-economic system consists of the fisheries sector and, in a wider sense, communities that depend fully or in part on the activities of the fisheries sector, and ultimately human society at large.

As evident, the three subsystems and the activities of the fisheries sector are, in this simplified visualisation, interrelated in what is in principle a cycle where the governance process produces interventions that affect the activities of the fisheries sector. The activities of the fisheries sector, subsequently, impact both the natural and the socio-economic systems. However, this relationship goes both ways as developments in the natural and socio-economic systems have an impact on the activities of the fisheries sector, as well.[18] Finally, information on developments in the natural and socio-economic systems is fed back into the governance system, which prepares new responses in the shape of new interventions, hence completing the cycle.

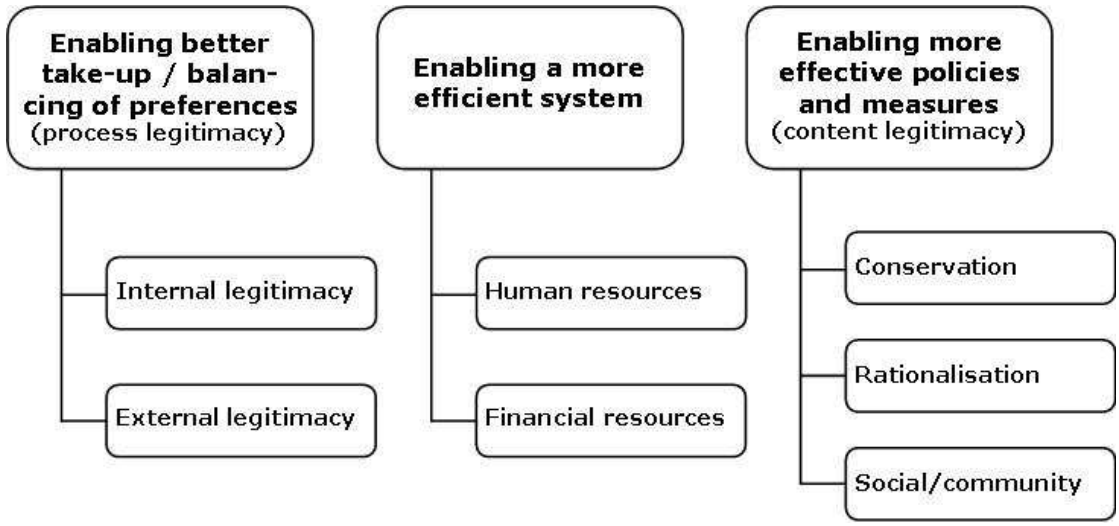


**Figure 4: A Typology of CFP Governance Objectives**
(Figure from Hegland, Ounanian and Raakjær, Forthcoming 2012a, Part 2:4, p. 6)

[16] Ecosystem: A spatio-temporal system of the biosphere, including its living components (plants, animals, micro-organisms) and the non-living components of their environment, with their relationships, as determined by past and present environmental forcing functions and interactions amongst biota **(**glossary of the Food and Agriculture Organization of the United Nations: http://www.fao.org/fi/glossary/default.asp, accessed 24 April 2009)

[17] Living aquatic resources: Living elements of the aquatic ecosystem, such as fish, seaweed, shellfish, marine mammals, etc.

[18] Climate change can serve as an example of an impact on the activities of the fisheries sector coming out of the natural system even though climate change is likely only marginally affected by the activities of the fisheries sector. Likewise, an example for the socio-economic system could be oil prices, which are of vital importance for the activities of the fishing sector but only to an insignificant extent affected by those.

Finally, following Hegland, Ounanian and Raakjær (Forthcoming 2012a, Part 2:4), I will furthermore in this analysis depart from an understanding of three basic theoretical performance objectives of the governance system of the CFP as a subsystem of the fisheries system, namely the 1) ability to take up and balance preferences (process legitimacy), 2) efficiency of the system, and 3) effectiveness of the policies and measures (content legitimacy), as outlined in Figure 4 above.

As evident from Figure 4, the three main objectives are not one-dimensional, however, but associated with sub-objectives, which can in practice often be difficult to reconcile. For a lengthier discussion of these objectives, I refer to Hegland, Ounanian and Raakjær (Forthcoming 2012, Part 2:4).

# 4 Traditional EU Fisheries Governance in Brief

For the purpose of the analysis to follow in Section 5, a brief introduction to the EU fisheries system seems appropriate, not least to establish a baseline to discuss 'newness' from. In the following, I will focus on the actors and institutions of the CFP without going in details, as a lengthier, general introduction to the CFP, its history, and its political dynamics can be found in Hegland and Raakjær (2008a, Part 2:1) and to a lesser extent in Hegland, Ounanian and Raakjær (Forthcoming 2012a, Part 2:4), both included in Part 2 of the thesis. Similarly, a more specific introduction to the dynamics between the central level and the member states and the CFP related processes going on in an EU member state can be found in a third publication (Hegland and Raakjær, 2008b, Part 2:2) also included in Part 2.[19]

The CFP is often described as consisting of four main pillars related to respectively conservation, fleet structures, organisation of the market for fish products, and the external dimension. It should in relation to this be noted that the description here is mainly concerned with the conservation pillar, which is also generally considered the main element of the CFP, although much of any generic description is of course also valid for other pillars.

However, before actually introducing the EU fisheries system and the main elements of the CFP, let me initially list some of the peculiarities that in several ways makes the fisheries and the CFP somewhat unique among the policies of the EU—and might in part explain why fisheries policy has developed into such a challenge for the EU, as indicated by the continuous reform efforts and poor general performance described earlier in Section 1.1:

- The CFP deals with the management of somewhat unique renewable but nonetheless depletable living aquatic resources, which are—for the most part—able to move unhindered across boundaries of national jurisdictions.
- The CFP is among the most science dependent policies in the portfolio of the EU and there are high degrees of uncertainty involved in fisheries science[20].

[19] The introduction to the CFP in this section draws to a significant extent on the mentioned publications.
[20] Fisheries science: Multidisciplinary research aimed at understanding and managing fishing and the effects of fishing. Fisheries science encompasses expertise from oceanography, marine biology, mathematics, economics, sociology, anthropology, etc.

- It is a high stakes policy area where effects of decisions can in many cases be read directly on the bottom lines of the resource users as subordinates of the fisheries management regime.
- The public profile of the policy area is high compared to its macroeconomic importance; traditionally because of the cultural aspect of fishing but today increasingly because of fishing's (environmental) impacts on aquatic ecosystems.
- Although being of insignificant macro-economic importance in most EU member states, the fisheries sector and ancillary activities[21] contributes significantly to economic activity in many peripheral, coastal areas across the EU.
- Conservation of living, aquatic resources—a key component of the CFP—is under the exclusive competence of the EU, as one of only a handful of policy areas.

Figure 5 beneath depicts in a simplified way the fisheries system of the CFP as of 2011 with its main actors of the governance arena, the sector and the natural system, as well as the streams between them of knowledge, legal processes, policy/management interventions and impacts. It should be noted, however, that Figure 5 is a simplification of what is in reality the situation, namely the existence of a considerably more complex governance setting, as evidenced elsewhere in both Part 1 and Part 2 of the thesis.

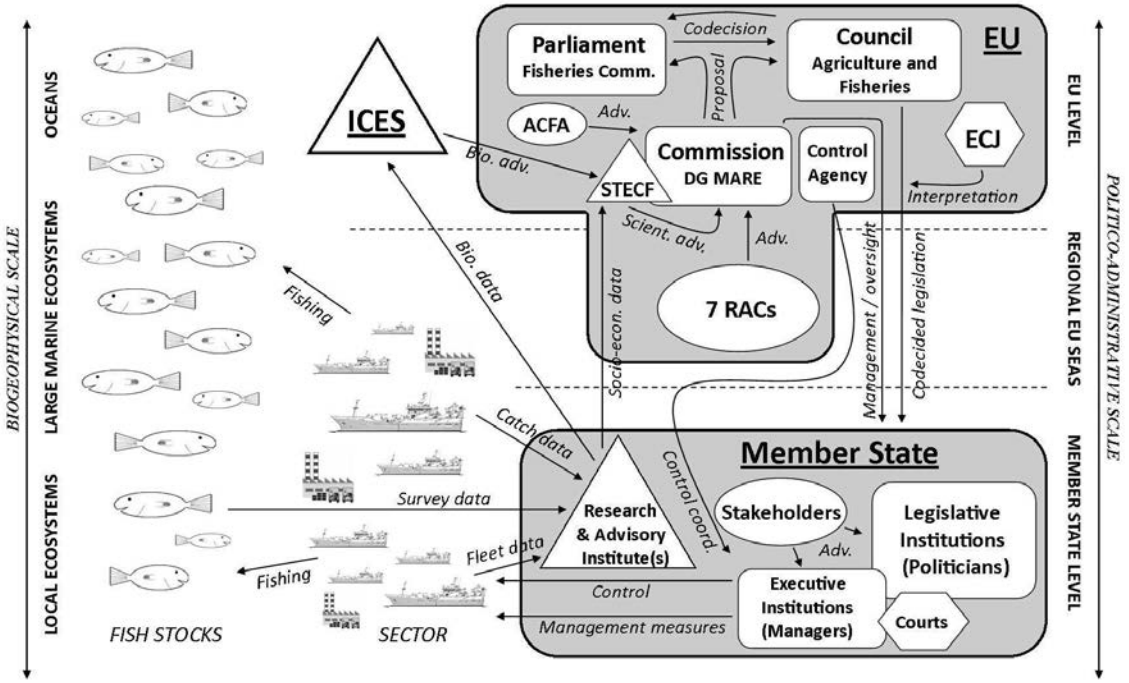


**Figure 5: The EU Fisheries System**
(Figure from Hegland, Ounanian and Raakjær, Forthcoming 2012a, Part 2:4, p. 7)

In Figure 5, scientific bodies are depicted as triangles, legal bodies as hexagons, stakeholder bodies as ellipses, and policy/management bodies as rectangles with rounded corners. All these bodies operate in the governance arena, which stretches across several

[21] Ancillary activities: Economic activities (in part) dependent on—but not included in—the activities of the fisheries sector (e.g. shipbuilding and maintenance).

levels of a politico-administrative scale. In this model three levels of the scale are included: EU level, EU regional seas level and EU member state level.[22]

Several abbreviations employed in the figure have already been introduced, however, ICES is the International Council for the Exploration of the Sea, an independent body supplying scientific advice to the EU on issues relating to fisheries and marine management; STECF is the Scientific, Technical and Economic Committee for Fisheries, which validates (and to some extent adds to) and forwards scientific advice received to the Commission; ACFA is the Advisory Committee on Fisheries and Aquaculture, a central EU level stakeholder body providing advice on fisheries management issues; RACs are the seven Regional Advisory Councils, which provide stakeholder advice on fisheries management issues from a regional (or specific type of fishery) perspective; and, finally, the ECJ is the Court of Justice of the European Communities, which rules in disputes over the interpretation of CFP legislation. 'Adv.' stands for 'advice'.

In the natural system (in the figure represented by fish stocks), the politico-administrative levels described above have counterparts in the different levels of the biogeophysical scale of the marine environment. One such scale could be a fiord or a bay etc., and in the other end of the spectrum are oceans or ultimately the global marine or aquatic ecosystem. In between we have the scientifically defined category of large marine ecosystems (LME)[23], of which for instance the North Sea is an example. Notably, the levels of the natural system are not necessarily reflected by corresponding levels on the politico-administrative scale. The most prominent impact on the natural system, consisting of fish stocks and in a broader sense the marine ecosystem, is the extractive activities of the fishing fleets of the various member states, which target fish stocks connected to any level of the natural system. Other impacts caused by fisheries include potentially the degradation of the marine environment resulting from destructive fishing practices.[24]

A key to understanding the CFP as a policy regime is its strong hierarchical structure where policy-proposals are—notwithstanding the general multi-level character of the system—developed in the Commission and the majority of decisions are taken at the top level of the system in the Council (or in committees of high-ranking civil servants under the Council)—since the Lisbon Treaty, increasingly jointly with the Parliament. The CFP is, consequently, subject to the Community Method of decision-making, which generally entails that the Commission—specifically in the case of the CFP based on work in DG MARE—initiates legislation, i.e. makes proposals, that are then dealt with by the Parliament and the Council following one of four different decision-making procedures determined by the relative position of the Parliament *vis-à-vis* the Council in the specific policy-area.

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[22] Above the EU level there is a global international level, on which the EU has signed a number of treaties, conventions and declarations dealing with fisheries policy and management among other issues. In the other end of the spectre it would in relation to a number of EU member states be relevant to add a regional and/or local politico-administrative level beneath the member state level.

[23] The concept of LMEs was pioneered by the National Oceanic and Atmospheric Administration, United States Department of Commerce, and an LME is defined as an area *"of the ocean characterized by distinct bathymetry, hydrology, productivity and trophic interactions"* (http://www.publicaffairs.noaa.gov/worldsummit/lme.html, accessed 25 February 2011).

[24] The marine environment and fish stocks are of course also affected by other aspects of human society, such as agricultural runoff, oil spills, sea water temperature change as a result of climate change caused by human activity and so on—these examples, however, being outside the scope of the model. Likewise, compared to the illustration of a generic fisheries system depicted in Figure 3 further above, the illustration of the CFP fisheries system does not include the wider socio-economic system, which is, however, also to be considered an integral part of the CFP fisheries system, in particular in relation to the activities of the sector.

Traditionally the procedure for the CFP has been the consultation procedure, which obliges the Council to consult the Parliament for its opinion but is not bound to act upon it. Consequently, the Parliament has traditionally been considered a minor player in the CFP (Hegland, 2006). As a consequence, the Agriculture and Fisheries Council, consisting of the relevant minister from each member state, occupied a completely central position in the decision-making system. After adoption of the Lisbon Treaty in 2009, it has been the co-decision procedure under which the Parliament acts as co-legislator, which has been the norm within the CFP.

Like in the case of the Parliament, the role of stakeholders has traditionally been relatively limited at the EU level, where the only dedicated stakeholder forum until the reform in 2002 was ACFA, which—before a reform to its membership in 1999 and to a lesser extent in 2004 to include a wider spectrum of non-governmental organisations (NGO)—has traditionally been a forum for the commercial part of the fisheries sector (Hegland, 2006). However, ACFA did not have a reputation for being particularly influential *vis-à-vis* the Commission. According to Lequesne (2004), the main, traditional role of ACFA was one of mutual legitimisation between on one side the Commission and on the other side national fishers' organisations. Following the reform of 2002, seven different RACs were set up to facilitate stakeholder input to the CFP. The issues of the RACs and stakeholder involvement are thoroughly discussed in the analysis.

However, what has traditionally been a weak relationship between fishers' organisations (and more generally the fisheries sector at large) and the Commission (the policy-initiator) should not conceal the fact that fishers' organisations have generally been quite influential at national level and have in this way had a route into the Council (being the primary policy-maker). This has been facilitated both through domestic, formal structures for interest representation but also by more direct lobbying efforts prior to Council meetings to secure support for their views by their minister, as an example. Describing the traditional situation for the fishers' organisation, Lequesne (2004, p. 43) argues that *"the segmentation of professional organisations and the legitimacy of corporatist practices at the national level have not really allowed them to break free of state ties to defend their interests in the Community arena."* However, the ability to influence one's own representatives in the Council has often proven quite crucial in a policy-area, where the lowest common denominator has often been what determined the outcome.

On a side note relating to the actors and institutions of the CFP, it should be recalled that fisheries policy remains one of the most science dependent policies in the portfolio of the EU. When it comes to scientific matters, the Commission has been—and continues to be—supported by the STECF, which has traditionally been heavily tilted towards natural sciences *vis-à-vis* other kinds of expertise, such as for instance economic or sociological. Although it is formally STECF that lends scientific support to the Commission, most of the science emanates in reality from ICES—the forum in which national fisheries institutes pool their resources, which has traditionally also been highly tilted towards natural sciences and for a large part towards the narrow area of fish stock assessments (Hegland, 2006).

In its approach to management, the CFP has for various reasons traditionally had and continues to have a preference for one-size-fits-all solutions and command-control approaches. Although being a textbook example of the Community Method, which is in many areas of EU policy the ultimate aspiration for integration proponents, the CFP has increasingly come to be viewed as too centralised, too remote from stakeholders, too insensitive to local particularities, too costly to enforce, and too driven by short-term political considerations. To a large extent the above issues are—at least rhetorically—

recognised both by the managers in the Commission and the policy-makers in the Parliament and Council; and the same issues were—by and large—objects of the reform attempt in 2002 and will be again in 2012. However, progress towards change has been slow and indeterminate and the general perception of the CFP to a large extent remains.

# 5 Moving Out and Moving Down

As already described, the analysis will focus on two macro-developments related with respectively moving CFP governance out and down. However, before turning to the two developments, I will initially discuss enlargements of the EU as one of the main drivers behind the increasing need of thinking in terms of moving out and down. Subsequently, the RACs will be presented in a separate section, as these stakeholder bodies can be viewed simultaneously as the most tangible example of *both* macro-developments and therefore a basic introduction to these bodies provides a good point of departure for the more detailed analysis.

## *5.1 The Increasing Diversification of the CFP Fisheries System*

The continuous rounds of enlargements have had important implications for governance under the CFP. Figure 6 beneath illustrates how the European Community (EC), later the EU, has grown since 1973, when Denmark, United Kingdom and Ireland had just joined the original six founding members, until 2007 where Romania and Bulgaria joined in the latest round of enlargements. In 2013 Croatia is scheduled to become the 28th member of the EU.

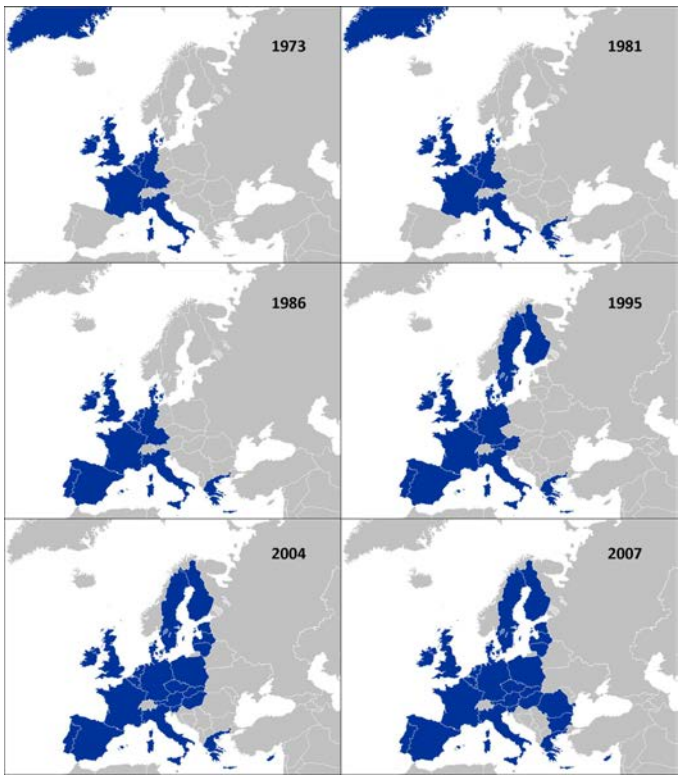


**Figure 6: Enlargements of the European Community / Union 1973 to 2007**
(Adapted from Kolja21, Wikimedia Commons, Creative Commons Attribution 3.0 Unported)

As evident, the EC / EU has grown enormously over the years and this has had multiple implications for governance under the CFP; in some respect the enlargements might be considered the major underlying drivers behind many of the changes that has happened to governance under the CFP.

The most direct result has been the associated increase in the number of seats in the Council, which has grown from nine in 1973 to 27 today. This increase in the number of member states involved in Council decision-making has resulted in an on-going effort to optimise voting rules and arrangements in the Council. Similarly, both the Parliament and the Commission have been adapted to accommodate the new situation. This is, however, more of a general crosscutting implication rather than specifically for the CFP.

Another direct implication of the enlargements, which has in turn had more specific effects for the CFP governance system, is the growth of the 'common pond', which the combined sea area within the exclusive economic zones (EEZ) of the EU member states is often referred to. Where the sheer size of the sea area in itself has not necessarily fundamentally changed the context of governance in the CFP, the associated diversification of waters, stocks, fisheries, fleets, interests and cultures definitely has. As a result of the enlargements, the CFP has over time come to cover *"one of the world's largest and most complex fishing zones"* (Symes, Forthcoming 2012).

Referring to my introduction to the CFP in Section 1.2 earlier, it is striking that the management of this fishing zone continues to be decided based on principles and governance structures that in many ways have not been fundamentally changed since the CFP was adopted 1983. But, of course, although still being maybe the *"most top-down command and control fisheries management regime in the developed world"* (Hegland and Wilson, 2009, Part 2:7, p. 79), the CFP governance system has not been left unaffected by this course of events. In particular, the establishment of the RACs can be seen as an attempt to handle the diversity resulting from enlargements.[25]

## 5.2 A Tangible Example: The Regional Advisory Councils

The seven RACs set up under the CFP figure among the most tangible results of the previous CFP reform. Being stakeholder fora, the RACs consist of representatives of the fisheries sector, in this context defined as *"the catching sub-sector, including shipowners, small-scale fishermen, employed fishermen, producer organisations as well as, amongst others, processors, traders and other market organisations and women's networks"* (Council, 2004, art. 1), which according to the legal provisions should occupy 2/3 of the seats; the remaining 1/3 is set aside for representatives of other interest groups, *"amongst others, environmental organisations and groups, aquaculture producers, consumers and recreational or sport fishermen"* (Council, 2004, art. 1). Naturally, the members of the RACs are primarily from the countries facing up to the sea area covered by the specific RAC, but any member state can in principle declare its interest in any sea area and thereby have stakeholders included in that RAC (Council, 2004; Hegland and Wilson, 2009, Part 2:7). The RACs are either organised along specific sea areas roughly corresponding to LMEs (five RACs[26]) or specific types of fisheries (two RACs[27]) (see Figure 7 beneath).

[25] The description of RACs builds heavily on 'own grey material' in the form of Hegland (2009) and own work in Nolan et al. (2010).
[26] Baltic Sea RAC, North Sea RAC, South Western Waters RAC, North Western Waters RAC and Mediterranean RAC.
[27] Pelagic RAC and Long Distance RAC.

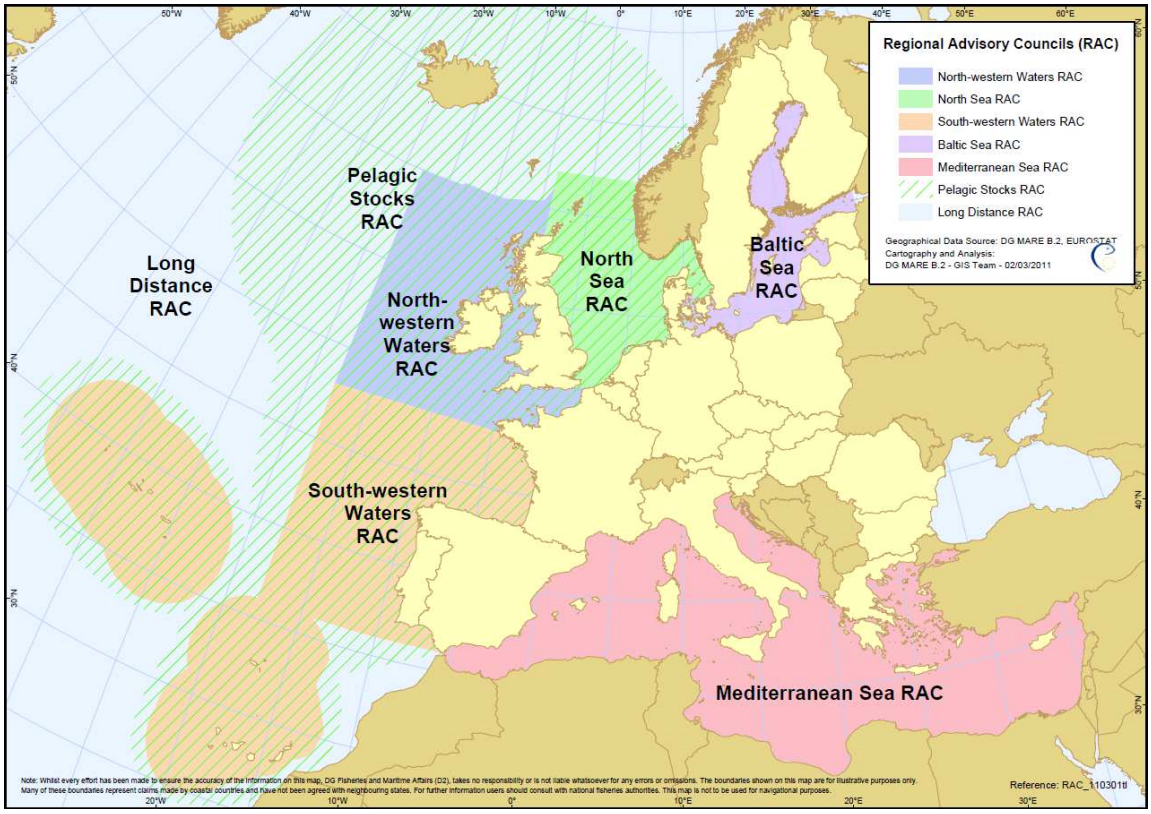


**Figure 7: The Regional Advisory Councils**
(DG MARE, http://ec.europa.eu/fisheries/partners/regional_advisory_councils/rac_en.pdf, accessed 21 October 2011)

RACs were proposed by the Commission, and later set up, as purely advisory bodies. They provide recommendations to DG MARE or to national authorities of involved member states, and the RACs are in this respect authorised to submit recommendations on request from the Commission or from member states, as well as of their own accord (Hegland, 2006). If the RAC is not able to arrive at a compromise that is acceptable to all members, then decisions can be taken by a majority vote but dissenting opinions should then be recorded in the recommendation (Council, 2004).

The Commission (or member state authorities for that sake) is not obliged to follow a recommendation from a RAC and, therefore, in practice the advantage of following a recommendation from the RAC will always be weighed against other preferences of the recipient. In this respect it is clear that consensus recommendations carry considerably more weight in the decision-making process compared to recommendations including dissenting opinions; particularly if a broad selection of RAC members both from the sector and other interests has been active in the process of drafting it. Recommendations including dissenting opinions can more easily be disregarded in the decision-making process as being unbalanced and voicing a partisan opinion.

Based on a study of a process of developing a long-term management plan (LTMP) within the Pelagic RAC, Hegland and Wilson (2009, Part 2:7) identified a number of challenges that the Pelagic RAC faces in its work. In particular, as a general challenge to the RACs, the issue of the limited access to funding emerged, not least in relation to the participation of environmental NGOs, and the ability to work more proactively on issues of own choice. At the same time, however, a considerable capacity of the organisations and the RACs to overcome these challenges was also documented.

The RACs were established in response to a critique of the traditional CFP arguing that local and regional stakeholders and concerns were not to a sufficient degree included in the decision-making process or reflected in measures adopted. The intention was that including local or regional stakeholders more and earlier in the process would lead to better decisions and a higher degree of compliance due to an increased feeling of ownership over the rules by those subjected to them. In reference to the theoretical objectives of CFP governance introduced above, the RACs were consequently intended to improve the performance (or at least perception of performance) of the CFP in relation to both its ability to take up and balance preferences (thereby creating process legitimacy) as well as the effectiveness of policies and measures (thereby creating content legitimacy). Additionally, Ounanian and Hegland (Forthcoming 2012, Part 2:6) also point to additional benefits of the RACs, which are often not sufficiently recognised. In particular, they point to processes of increasing trust and understanding between various stakeholder groups and the fact that the RACs have over a very short period evolved into major purveyors of information on EU fisheries policy and management.

The progressive institutionalisation of RACs has contributed to a significant shift in the discourse towards thinking increasingly in regional terms when discussing EU fisheries policy. As further expanded in Section 5.4, RAC participants seem to be increasingly coalescing on the idea of moving towards more regionalisation; a development, which has also in part been propelled by the overall increasing emphasis on eco-system based management. However, it seems like the shift in thinking has not yet to a similar degree been matched by a change in the scales of action for management under the CFP, which largely continue to be executed either from the EU level or from the level of individual member states, rather than at regional level. As discussed in Sections 5.4.2 and 5.4.3, this is potentially an element of the coming reform.

The RACs are best understood as physical manifestations of broader, more fundamental developments towards finding new ways of interacting in CFP governance due to continuing diversification. Specifically, in this regard, the RACs are, as already mentioned, strongly related both to regionalisation of the CFP governance system and associated ambitions of increasing the ability to tailor-make management interventions (moving down of governance). Likewise, the RACs relate closely to the perceived need to associate stakeholders, in particular fishers, closer to the governance system (moving out of governance). In the following, these two macro-developments will be analysed.

## *5.3 The Widening and Deepening of Stakeholder Involvement*

The macro-development towards widening (referring to involvement in a broader array of contexts) and deepening (referring to a more decisive say in the process) of stakeholder involvement covers several aspects of ‘moving out’, which relate to respectively the increased involvement of fishers at multiple stages of the cycle of the fisheries system, the increasingly central role played by environmental NGOs to some extent supported by consumers, and the general crowding of stakeholders concerned with the CFP. Finally, a development where fisheries stakeholders are progressively squeezed by other stakeholders as the EU moves towards integrated marine management may be appearing. Although these are in principle different aspects of the development and treated as such by being described and characterised in separate sections, I have decided to discuss the various changes in relation to new modes of governance in an integrated at the end.

### 5.3.1 Involvement of Fishers in CFP Governance

Compared to the traditional mode of governance under the CFP where the involvement of fishers in EU level governance was in general limited and basically restricted to the involvement in ACFA, which has not traditionally been particularly influential, fishers are now increasingly exerting influence in different ways with implications for in particular the objective of legitimacy of the governance process among fishers, often referred to as *internal* legitimacy (Hegland, Ounanian and Raakjær, Forthcoming 2012a, Part 2:4).

The establishment of RACs, which are introduced above, can be considered as a turning point in this regard. Although early on criticised for not having been supplied with a sufficiently ambitious mandate (Gray and Hatchard, 2003), there seems to be little doubt that the RACs have significantly altered the role of fishers' organisations by associating them closer to central stages of the cycle of governance at EU level, in particular the stages of policy-design and decision-making (cf. Figure 3). As further discussed above in Section 5.2, the RACs are stakeholder forums and thereby not for fishers' organisations alone. However, the RACs remain numerically dominated by fishers' organisations and sector representatives and thereby the influence of the RACs is to some extent also a proxy for the influence of fishers' organisations, though arguably most often exerted in combination with other organisations. Moreover, not only does the RAC structure represent a quite elaborate formal mechanism for consultation, it also seems like opinions channelled through the RACs carry a certain weight in the governance process and thereby cannot be disregarded as merely lip-service, as also—maybe not surprisingly—suggested by DG MARE itself in 2008 in an evaluation of the RACs (Commission, 2008b).

By means of an anonymous survey, Ounanian and Hegland (Forthcoming 2012, Part 2:6) document how RAC participants perceive themselves as influential in the decision-making process. Not surprisingly, given that the RACs remain advisory and generally consists of many different organisations, very few survey respondents indicated that their individual participation had 'greatly impacted' substantive fisheries management decisions. The number of survey respondents indicating that their presence in the RAC had 'no impact at all' was quite low, as well, scoring between three and ten per cent in the four RACs surveyed. Notably, in combination for the RACs studied more than half of the respondents indicated that they at least 'somewhat impacted' decisions rather than indicating that they 'impacted very little' the decisions.

Although Ounanian and Hegland are cautious to draw strong conclusions based on these observations, particularly as there is no previous baseline to determine in which direction these numbers have been developing, the results can be interpreted positively. Not least because the measure used in the survey to investigate RAC influence is quite restrictive. The respondents are, consequently, not asked if the RAC as such has had an influence but rather if their specific organisation has had an influence through the RAC, which should in principle produce more modest results than the alternative question. As also cautioned by Ounanian and Hegland, it could, nevertheless, give rise for concern that a little less than half of the respondents feel that they impact decisions very little or not at all.

A quite specific example of RAC influence can be found in Hegland and Wilson (2009, Part 2:7) where it is described how fisheries sector interests in the Pelagic RAC were successful in avoiding a threatening reduction in the total allowable catch (TAC)[28]

[28] Total allowable catch: The quantity that can be taken and landed from each stock each year (Council, 2009, art. 3(a)).

for western horse mackerel by developing a LTMP for the species. Although environmental NGOs were aware of the process, this initiative was almost purely driven by fisheries sector organisations and in particular fishers' organisations. The horse mackerel case thereby provides an example of how the RACs have provided new platforms for fishers' organisations aspiring to become pro-active *de facto* partners in policy-design and decision-making rather than stay content with a consultative and re-active role.

The same process can, as well as constituting an example of how fisheries sector actors move closer to the governance stages of policy-design and decision-making, also be considered as an example of how fishers' organisations are increasingly engaging themselves with science and scientists, whereby they aspire to have a say in relation to the governance stage of evaluation (cf. Figure 3) and the processes around it concerning what is fed in as information for the evaluation. In the horse mackerel case, close cooperation between the fishers' organisations and scientists enabled the fishers' representatives to communicate their perspectives and 'experience-based knowledge' (Astorkiza et al., 2006) directly to the scientists, which meant that among a range of alternative harvest control rules (HCR) the fishers' representatives and the scientists were able to come to agreement on the HCR rule that produced the best results in the view of fishers and was sustainable in the eyes of the scientists (Hegland and Wilson, 2009, Part 2:7).

Likewise, the increased focus of the EU fisheries sector on engaging with science manifests itself by the increasing number of scientists employed by fishers' organisations, as well as experiments with cooperative research where fishers and scientists work together on collecting data (Johnson and van Densen, 2007). Similarly, the scientific community is, although the feelings within the scientific community towards this are mixed, increasingly opening up for stakeholders at various stages of the process in which fisheries management advice is prepared. As an example, most ICES meetings are now open to observers (Wilson, 2009).

### 5.3.2 The Involvement of Environmental NGOs and Others

Now, turning our attention to in particular environmental NGOs but also other interest groups, there has clearly been shift in their level of presence in the CFP governance arena, as well, which in contrast to the involvement of fishers might more directly impact *external* legitimacy (Hegland, Ounanian and Raakjær, Forthcoming 2012a, Part 2:4). As described earlier, the traditional mode of governance of the CFP was in general not particularly inviting towards stakeholders—be it from the fisheries sector or elsewhere. However, to the extent that there was formal links with stakeholders at EU level, these were primarily with sector interests through the pre-1999 version of ACFA; and within the fisheries sector, it has traditionally been the fishers' organisations that have been most engaged in the central conservation pillar of the CFP (also with lobbying the national representatives in the Council and its lower level working groups), not least due to the preponderance of the EU of using annual TACs, which have heavy direct impact on fishers—and of course also impact on processing etc. but less directly so. Anyhow, recent years have produced a massive increase in stakeholder activity around the CFP, which can be illustrated by Figure 8 beneath.

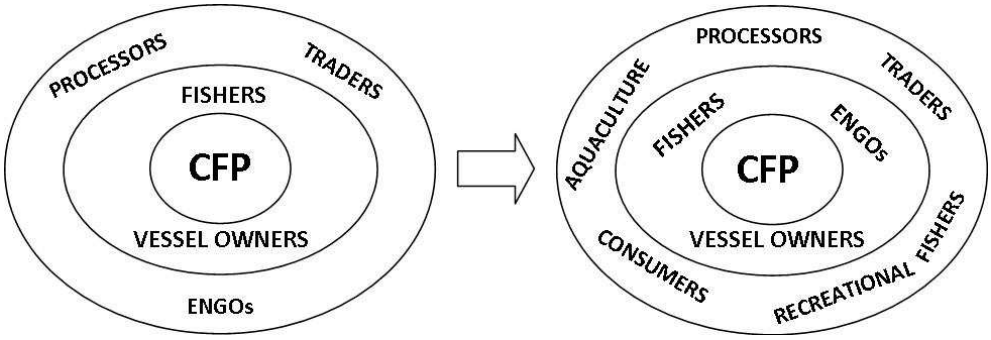


**Figure 8: Changes in the Stakeholder Community**

Compared to the situation under the traditional mode of governance, the current stakeholder community around the CFP seems considerably busier. Like in the case of the increasing presence of fishers' organisations, the RACs have contributed significantly to this development, which has, maybe most importantly, let to environmental NGOs becoming more influential, effectively claiming a position comparable to that of fishers' organisations. Similarly, the RACs have contributed to strengthening the role of for instance traders and processors, while allowing the formalised entry of entirely new groups such as recreational fishing interests and aquaculture[29] interests, which in the case of the latter, however, do not seem to have been particularly active in the RACs yet.[30] The reorganisations of ACFA have underpinned and reinforced this development. The same can be said for the partial paradigmatic change that seems to have been happening in relation to fisheries in Europe where concerns, in light of dwindling stocks and a dwindling importance of fisheries in relation to the overall economy, have shifted from a focus primarily on social and community concerns to increasingly conservation and to a certain extent rationalisation of the fisheries sector (Hegland and Raakjær, 2008, Part 2:1), a paradigmatic shift which may, moreover, in relation to particularly rationalisation of the fisheries sector be reinforced by the deteriorating economic situation in Europe following the financial crisis in 2008.

In particular with the establishment of the RACs, the environmental NGOs—though only getting a limited number of the seats compared to commercial fisheries sector interests—have positioned themselves favourably, given that the RACs, as mentioned earlier, are in general most influential when arriving at a consensus. So even though participation is demanding on environmental NGOs and they occasionally have to opt out of some processes, as it was for instance the case in relation to the development of the LTMP for horse mackerel, the RACs have provided a significant formalised route for participation for environmental NGOs.

However, environmental NGOs continue also to engage in more traditional campaigning, which as an apparent novelty in the CFP at the EU level is being increasingly facilitated by the internet and the emergence of for instance social media that to a certain extent transgress national borders. A recent example of this is 'Hugh's Fish Fight', a campaign launched in advance of the coming CFP reform to get the EU to ban

[29] Aquaculture: The farming of aquatic organisms including fish, molluscs, crustaceans and aquatic plants with some sort of intervention in the rearing process to enhance production, such as regular stocking, feeding, protection from predators, etc. Farming also implies individual or corporate ownership of the stock being cultivated (glossary of the Food and Agriculture Organization of the United Nations: http://www.fao.org/fi/glossary/default.asp, accessed 24 April 2009).

[30] Likely as a consequence of this, the recent proposal for reform from the Commission proposes establishing a dedicated Advisory Council for Aquaculture (Commission, 2011a).

the practice of discarding[31] unwanted catch. The campaign, which was and is spearheaded by British television cook and activist Hugh Fearnley-Whittingstall and supported by Channel 4 and a range of environmental NGOs, attracted (as of October 2011) more than 230.000 supporters on Facebook and more than 750.000 supporters on its dedicated website, www.fishfight.net. The campaign, which although being massively dominated by British supporters is designed as an EU initiative with websites in 12 languages, appears to be able to take partial credit for the inclusion of an ambitious plan to ban discarding in the Commission's proposal for reform (Commission, 2011a).

Another way, in which the growing use of the internet has increased stakeholder presence, is the—now routine—use by DG MARE of the internet to hold open mass-consultations on new initiatives. As an example, the open consultation on the Commission's 2009 Green Paper (Commission, 2009), which is admittedly related to the particularly important initiative of reform, resulted in 382 contributions (plus 1329 identical e-mails) from sector interests and various NGOs, the RACs, various third countries, other EU institutions, scientific institutions, member states' parliaments / governments / administrations, local and regional governments, citizens etc. (Commission, 2010).

Finally, the diversification of routes of influence for stakeholders and the general crowding of the stakeholder community around the CFP can also briefly be exemplified by the initiative of the Marine Stewardship Council (MSC), originally a joint initiative of the World Wildlife Foundation (WWF) and Unilever, which has brought consumers onto the governance arena by providing the opportunity to choose certified sustainable fish products. However, as argued by Raakjær (2009), the main actors behind the influence of the MSC-certificate might, rather than consumers, be large retail chains using the label to protect competitiveness by safeguarding themselves from bad publicity. In any case, MSC can possibly take credit for a reduced pressure from fisheries sector interests for inflated TACs beyond what is advised by scientists as sustainable, as this would void the MSC-certification.

### 5.3.3 The Squeezing of Fisheries Sector Interests

Let me in this final sub-section briefly turn the attention to a development, which is only just emerging but may prove to become one of the defining differences between the current and future modes of governance when discussing the inclusion of stakeholders. Figure 9 beneath illustrates changes that can be seen as the possible result of an on-going evolutionary trend towards integration of policies.

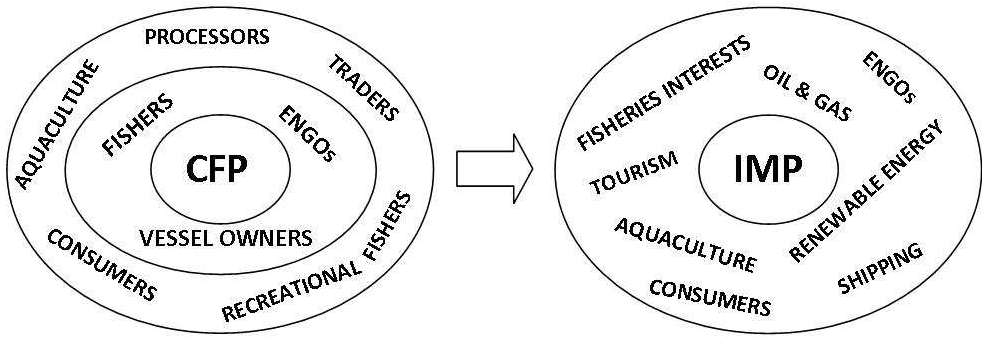


**Figure 9: Future Changes in the Stakeholder Community and Focus?**

[31] Discarding: The practice of releasing or returning unwanted catch in the shape of living aquatic resources to the sea, dead or alive. In most cases discarded fish does not survive.

As illustrated in Figure 9, the shift towards thinking more holistically rather than sector-specific about marine management may well lead to a situation, where—rather than being attentive towards the CFP—fisheries sector interests will increasingly have to be attentive to more encompassing initiatives, such as the Integrated Maritime Policy (Commission, 2007) or the Marine Strategy Framework Directive (European Parliament and Council, 2008), which naturally attract a greater variety of stakeholders with an interest in marine / maritime management but not fisheries management as such. As it is, a number of these interests, for instance oil and gas as well as renewable energy, are economically considerably more powerful and macro-economically important than fisheries sector interests, which seems to indicate that the fisheries sector faces a challenge in making sure that it does not get squeezed among these interests; particularly because fishers, unlike most of the other interests claiming a right to the sea, depend on the ability to follow fish around large areas rather than being content with confined, designated areas, such as shipping corridors or wind farm plots. Notably, recent research by Ounanian et al. (Forthcoming 2012) related to recent consultation processes around the MSFD seems to indicate that the fishing industry is not necessarily particularly well suited to this challenge.

### 5.3.4 Impacts of the Changes in Stakeholder Involvement

In the above, I have dealt with three distinct elements forming an evolutionary trend towards increased stakeholder involvement. One of the main weaknesses of the traditional mode of governance of the CFP in relation to governance objectives has been the lack of legitimacy—not least among fishers—of the governance system as such and the management measures more specifically, which has resulted in a number of unfortunate side-effects.

In the following, I depart from the typology to be found in Hegland, Ounanian and Raakjær (Forthcoming 2012a, Part 2:4) of variations of stakeholder involvement in EU fisheries management, describing situations from top-down, command-control management by the state over variations of co-management to extensive industry self-management with reversal of the burden of proof[32].

In general, stakeholder involvement in policy-design and in particular in decision-making, continues in the current system in principle to be of the sorts that are characterised by quite weak involvement of stakeholders and where there is a clear difference between, on one side, stakeholders that provide input and opinions and, on the other side, public authorities that take decisions. However, in practice, the establishment of in particular the RACs and the way their work has evolved clearly leaves the impression that they have contributed to a development where the CFP has in reality moved from being firmly rooted in a philosophy of 'top-down hierarchical management by the state' to a situation where the CFP increasingly exhibits features more clearly linked to the characteristics of what Hegland, Ounanian and Raakjær (Forthcoming 2012a, Part 2:4) refers to as 'co-management by consultation', where extensive formal mechanisms for consultation exists and where consultation extends beyond what can be regarded as lip-service. A key observation in this regard is the feeling of actually being influential of a great number of RAC participants. In isolation, this change towards more

[32] 'Reversal of the burden of proof' is strongly linked to 'results-based management'. In general this approach entails that the fisheries sector, rather than being managed in detail, would be subjected to certain targets or limits to comply with, and—as long as respecting those limits, which the sector itself would cover the costs of documenting—it may decide for itself on how to stay within the limits (Hegland, Ounanian and Raakjær, Forthcoming 2012b, Part 2:5).

convincing involvement of stakeholders should contribute positively to the legitimacy of the CFP. However, the fact that widening and deepening of stakeholder involvement have in general led to a need for professionalization of stakeholder representatives entails a risk of leaving 'grassroot' fishers in a position where they in reality do not necessarily feel particularly associated with or represented by their representatives. Likewise, there is in some circles a feeling that, notwithstanding the positive developments, stakeholder influence does not extent deep enough compared to the resources invested; and—possibly as a result of this—stakeholders' feeling of ownership over CFP measures may remain low (Hegland, Ounanian and Raakjær, Forthcoming 2012b, Part 2:5).

As evident from the descriptions in the preceding sections, the evolution towards a widening and deepening of stakeholder involvement in relation to the CFP has in part been deliberately orchestrated by the EU and/or DG MARE by providing a wider range of formal channels for influence. This has been done most importantly by providing the legal base and financial support for setting up RACs but also through the reorganisations of ACFA and the routine use of open internet consultations. Conversely, other developments seem to be outside what the public bodies can control, as for instance the Fish Fight campaign or the increasing role played by certifying bodies, most importantly MSC. Likewise, the development towards integrated management with the implications for fisheries interests that this might have is to a certain extent a result of international commitments of the EU, as well as part of a worldwide trend, in which EU managers rather than orchestrating the development will have to act on it.

## *5.4 Regionalisation*

As discussed in Section 4, the traditional and for that matter also the current mode of governance under the CFP is for a variety of reasons widely considered too centralised and top-down in nature. This criticism has resulted in various discussions on how to restructure the CFP to bring it more in accordance with the requirements of the EU subsidiarity principle, although this in principle does not in a legal sense apply to a policy area under the exclusive competence of the EU.

In comparison with the earlier discussions of the RACs and the on-going development towards widening and deepening of stakeholder involvement in the CFP, the following discussion of regionalisation risks appearing less tangible, primarily because regionalisation still figures more as a possible governance element rather than something that is already an integral part of the CFP; although in particular the RACs could be perceived as the first steps towards regionalisation. Moreover, as evidenced by Hegland, Ounanian and Raakjær (Forthcoming 2012a, Part 2:4; Forthcoming 2012b, Part 2:5), it is not possible to provide a firm definition of what regionalisation of the CFP entails as there are many perceptions of this, which clearly also makes the discussion of this element more complex and less straightforward.

However, in general regionalisation is strongly related to the 'moving down' / decentralisation of authorities (broadly understood) currently exercised by the central EU level institutions to lower politico-administrative levels, such as regional areas larger than the member states (e.g. the areas covered by the RACs or those outlined in the MSFD), the member states themselves, or regions within the member states. Of these understandings, the most conventional understanding of regionalisation refers to regional structures above the member states, most clearly exemplified by the current RAC regions (see Figure 7). However, in the minds of many, although not all, regionalisation is also understood as involving an element of 'moving out' in the sense of involving stakeholders more in the governance process. That these two elements are at play

simultaneously in the discussion of regionalisation is one of the elements that makes this issue particularly complicated to get a firm grip on and distinguishes it from being 'merely' an instance of decentralisation.

Hegland, Ounanian and Raakjær (Forthcoming 2012a, Part 2:4) refers to these two above issues as two of the problem dimensions in the discussion of regionalisation, namely the issue of 'where' to regionalise to and 'whom' to regionalise to. In addition, they point to a third and equally important problem dimension, namely 'what' to regionalise. Recognising that a broad understanding of 'authority' ranges from the right to give input to a process and all the way to imposing decisions on another party, it is clear that regionalisation is shaped by the type of authority regionalised. And, reflecting the same development towards integration of management, as discussed above in section 5.3.3, it is also an issue whether authorities under discussion are fisheries management authorities or whether regionalisation should be about marine management authorities.

Among the range of governance elements or potential elements that could be discussed as possible new modes of governance under the CFP, regionalisation can be considered as a particular targeted and comprehensive response to the enlargements of the EU and the associated diversification, as discussed in Section 5.1. The continuing enlargement of the EU territory has led to a situation where the highly centralised structure of the CFP has been forced to cater for increasingly different areas and fisheries sector structures—and it is exactly this problem that regionalisation offers to solve by introducing a governance structure that potentially builds more directly on the way that the fisheries sector, as well as the resources it depends on, operates.

Anyway, having now briefly introduced the concept of regionalisation, I will in the following—with particular emphasis on the most recent years from 2008 to 2011, which is the period in which the bulk of research reported in the papers in Part 2 has been carried out—initially look at the process, which led to regionalisation getting its own headline in the Commission's recent proposal for reform (Commission, 2011a). While doing so, I will likewise discuss what objectives of CFP governance that regionalisation is seen as a potential answer to, as well as discuss some of the varying conceptions of regionalisation that appear to exist *vis-à-vis* the different problem dimensions introduced above. After having described the process, I will provide some thoughts on how this process can be understood. Finally, I will subject what appears to be a likely (but definitely not certain) outcome of the coming reform *vis-à-vis* regionalisation to a discussion of to what degree such a potential new element of the CFP can be categorised as representing a new mode of governance, and what the potentials and problems of this new mode might be.

### 5.4.1 Towards Regionalisation: 1991 to 2008 in Brief

As early as 1991, in advance of the first reform of the CFP in 1992/93, the Commission formulated in a report—equivalent to the later Green Papers produced in 2001 (Commission, 2001) and 2009 (Commission, 2009)—an objective for reform of the CFP, which in essence reflects the philosophy behind regionalisation:

> *…distribution of responsibility at all levels, in accordance with the subsidiarity principle, conferring responsibility on the parties concerned, in particular the fishermen's organizations, which could be given the task of implementing the management measures at the appropriate level…*
> (Commission, 1991, p. V)

As evident from the quote (as well as other parts of the report) much of the thinking behind the regionalisation idea of simultaneously moving authority down (spreading it out over all appropriate levels) and out was, consequently, already taken on-board by the Commission in 1991; although the reflections at the time did not go as far as considering to establish a politico-administrative structure between the central level and the member states, which later has become the hallmark of regionalisation. Anyway, as it turned out, the outcome of the 1992 reform and in particular the way it was subsequently implemented meant that very little changed in the way that the CFP operated; this despite the clear awareness in the EU system about the fact that the CFP was not performing particularly well, as also concluded in the Commission's report from 1991 (Hegland and Raakjær, 2008a, Part 2:1).

According to Symes (Forthcoming 2012), the idea of introducing a regional structure between the central level and the member states as a means to achieve some of the objectives outlined in the quote above through decentralisation without risking altogether re-nationalisation of fisheries management, which would bring with a whole different set of problems, was brought to the attention of the Commission trough a research project in early 1996 (Devolved and Regional Management Systems for Fisheries). The idea involved the establishment of regional management committees that would be able to advice on all aspects of fisheries management within a given regional sea area. At the same time there was a similar pressure emanating from the catching sub-sector in the United Kingdom (UK) but for an even more devolved system where the regional structures were provided with not only advisory functions but rather with actual executive functions (Symes, Forthcoming 2012). Historically, in particular the UK catching sub-sector has been sceptical towards the CFP because it has felt that the concessions given in relation to fisheries management upon entry of the EC in 1973 and the compromise on the CFP in 1983—in particular the issue of allowing equal access for other member states' vessels in UK waters outside the 12 nautical miles (nm) zone—were not matched by the benefits of the arrangement.

Originally a part of the UK catching sub-sector did in fact see a potential in entering into the EC but that potential was closely linked to the prospect of simultaneous Norwegian membership; the perception being that simultaneous Norwegian membership would secure UK access to Norwegian waters even if a system of national EEZs would become internationally institutionalised, which it actually did a few years after the 1973 UK accession with the institutionalisation of the 200 nm EEZ regime in the mid to late 1970s. However, the Norwegians voted 'no' in their referendum over EC membership and thereby deprived the UK catching sub-sector of its 'prize' for entering the EC. Instead the UK catching sub-sector had to face a situation where it had 'lost access' to prolific Norwegian waters and had to accept that the very large sea area around UK could not be restricted to UK vessels even though they had now gotten their own EEZ (Hegland and Raakjær, 2008a, Part 2:1).

Consequently, where there was a UK interest in regionalisation to 'rectify' what was perceived as a historic injustice of the CFP, the interest for regionalisation was in the 1980s and 1990s barely present in continental Europe where in particular Spain was interested in going in the opposite direction towards further centralisation by abolishing the derogations to equal access within the 12 nm zone and allow cross-border trade of quotas, thereby effectively creating one joint EU exclusive fishing zone (EFZ) with one EU fleet. This would allow the Spanish catching sub-sector, which had been very restricted by the institutionalisation of the 200 nm EEZ regime, to extend its activities in EU waters. In this way, following Symes (Forthcoming 2012), by the mid-1990s a cleavage was becoming increasingly clear between those basically content with *status*

*quo* or minor reform and those arguing for major reform; the latter subsequently being divided between those arguing for decentralisation (either in the form of regionalisation or re-nationalisation) and those, like Spain, effectively arguing for further harmonisation and centralisation.

As it was, the thoughts related to regionalisation were indeed in part taken on-board by the Commission in 2001, when it in its Green Paper (Commission, 2001) and later in its proposal for reform (Commission, 2002) proposed establishing so-called Regional Advisory Committees (in the proposal renamed Regional Advisory Councils) to involve stakeholders more in the discussion of EU fisheries management.[33] However, already in the Green Paper it was also possible to see the first indications of the presence of legal issues and concerns, which would—as we shall see—later become a major stumbling block for the further development towards regionalisation, as the Commission when outlining the proposed regional structures felt urged to emphasise the importance of *"ensuring that fisheries governance remains compatible with the legal and institutional framework of the Treaty and that it does not affect the global and Community character of the CFP"* (Commission, 2001, p. 28).

As already outlined more in detail in Section 5.2, the RACs were proposed as purely advisory and should primarily on request provide advice in particular to the Commission, which would then take the advice into consideration. And it was made clear that neither the Commission nor the member states would be bound by advice from the RACs. With such limited mandate and powers vested with them, the RACs, although maybe a step towards regionalisation, met little opposition in the decision-making process related to the reform—in particularly because all member states were looking for ways to include stakeholders more to increase the legitimacy of the CFP (Hegland, 2004). In any case, the 2002 reform actually delivered what had been proposed by providing the legal mandate for setting up the structure of RACs, which I have extensively dealt with above in Section 5.2. However, besides providing the mandate, a procedure for setting them up, as well as indicating that fisher's organisations should have a privileged position in them (as a side-remark, it could be mentioned that such an indication did not figure in the Commission's initial proposal); the remaining issues were left to later when implementing the reform, which in the case of the RACs happened with the adoption of a Council decision in 2004 (Council, 2004).

As already described in the sections on the RACs and the widening and deepening of stakeholder involvement above, the outcome of the reform was a structure that over the years from 2004 to 2008 came to include seven different RACs. RACs, which for the most part—but at a variable pace—despite their limited mandate, have been successful in providing valuable input to the CFP decision-making process as well as contributing to developing trust and understanding between fisheries sector representatives from different member states as well as between fisheries sector representatives and representatives of other interests (Ounanian and Hegland, Forthcoming 2012, Part 2:6). In 2007, the RACs were 'upgraded' to a status of bodies pursuing an aim of general European interest, which enabled them to get access to permanent funding, rather than the time-limited and gradually decreasing start-up budget that they had originally been supplied with.

The case of the RACs, as described above and in Section 5.2, exhibits several features characteristic to new modes of governance / multi-level governance. On the most fundamental level, the establishment of RACs constitutes the addition of completely new politico-administrative layer in CFP governance. In this context, it is noteworthy that,

[33] As discussed further in Hegland and Raakjær (2008b, Part 2:2) and in Section 4 above, in particular fisheries sector stakeholders have traditionally oriented themselves more towards their national administrations than towards the EU institutions.

with the introduction of RACs and thereby basically recognition of an existing biogeophysical territorial layer, an attempt has been made to match the scales of the politico-administrative system better with its natural counterpart (cf. Figure 5). This kind of 'scale-flexibility' and willingness to create task-specific jurisdictions lies at the heart of multi-level governance. Moreover, the main tool of the RACs in relation to gaining an impact on the decision-making process remains the alternative instrument of consensus-building: in the first instance the RAC needs to build consensus among the various stakeholder groups within it; at the same time, however, the RAC needs to anticipate the Commission's position so that the RAC's consensus does not fall too far from that. If a consensus or a 'close-to-consensus' can be found between the RAC and the Commission, the member states (or smaller groups of member states) in the Council would find it less opportune to overrule that consensus. It could be argued that this represents a dispersion of power from the central state governments to other actors, i.e. the Commission and the RACs, which are in turn becoming increasingly interdependent (vertical and horizontal interdependence).

In relation to the process towards regionalisation, the years from 2003 to 2008 was primarily busy with getting the RAC structure in place. However, although the structure of RACs certainly led to advances in the relationship between the EU institutions and the stakeholder community as well as likely to improved legislation, it did not change the fact that centralised management continued in a system where it remained very difficult to tailor-make management and where the Council continued to apply very detailed top-down management.

However, the apparent success of the RACs in terms of associating stakeholders closer to the CFP governance process had fed the seeds of regionalisation, which had been sown in connection with the decision to set them up. Large parts of the stakeholder community had by 2008 had positive experiences with the RACs and therefore searched for ways to build further upon these; the same could in part be said for the European institutions as well as the member states (Commission, 2008b). As a result, a pressure for more radical reform towards regionalisation, with a stronger emphasis on moving down, started to emerge in an environment in which institutional reform continued to be on the agenda due to poor economic performance of large parts of the sector as well as continued problems with sustainability of many stocks (Symes, Forthcoming 2012)—something that continued to be at least in part blamed on the set-up of the CFP. However, compared to the situation before 2002, rather than emanating more or less exclusively from the UK, the concept of regionalisation, as one of the possible ways to fundamentally reform the CFP, was beginning to become more widely accepted for at least two reasons additional to the positive experiences with the RAC system.

On one hand, an on-going global paradigmatic shift from sectorial management towards increasingly thinking and acting in terms of integrated and holistic eco-system based management approaches brought with it various pressures. The basic regulation adopted in 2002 (Council, 2002) already included a commitment to move towards to an eco-system based approach to fisheries management (EBAFM) but the implications of the paradigmatic shift in fisheries management was (and to some extent remains) unclear, although it appears unavoidable that the shift will result in further increase in the focus on eco-systems rather than individual elements of the ecosystem, such as individual fish stocks. Following the reform of 2002/03, two inter-linked EU funded research projects (European Fisheries Ecosystem Plan (EFEP) and the larger follow-up project MEFEPO, which contributes with papers to this thesis, see Appendix) came to the conclusion that the RAC areas / regional seas / LMEs would be an obvious unit to operate with—also in respect to the organisation of the governance system—when moving towards EBAFM.

From outside of the fisheries domain, the initiative of the Integrated Maritime Policy (Commission, 2007), which included a process towards marine spatial planning (Commission, 2008c), as well as the Marine Strategy Framework Directive (European Parliament and Council, 2008), with its objective to reach 'good ecological status' of Europe's seas by 2020, both adopted an approach where regional seas were at the centre. Hence, pressures started to mount on the CFP to develop a compatible spatial framework to integrate with these initiatives.

On the other hand, the Lisbon Treaty (signed in December 2007, ratified in December 2009) was at the same time in the making and it was early on clear that this treaty would result in most fisheries management issues being subjected to the co-decision procedure, where the Parliament acts as a true co-legislator, rather than, as before, subjected to the consultation procedure, where the Parliament plays a minor role. Although the involvement of the Parliament represented a step forward in terms of democratic participation, it was widely predicted that the sharing of responsibility would further reduce the efficiency of the system, or as Symes (Forthcoming 2012) later has put it, run "*the risk of creating the worst of all possible worlds where centralised policy making is allied with lengthy and less efficient decision-making.*"

The positive experiences with the RACs, as well as the developments described above, led to a situation where the framework conditions halfway between the 2002/03 and the 2012/13 reforms appeared considerably more favourable *vis-à-vis* regionalisation than prior to the 2002/03 reform. On top, an independent evaluation of the CFP from 2007 (Sissenwine and Symes, 2007)—commissioned by the Commission itself—also pointed to regionalisation as one of the most effective reform options. As it was, the report by Sissenwine and Symes, which was in principle for internal Commission use, was in reality widely circulated and soon became the first reference document in the discussion of where the CFP should be heading after 2012. In less than two pages, the report effectively placed regionalisation on the agenda for the coming reform, concluding that regionalisation had several benefits in relation to the CFP:

> *…a more appropriate scale and focus for fisheries management; a more relevant framework in which to develop co-management and promote the functions of RACs; a suitable scale at which to progress EBAFM as an operational procedure; and the convergence of fisheries management with emerging strategies for the management of the marine domain (MSP: Maritime Green Paper). In short, it provides the ideal framework for a more imaginative implementation of the subsidiarity principle and for elaborating a new system of governance for marine areas.*
> (Sissenwine and Symes, 2007, p. 70)

Nevertheless, the report did also present some of the potential 'costs' of regionalisation:

> *…it may appear to undermine the Commission's 'exclusive competence' in formulating policy proposals and raise questions as to the legal authority to delegate powers to other trans-national organisations; that it relies on an untested assumption that neighbouring MS* [member states] *can work together in an effective, responsible and consensual way; that it may threaten the principle of relative stability and ideas of open access; that it may involve higher transaction costs; and that it could lead to the fragmentation of the CFP.*
> (Sissenwine and Symes, 2007, p. 70f)

In any case, for those looking towards regionalisation as one of the centrepieces of the 2012 reform of the CFP, the report appeared as good news, insofar that it seemed unavoidable that the Commission could shy away from following up the topic. And indeed, in the fall of 2008 the first Commission document on the coming reform (Commission, 2008a) did take regionalisation on-board, however not with any particular determination.

### 5.4.2 2008 to 2011: Specific Models and the Commission's Proposal

During 2008 DG MARE drafted a working document reflecting on the coming reform of the CFP. The document was informally discussed in the Council meeting in the fall of 2008[34] and in this way marked the start of the policy-process towards CFP reform. The relatively brief Commission working document, which ended up being quite widely distributed thus becoming the reference document to follow after the report by Sissenwine and Symes, was primarily concerned with evaluating the CFP and presenting knowledge on how the policy had failed to reach its objectives and why. In addition, however, the document did also represent the Commission's first attempt to mobilise an agenda for reform and outline important priorities. Finally, the document contained some indications of how the Commission could imagine the new CFP should be designed, and one of the elements that the Commission presented as possible was regionalisation, which would, it was suggested:

> *…allow a drastic simplification of the regulation at EC level by recourse to specific regional management solutions implemented by Member States whenever appropriate, subject to Community standards and control. This will require strong powers by the Commission to act against irresponsible decisions and actions. The entry into force of the Marine Strategy Framework Directive, which obliges Member States to ensure the good environmental status of the seas under their jurisdiction until 2020, provides an important orientation in terms of the long-term goal on which we need to align the reformed CFP in a coherent manner.*
> (Commission, 2008a, p.8)

The above quote represents what was mentioned in the document regarding regionalisation in the sense of moving authority down but, as noted by Symes (Forthcoming 2012), the document was substantially more lengthy on in particular the issue of how to make the industry accountable for sustainable use of a public resource. Although further involvement of stakeholders is often seen as integral to regionalisation the imbalance between how these two issues were threated was noticeable.

The next fix-point in the process towards reform and hence also in the process that could potentially lead to the regionalisation of the CFP was the Commission's full Green Paper, which the working document could be seen as an appetizer for. To some extent the Green Paper, which was made public on 22nd April 2009, confirmed the tendency from the working paper: it contained little clear guidance on how regionalisation could be achieved in practice. Whether this was due to the Commission being uncertain as to the legal possibilities or because they preferred allowing the stakeholders and other interested parties to set the agenda more on this issue is not possible to say. In any case, the Green Paper presented two ways of regionalising, one technocratic and centralistic way through

[34] The discussion does not figure in the Council minutes from the meeting but I received the document from a person in a RAC secretariat with the information that it had been informally discussed at the September meeting.

'comitology'[35], and a way more in line with conventional regionalisation thinking and along the lines of what had been presented in the preceding working document:

> *Another option to be carefully considered would be to rely wherever possible on specific regional management solutions implemented by Member States, subject to Community standards and control. The Treaty stipulates that the policy must be based on exclusive Community competence but this would not prevent implementation decisions from being delegated to Member States, provided they are bound by decisions on principles at Community level. For instance, decisions on certain principles and standards such as fishing within MSY, adapting fleet capacity to available resources or eliminating discards could remain at Community level, but it would then be left to Member States to regulate their fisheries within these Community standards. In most cases this delegation would need to be organised at the level of marine regions because shared fish stocks and shared ecosystems cover wide geographical areas and cannot be managed by individual Member States acting in isolation. Member States would therefore have to work together to develop the set ups required. This set-up requires effective checks and balances by the Community to ensure that common standards are safeguarded when policy in implemented.*
> (Commission, 2009, p. 10f)

Although definitely outlining a 'space' for regionalisation, the above hardly represents a clear vision. Nevertheless, the Green Paper does convey a few key messages, namely, on one hand, that it is indeed considered possible to decentralise authorities from the central level to the member states as long as these are exercised within principles decided at the central level, and, on the other hand, that many of such authorities decentralised to the member states would need to be exercised jointly at the level of marine regions. Anyhow, within this space it was left to those wishing to engage in the consultation process to flesh out the idea, a process that started immediately after the publication of the Green Paper, as comments to the Green Paper had to be in the hands of the Commission by the end of 2009 to allow time for synthesising them and taking them into consideration in the development of the proposal. Although models of regionalisation had been floating around earlier, the Green Paper marked a shift in modus from discussing whether regionalisation was a good idea and whether the Commission would embrace it towards much more intensively discussing the details of how to do regionalisation.

In particular the second half of 2009 became busy with conferences and meetings etc. where regionalisation was on the agenda as a larger or minor issue (see Supplement 2 of the Appendix for examples). Of the activities that followed after the publication of the Green Paper and before the closure of the open consultation, one conference stands out. At the conference 'Regionalization of the CFP', arranged by the Nordic Council of Ministers on 13th October 2009, a paper was presented, which contained a comparison of four different ways of doing regionalisation in practice, from the more technocratic versions, such as 'comitology', to the most evolved both in terms of moving out and down. The paper, which was authored by David Symes who was also one of the authors of the evaluation of the CFP from 2007 and in general has written extensively on the issue of regionalisation over the years, outlined and discussed four alternative models of

[35] Under the comitology procedure the Commission adopts implementing measures but does so assisted by committees consisting of member state representatives. The powers of the member states *vis-à-vis* the Commission differs according to different types of comitology committees.

regionalisation of which the following two—more ambitious models than the remaining—were found most worthy of attention:

> *The administrative solution separates the functions of the Commission and member states by establishing regional standing conferences of member states' administrations meeting at regular intervals to interpret and implement Community policy without intervention from the Commission, Council of Ministers or Parliament. RACs continue to provide essential stakeholder advice.*
>
> *The reorganising solution requires the creation of dedicated Regional Management Organisations (RMOs) with permanent secretariats and fixed abodes within the regions to give them a clear identity. RMOs would supersede existing RACs; their membership would be broadened to include member state administrations and their terms of reference widened to confer responsibility for developing regional management strategies in line with Community policy and making binding recommendations to member states, subject to approval by Commission, Council and Parliament.*
> (Symes, 2009a, p. 7)

In the paper, the options are subjected to an analysis of their expected performance *vis-à-vis* 14 different qualities, including various measures of 'good governance' and stated aims of the Green Paper, and the conclusion is that the model that scores the highest are 'the reorganising solution'. However, Symes recognises that of the two models 'the administrative solution' stood a better chance of being adopted than 'the reorganising solution'. In the paper, Symes does not select a specific model, although he appears to have an affinity for the reorganising solution (Symes, 2009a). However, based on his attendance in multiple conferences and further consideration of the available options, Symes produces in November 2009 a letter to the Commission (Symes, 2009b), which makes clear that he supports a solution along the lines of the administrative solution, even though it falls short of the reorganising solution on some counts. Nevertheless, the administrative solution is, according to Symes (2009b), "*likely to prove the more pragmatic, effective and timely*". He further stresses that the model should rest on newly decentralised authority to be exercised by the member states collectively as opened for in the Green Paper; thereby indicating that implementation of policy in the new system cannot be equated to the implementation that member states already now are responsible for under the CFP and that the proposal is for a 'downstream' model, rather than an 'upstream' model where the regional structure would be relying on formal approval by the central level for its decisions to take effect.

However, as the consultation came to an end, the next major event was the publication of the Commission's synthesis of the open consultation in March 2010. Based on the synthesis, the Commission had clearly been given a mandate—if not an obligation—to move towards regionalisation, as it confirmed that most stakeholders were in favour of some sort of regionalisation. However, there were very different visions of how this in practice should look and to what extent stakeholders should be empowered in the process. The relatively lengthy quote beneath provides good insight in the many different issues in play at the same time:

> *Support for a move to some form of increased regionalization is generalised. A mix of terminology is used – e.g. some refer to regionalization at the sea-basin level, others to regions within the MS. Some insist on subsidiarity where MS create*

*regional committees for management and a high level of self-regulation. Others propose simple co-operation between MS on issues of implementation and control, and some see room for delegated decision powers on e.g. access, resource or fleet management.*

*A significant number identifies the need for a separate regional body, with varying degrees of powers and responsibilities. Most, including the EP, envisage a mainly advisory body to discuss and prepare proposals for policy and legislation adoption by the EU institutions. Associating the stakeholders and others involved, the regional body would then be used for dialogue and discussion. The Baltic region is sometimes mentioned as a possible pilot of a MS organization that develops and decides on applied regulations (e.g. discards, national quota management). Others envisage a regional body as the implementing entity for long-term plans with some room for operative regulating powers and implementation decisions. Some advocate devolution of powers (e.g. technical details and effort regulation). Some contributions suggest a combination of functions.*

*On the composition most see the regional body as a MS-led entity, in a number of cases membership of industry and stakeholders is advocated, while in other contributions the stakeholders keep an advisory function through the RAC. The EC is envisaged as a member in some contributions while in others as an active observer/collaborator. Some propose a transformation of the RAC into a regional advisory body with both MS and stakeholders.*

*On the RAC there are some clear messages: their success should be expanded through strengthening them, and (according to the RAC themselves) by giving more weight to their advice, particularly is cases of unanimity of the advice. The EP explicitly requests adequate funding. Some propose a change of composition to better balance the industry with the other interests and non-represented stakeholders.*

(Commission, 2010, p. 6)

Although this clearly put pressure on the Commission to move forwards in relation to regionalisation, the message was not at all that clear in regards to the direction of regionalisation. And it was exactly based on the expectation of this outcome, which as 2009 went by appeared increasingly likely based on the debates and drafts floating around prior to the closing of the consultation, that researchers working on the MEFEPO project, which contributes with 3 papers to Part 2 of this thesis, initiated a survey. The survey aspired to get stakeholders to select between different models, which varied according to chosen solutions in regard to the different problem dimensions introduced earlier: what, where and whom.

The exercise was of course complicated by the fact that there are so many combinations of solutions, which is further discussed by Hegland, Ounanian and Raakjær (Forthcoming 2012a, Part 2:4), and it was therefore decided to ask about five models plus the present system. For details on the considerations behind the survey, please consult the Appendix. It was decided to test models that for the most part represented substantial change from the current system, rather than variations of the current system; an approach that was by the way supported by Symes' conclusion that the most promising of his models were the more ambitious (Symes, 2009a). The intention of the survey was to get a clearer picture of what stakeholders were looking for if they could choose freely, uninhibited of for instance legal considerations. The likelihood of adoption were consequently not of particular concern when the survey was drafted, although it was of course sought to present only models that were 'within reason', as defined by the

MEFEPO researchers. As a consequence, all the models 'respected' that authorities have to be *de jure* placed with the EU central level *or* with the member states, as it was also the case with the models outlined by Symes (2009a; 2009b). In effect, the MEFEPO work developed Symes' two best scoring models into four options and supplemented them with the option of re-nationalising fisheries management altogether, which was included to gauge how widespread this rather radical perspective was. The full descriptions and an extensive discussion of the models can be found in Hegland, Ounanian and Raakjær (Forthcoming 2012a, Part 2:4).

The five models of regionalisation plus the present system were tested through a survey, where we in various ways asked our respondents, which came from 4 different RACs, to rate the models (including the present system) against each other. The results of the survey, which were supplemented with qualitative interviews and a SWOT analysis, supported to a wide extent Symes' conclusions. Solutions that were ambitious in terms of shifting authorities and involving stakeholders more in the process were more popular than the more low-key solutions but the more low key solution, in the MEFEPO project represented by a Cooperative Member State Councils model—an upstream version of Symes' administrative solution, was attractive for more pragmatic reasons such as ease of implementation. The option of re-nationalising fisheries management received little support.

In their conclusion, the MEFEPO researchers therefor propose that either the Cooperative Member State Councils model or a model based on the establishment of Regional Fisheries Management Organisations—a more ambitious version of Symes' reorganising solution—could be possible ways forwards for the CFP. For a more extensive discussion of these issues, please refer to Hegland, Ounanian and Raakjær (Forthcoming 2012a, Part 2:4; Forthcoming 2012b, Part 2:5) and Raakjær et al. (2010). In this way, the conclusions of Symes and those of MEFEPO fell very close to each other. The results of the MEFEPO work were widely distributed in the stakeholder community as well as in the Commission.

Anyway, in July 2011, the Commission unveiled its proposal for reform (Commission, 2011a), which presumably would, it was expected, provide a very significant indication of the extent of the coming reform. However, as thoroughly discussed by Symes (Forthcoming 2012), the proposal is far from clear or convincing on the issue of regionalisation. Although much emphasis is placed on regionalisation in the accompanying material, the proposal itself does little to clarify how regionalisation should be put into practice:

> *Under the heading of 'conservation of biological resources', the proposed actions are divided into Union measures, regionalisation and national measures very much in line with the anticipated division of responsibility for decision making between central, regional and national levels of authority – and in that sense the draft regulation maintains the promise of greater delegation of powers. In practice, however, it appears that the intention is for the Commission to retain control over the content of multi-annual plans – the key instrument of conservation management – including setting the objectives, framing the technical measures to achieve MSY, mitigation of environmental impacts and reduction of discards, thus leaving very little scope for meaningful delegated responsibility. Under the heading of regionalisation it acknowledges that 'Member States may be authorised to adopt [additional] measures in accordance with multi-annual plans which specify the conservation measures for vessels flying their flag' (Article 17,1). Not only is the draft regulation stripped bare of all reference to substantive proposals for how the*

> *so-called 'regionalisation' might be developed but even a simple reference to member states cooperating at fishery level to ensure compatibility of actions, appearing in an earlier draft, has been removed.*
> (Symes, Forthcoming 2012).

The most obvious conclusion is that, as also argued by Symes, the complete lack of thoughts as to how the member states should develop a regional structure to coordinate through does not promise well for the future of regionalisation. It appears that the proposal caters for a system, which is in a high risk of failing in terms of strengthening the regional aspect of fisheries management to any particular degree. At best, the proposal allows member states to adapt legislation to their own national needs, one is tempted to argue.

However, a reading of the accompanying material and a second reading of the proposal may—if not clarify things—then at least indicate that there might be some more room for and dedication to regionalisation in the Commission' thinking and thereby also some hope *vis-à-vis* regionalisation. Although not an official Commission document, the vagueness but also the underlying aspirations of the Commission's proposal can be illuminated by this quote from an article on regionalisation in the 'Fisheries and Aquaculture in Europe' magazine, which is published by DG MARE:

> *The fact that most large stocks in EU waters are exploited by fleets from several Member States nevertheless has to be taken into account. Ideally, the implementing measures decided by these different States should be compatible with one another within a shared fishery. In this case, the Member States will have to engage in coordination but will be free to choose the form of such coordination.*
> *There is no question of obliging all Member States to sign up automatically and straight away to this system, whether for decentralisation or coordination of individual fisheries. The Commission is aware that this will come about according to States' determination, budgetary means and facility working together. In the Baltic, for instance, there is already a strong tradition of regional cooperation that will probably make coordination of individual fisheries easier. This is not always the case elsewhere. This decentralisation and cooperation at sea basin level will therefore be phased in on a flexible basis.*
> (DG MARE, 2011, p. 7)

Another, more official source of information, which might also help us interpret the proposal, is the official communication accompanying the proposal, in which the following statements can be found:

> *The Commission proposes an agenda that is ambitious as regards regionalisation and simplification. EU fisheries legislation adopted centrally should focus on objectives, targets, minimum common standards and results, and delivery timeframes. While key decisions remain at EU level, Member States will have the flexibility to decide on other measures for fisheries management, under the supervision of the Commission, in full compliance with the provisions of EU law.*
> *To ensure effective management, Member States could adopt, for example, the desired mix of technical conservation measures and anti-discard measures. They would then individually implement these measures in their national legislation. Regionalisation is continued all the way down, and would include more self-management for the fishing industry by increasing fishermen's involvement in the*

> *policies and acceptance of them, thus contributing to better compliance with the rules.*
> (Commission, 2011b, p. 7)

As a final example, in a press release in the form of a memo containing questions and answers on the reform also published together with the proposal, the following can be found:

> *The Commission proposal is clarifying roles and obligations of each actor and will bring decisions closer to the fishing grounds. It will end micro-management from Brussels so that EU legislators will only define the general framework, the basic principles, the overall targets, the performance indicators and the timeframes. Member States will then decide the actual implementing measures, and will cooperate at regional level. The proposal includes provisions to ensure that the Member States concerned adopt measures which are compatible and effective. A fall-back mechanism is established for Commission action in cases where Member States cannot agree, or where the targets are not being reached.*
> (Commission, 2011c)

Consequently, although one could be either encouraged (*"They seem so dedicated therefore it will work out!"*), bewildered (*"I must be overlooking or misunderstanding something!"*) or provoked (*"They are trying to talk their way out of not having delivered anything!"*) by the emphasis that the Commission puts on regionalisation in the accompanying materials in contrast to in the proposal, which is not by far as clear and where regionalisation has to be found 'between the lines', the three lengthy quotes above does seem to indicate that the Commission might be reading more into the proposal than what is seen in a reading of it in isolation.

### 5.4.3 Regionalisation and New Modes of Governance

Regionalisation of the CFP can be discussed *vis-à-vis* new modes of governance in at least two ways. For one, the general approach that the Commission took to the reform, not least in relation to the issue of regionalisation, can be viewed as an example of an increasingly open and inclusive approach to developing policy. Secondly, the Commission's vision of regionalisation more specifically could also in itself be seen as a new approach to governance in the CFP, which breaks with the traditional highly centralised, command-control approach, replacing it with more flexible and soft approach.

The process that preceded the publication of the Commission's proposal in July 2011, illustrates the further institutionalisation of—at least on the surface—an open and inclusive approach to the development of CFP macro-policy, which the Commission already introduced in connection with the 2002/03 reform. As further described in Hegland (2004), the Commission did already in connection with the previous reform introduce an interactive approach to reform by embarking on wide-ranging efforts to get input from stakeholders in advance of the proposal. This approach has been continued in the case of the current reform process, which compared to the previous reform process has, however, been characterised comparatively more by the ever-present internet as a means of communication, which the Commission has made significant use of in connection with the open consultation as an example, as well as a means of exerting pressure, as exemplified by the 'Fish Fight' campaign, described in Section 5.3.2.

Arguably, however, the main new mode of governance in the present process compared to the previous is not really related to either the moving out or the moving down of CFP governance, which have been the elements under investigation in the Part 1. Rather, the main difference is likely to become evident in the process to follow after this thesis is submitted, namely the process of joint decision-making between the Council and the Parliament, which rather than an example of moving down or out could more appropriately be termed an instance of 'moving around' at the central level. Besides this, however, a very notable difference between the process last time and this time seems to lie in the role that the RACs has played in the reform deliberations in general—but of course specifically in relation to the question of regionalisation, which the RACs as institutions have a particular stake in.

The presence of the RACs influenced the process in various ways. Obviously, the relative success of the RACs has to a significant extent contributed to putting regionalisation firmly on the agenda, although as discussed above other changes in the context of the CFP, such as the increasing focus on the eco-system as the appropriate unit for management interventions, also affected this. More concretely, the RACs have been in a position to organise joint inputs and inform individual inputs from groups of stakeholders. This has been done by having dedicated working groups within the RACs working on issues related to the reform, as well as organising conferences, of which a particular large one arranged in Edinburgh in November 2009 stand as the most prominent example (see Supplement 2 of the Appendix). In this way the RACs have taken on a role as purveyors of information and hubs for regional networks of stakeholders, both of which have contributed to making regionalisation one of the hot topics of the reform. In this way the reform process has been characterised by the presence of a new politico-administrative structure at a regional level, and it is noticeable that the politico-administrative structure there is clearly dominated by stakeholders, which has resulted in stakeholders being the core actors at this level.

However, having briefly discussed the openness of the process, a few words on the opposite. Because, although the process has been very open, what we have been witnessing in the latest 3 years is also a process where hopes were (maybe too) high from the outset in light of what appeared to be favourable context. Then aspirations over time decreased following discussions of what is and is not legally feasible, as well as considerations of institution building as a slow process. This led to an increasing recognition of the fact that what mattered the most was to take determinate steps towards regionalisation—not necessarily to go for the 'whole package'. As examples, this resulted in proposals from Symes and MEFEPO that were in fact very modest. To some extent this is of course the nature of the game that the CFP is in itself embedded in a highly hierarchical legal setting and has to comply with the Treaties. However, in the long run it seems likely that the sort of procedure witnessed here might result in stakeholder fatigue, at least if, as there seems to be a certain risk of, the proposal does not really end up delivering regionalisation or significantly increased stakeholder participation.

Finally, when discussing the process *vis-à-vis* new modes of governance, the discrepancy between the way that the Commission has emphasised regionalisation in the accompanying materials *vis-à-vis* what they have in reality have been able to deliver in the proposal is interesting. One interpretation of this could be the one I mentioned above that they are serious about this but unable to manifest it in the proposal due to legal difficulties. In this interpretation the Commission's surrounding documents might be intended to sustain the pressure towards regionalisation by keeping it firmly on the agenda. Thereby, instead of relying on command-control and hierarchy (which is arguable also in the package, see beneath) to advance the creation of regional structures

for cooperation, then instead using a flexible approach were blaming and shaming can later be used to call out the regions or member states unwilling to embrace the new regime of 'voluntary' regional cooperation.

Having now briefly discussed the *process* towards regionalisation, the Commission's *specific model* (or vision) for regionalisation does also bear some hallmarks of new modes of governance—if we take the Commission's accompanying material as an indication of what the proposal in reality entails. In section 3.1, I argued that new governance practices could only be seen as examples of new modes of governance if they represented something 'genuinely novel' within their context. If this is taken as point-of-departure for the discussion here, the Commission's *vision* of regionalisation does indeed, with all its uncertainties taken into consideration, represent a new mode of governance under the CFP, which in several ways indicates a break with current practices. Two aspects of the Commission's thinking appear particularly interesting in the context of new modes of governance: flexibility of governance structures and the wish to resort to 'framework-decisions' rather than micro-management from the central level.

The most notable feature of the Commission's vision *vis-à-vis* the current system is the potential flexibility it entails in relation to the set-up of the regional governance structure. The Commission's proposal encourages the development of (but outlines no default) structures for regional cooperation between the member states, rather on the contrary. Not even from the accompanying material is it possible to get a clear picture of what the Commission is imagining. And this might exactly be a key message. The very loose guidelines leaves it, consequently, more or less entirely up to the member states on a voluntary basis to design governance structures for their own region, which is in reality quite in line with the philosophy of tailor-making rather than going for one-size-fits-all approaches. There is little doubt, as also predicted by the Commission, that this will lead to highly different paces towards and approaches *vis-à-vis* regionalisation in the different regions, which might, however, over time nonetheless result in the development of one or more best practices that can serve as inspiration for other regions.

The EU member states around the Baltic Sea, for instance, have since the summer of 2010 been engaging in an informal cooperative structure, Baltfish, which has likely been of inspiration to the Commission. However, it has to be highlighted that Baltfish is currently under accusation for being very closed and unresponsive to stakeholders, something that might seem to suggest that the informal character of member state cooperative structures entails a risk of these not being to the same degree as formal structures grounded in principles of good governance.

However, arguably, one of the problems involved in designing very concrete and tangible models of regionalisation, which can be designed as to accommodate for instance stakeholder involvement, as was done by both Symes and in the MEFEPO project, is that opting for and advancing a specific model to be rolled out over the entire European space is complicated by the fact that, although there seems to be a universal need for some sort of regional structure, it is equally clear the needs and capacities for this varies. To some extent this means that universal models of regionalisation risk being fit for only a few regions, thereby replicating the exact problem with conventional CFP decision-making. In this sense there is a clear trade-off in the fact that the more informal member state cooperation leaves room for adaptation to regional specificities but at the same time it also leaves room for the member states to operate outside a framework of good governance. However, by constructing a set-up, which requires the member states to cooperate without detailing how such cooperation shall materialise, the Commission's proposal provides sufficient room for flexible approaches to develop. And, importantly,

due to the exclusive competence nature of the policy-area, the Commission retains the possibility to fall back to centralised decisions-making if they are not satisfied with the way the member states coordinate their implementation efforts, a possibility outlined in Article 20 of the proposal (Commission, 2011a).

The need for Article 20, which basically allows the Commission to overrule member states if they fail to adopt necessary measures to implement LTMP, follows from what appears new to the CFP and might potentially change the way fisheries management is carried out, namely the promise of the central level to shy away from detailed decision-making and instead focus on more general decisions, such as *"the general framework, the basic principles, the overall targets, the performance indicators and the timeframes"* (Commission, 2011c). Instead the member states, cooperating when necessary in a structure of own choice as discussed above, will be responsible for implementation measures. However, on this point the proposal seems unclear in the sense that general decisions, which will still lie at the central level, can be extremely restrictive in the sense of setting a very tight frame for implementation, which might potentially void the new powers of the member states of content. A central question is therefore to what extent the central level (the Commission) applies a minimum definition to LTMPs and follows a hands-off approach in relation to their implementation. This is difficult to say based on the proposal. For example, one of the big issues in fisheries management and the rebuilding of stocks is the issue of over what timeframe rebuilding should happen, and it is clear that setting very tight targets will in serious ways limit the possibility to develop regional approaches to management.

Consequently, the Commission's proposal can be interpreted as genuinely novel in its approach to governance and the implementation of measures. However, there are a number of uncertainties, which suggests that the extent to which this will in fact materialise will depend very much on how the Commission as well as the member states decide to use the new framework. In this sense the framework requires a considerable degree of *political will* to make it workable. And it is moreover clear that the framework as it is outlined now to a significant extent fails to secure more decisive involvement of stakeholders in the process. This appears to be a possible problem of the proposal, which might provide for more efficiency by leaving more technical decisions to the member states but at the same time not maybe provide legitimacy; maybe on the contrary as important decisions regarding implementation are moved from the central level to informal networks of member states.

# 6 Conclusion and Implications

The intention of Part 1 of this thesis has been to explore whether—and if affirmative, then to what extent—two distinct but highly intertwined macro-developments within the CFP show convincing evidence of a *shift in governance towards what is commonly referred to as 'new modes of governance' as opposed to the 'traditional style of governance'*. The style of governance under the CFP has traditionally been described as entailing central EU institutions outlining and applying very detailed regulations in relative isolation from those affected and without any particular success related to tailor-making measures to circumstances. This practice has led to well-described problems *vis-à-vis* basic objectives of the CFP related to legitimacy, efficiency and effectiveness—and a track-record that impresses few.

New modes of governance involves, as outlined and discussed more in detail in Section 3.1, increased use of such things as innovative modes of decisions-making

outside treaty provisions, increased use of soft law, stronger involvement of private partners in the governance process, informal governance procedures, mechanisms for adjustment to circumstances, restructuring of existing hierarchical patterns etc. Following Diedrichs, Reiners and Wessels (2011), the most important variables in the study of EU governance involves changes in the balance of authority between public and private actors, shifts in the balance between hard and soft instruments, and shifts in the pattern of decision-making between intergovernmental and supranational procedures. In the following, I will briefly recapitulate the evidence from the preceding analysis while associating this with new modes of governance.

The macro-developments that the analysis has focused on are: 1) the widening and deepening of stakeholder involvement in CFP governance, and 2) regionalisation of CFP governance, which both potentially impinge on traditional, established structures of actors, institutions and interventions under the CFP. As mentioned, these two developments are in the case of the CFP highly intertwined, exemplified most clearly by the establishment of the RACs, which simultaneously stands out as the most tangible example of both developments by entailing the setting up of stakeholder bodies predominantly organised according to regional sea areas spanning multiple member states' jurisdictions, thereby occupying a central role in the analysis.

On a more general level these two developments are related to broader currents of thinking in relation to the CFP, namely the 'moving out' and the 'moving down' of governance. Both currents have over the years gained in strength and relevance, not least due to the—partly enlargement-driven—increase in the diversity of waters, stocks, fisheries, fleets, interests and cultures dealt with under the CFP.

Where the idea of 'moving down' in the CFP basically refers to efforts to move selected authorities currently held at the central EU level to lower politico-administrative levels, such as smaller groups of member states working in cooperation, individual member states, or subnational regional or local authorities, the idea of 'moving out' refers to efforts related to shifting authorities from the 'original' institutional actors (most prominently the Commission, Parliament, Council, and the member states' authorities) involved in classic style EU governance (or government) to increasingly taking advantage of alternative set-ups, such as semi-independent, central-level agencies, structures of public-private cooperation, or private self-governance. Both currents of thinking appear related to new modes of governance. As already illustrated by the example of the RACs, the two currents of thinking can and will often merge when applied in practice.

As regards the development of stakeholder involvement in the CFP, Part 1 identifies and focuses on three elements of what appears to be a general process towards a widening and deepening of stakeholder involvement: 1) role of fishers' representatives, 2) role of non-industry stakeholders (primarily environmental NGOs), and 3) involvement of representatives from other sectors as a consequence of the move from fisheries specific management to marine management.

The first element to the macro-development related to stakeholder involvement that Part 1 highlights is the increase of the involvement of fishers / fishers' representatives in EU central level governance. From a situation where fishers' representatives were primarily active and heard at the level of the member states, particularly the establishment of the RACs but also shifts in the way fishers' representatives and other actors approach the governance process has resulted in notable changes. To take the latter first, the community of fishers' representatives seem, as an example, to be increasingly taking a more constructive role to science, which involves not necessarily less confrontation but at least more cooperation or challenging of science by its own rules. In the thesis, the development of the horse-mackerel LTMP provides an example of this. This process was

facilitated by the existence of an appropriate RAC for the efforts, which exemplifies the more general point that the RACs have provided fishers' representatives with an arena on which to explore new approaches to involvement in governance and, in particular, get a closer relationship with the Commission. Strengthening this relationship for advice purposes was the main reason for setting up the RACs and, although notoriously difficult to measure, the horse mackerel LTMP, results from an industry dominated survey presented, as well as other material seem to indicate that participants in the RACs are able to exert a certain measure of influence in the governance process *qua* their capacity as sources of advice for (primarily) the Commission. The extent of the influence appears, however, uncertain, variable and in any case not overwhelming.

The second element of the macro-process consists of an increased level of involvement of fisheries stakeholders in a broader sense than those related to the fisheries sector, most notable (but not exclusively) environmental NGOs. Although fishers and the fisheries sector are privileged by preferential treatment and the fisheries sector as a whole occupies two-thirds of the seats in the RACs, there seems to be a strong case for arguing that in particular the establishment of the RACs—but also changes to ACFA, the general 'greening of policies', and the increase in the use of the internet both to apply bottom-up pressure on public bodies and solicit opinions from stakeholders top-down—has resulted in a diversification of the stakeholders able to voice their opinions and be heard in the governance process, indicating a development towards some degree of crowding in the stakeholder community around the CFP. Like in the case of the fishers' representatives, there are indications that these interest groups are also in a position to exercise influence. Even though disadvantaged by a limited number of seats, this seems to be not least due to their presence in the RACs.

As the final element of the first macro-process, Part 1 highlights an emerging shift from the CFP being the all dominating mechanism for fisheries management towards a situation where important decisions *vis-à-vis* fisheries management tend to be taken in or shaped by encompassing initiatives, where traditional stakeholders under the CFP will be increasingly confronted with powerful interest such as oil and gas, shipping, and renewable energy, something which, it is argued, might be particularly problematic for the representatives of the fisheries sector.

Turning to the macro-development towards regionalisation, the situation is compared to that of stakeholder involvement even more ambiguous. And, as it was the case for the stakeholder involvement process, the establishment of the RACs is also in relation to this process a fix-point. The establishment of the RACs represented the first formal recognition of the level of the regional seas as being of particular importance in and centrality to EU fisheries management.

Although regionalisation had been on the agenda before the establishment of the RACs, the institutionalisation of RACs in the CFP has created an entirely new basis to discuss regionalisation from, as there is now experience with a regional structure, which—although still being in a phase of start-up and institutional learning—has already outperformed its initial sceptics. Moreover, the establishment of the RACs has to some extent created—or at least facilitated the creation of—'regional' stakeholder communities or networks. In addition, the discussion of a more decisive shift towards regionalisation has been facilitated by changes in the context of fisheries management, such as the rise of the paradigm of integrated, holistic management based on eco-system considerations, as well as the adoption of the Lisbon Treaty, which is expected to make the traditional micro-management approach increasingly inoperable due to the increased role played by the Parliament at central level.

At the time of writing, the above factors seem possibly to have steered the Commission (and other EU actors) on to a road cautiously leading towards what appears to be more regionalisation or at least decentralisation. However, true regionalisation (or decentralisation) requires that authorities are *de facto* reshuffled between actors and politico-administrative levels, which will always be contentious. Moreover, regionalisation challenges EU law in at least two ways: 1) It is argued to be unclear how much power the central level can in fact surrender to lower politico-administrative levels in an area of exclusive competence of the EU. 2) It remains a challenge to figure out how to commit the member states to cooperation at regional level. According to EU law, it has been argued, it is only possible to place authorities either at the central EU level or at the level of the member states—and not with in-between entities like a group of member states cooperating to manage fisheries issues in a regional sea area. At the time of writing no clear answers to these legal queries have been found.

In the synthesis, the macro-development towards regionalisation is discussed *vis-à-vis* new modes of governance in two ways: 1) as an example of a policy-process, and 2) as a specific governance structure / element.

Firstly, recent years' policy process towards regionalisation, and in particular the way the Commission has approached it, shows evidence of an approach to the development of policy, which in several ways draws on governance practices associated with new modes of governance. One example of this is the extent to which the Commission has relied on proposals for regionalisation being in practice developed outside the remit of the Commission in networks of researchers and stakeholders working in highly flexible networks and contexts. And, notably, in this process the RACs have been at the core, taking on a role as both purveyors of information and hubs for regional networks of stakeholders, both of which have contributed to making regionalisation one of the hot topics of the reform, although in fierce competition with other topics. In this way the Commission appears to have let the stakeholder community, assisted by researchers, drive the discussion of regionalisation as well as advancing the point that regionalisation has a role to play in the future CFP.

Secondly, when discussed *vis-à-vis* new modes of governance, the model for regionalisation contained in the Commission's proposal for reform can also be viewed as evidence of the—in this case potential—spread of practices of new modes of governance in the CFP. For one thing, the proposal seems to outline a model for regionalisation where the central level, rather than prescribing a specific governance structure for regional cooperation, creates the necessary space to allow the member states to develop the structure that they see most fit and appropriate. This is very much in accordance with characteristics of new modes of governance, such as making governance more flexible and informal, as well as relying on voluntary cooperation rather than hierarchical power-relationships. Nevertheless, the Commission maintains in its proposal a fall-back clause, which allows it to take back the new powers vested with the member states, if these fail to develop the necessary structures for cooperation.

Nonetheless, the Commission's proposal seems to outline a distinctly different approach to the CFP than the detailed command-control structure of formal hierarchies, which has been characteristic of the traditional mode of governance in the CFP. Similarly, also when it comes to interventions decided under the CFP, the proposal from the Commission shows evidence of a shift towards a situation where the member states will be allowed increasingly to adjust implementation to circumstances, as the Commission proposes that the central level should restrict itself to such things as defining the general framework, basic principles, targets, indicators and timeframes. In other words, the central level should define the goals and the time it should take to get there. In contrast,

besides defining some general principles, the central level should be less concerned with how the member states arrive at the goals.

Where, then, does this leave us *vis-à-vis* the intention to explore whether the above two intertwined macro-processes show evidence of a—possibly incremental—shift towards what can broadly be captured under the heading of new modes of governance? Well, I would argue that the evidence of the Part 1, which is briefly summarised above, mandates an affirmative but cautious 'yes'. A certain caution is appropriate since, although there are definitely evidence that points in the direction of new modes of governance, the strength of what this evidence shows, in the sense of evidencing 'real substantial' rather than 'superficial' change, is debatable. Moreover, to some extent the evidence presented relates to the content of the Commission's proposal and accompanying material, which, although being to some extent an 'indicator' of the content of the coming reform by no means can be taken as the 'end of story'. So where the answer to question of whether the two macro-processes contain evidence of a shift towards new modes of governance is 'yes', the answer to the questions of the extent of the shift remains somewhat more uncertain.

In many ways the coming reform of the CFP can be viewed as a litmus test of whether the CFP is ready to truly embrace new modes of governance. The RACs, which were set up following the previous reform, are in many ways excellent examples of new modes of governance. However, importantly, the setting up of the RACs has, due to their advisory status, not really contributed to fundamental change in the core decision-making hierarchy of the CFP. So—in a way—new modes of governance has been flourishing around the core processes of the CFP but only to a limited extent within them, one could argue. The question remains whether the changing circumstances of the CFP, including not least the increased involvement of the Parliament and the institutionalisation of the RACs, will push the core decision-makers in the direction of substantial change towards new modes of governance and new governance structures—simply because continuing as if nothing has happened is not sensible—or if the CFP will continue muddling-through along the path of a relatively traditional command-control approach.

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# Summary

The PhD thesis, *'Fishing for Change in EU Governance - Excursions into the Evolution of the Common Fisheries Policy'* by Troels J. Hegland, Innovative Fisheries Management, Aalborg University, consists of seven papers and a synthesis, all concerned with aspects of the Common Fisheries Policy (CFP) of the European Union (EU). Whereas the synthesis, which constitutes Part 1, is single-authored by Troels J. Hegland, the accompanying papers, which constitute Part 2, are co-authored by Troels J. Hegland and various colleagues.

The point of departure for the thesis is an understanding of the CFP as having failed to deliver optimal results since being set up in 1983. Not only has the policy, which is intended to facilitate sustainable fishing, been unable to prevent a number of fish stocks in European waters from decreasing to precarious levels, it has also, it is argued, contributed to the development and maintenance of a much too large combined European fishing fleet, which is for a significant part struggling with low profitability.

In several of the papers root causes of the problems of the CFP are identified. These include an inbuilt incentive at member state level to drift during implementation, thus undermining their own good intensions at EU level; an inability to decide measures for specific seas or fisheries without those decisions being linked to decisions regarding other seas or fisheries, thereby reducing the ability to tailor-make management in a fisheries system characterised more by diversity than commonality; a lack of convincing involvement of stakeholders in EU level decision-making, which has undermined the legitimacy of the CFP; as well as a failure to clarify and acknowledge the distribution of roles and authorities in the system, which has resulted in a failure to focus on long-term sustainability and in the Commission being blamed for fisheries management failures where in fact the Council and the member states have been more to blame. Although recognised that these are not the only, the above problems are identified as core.

In several papers the option of regionalising the governance system of the CFP in order to put it on the right track is investigated. Although regionalisation based on the regional seas (North Sea, Baltic sea, etc.) is only one reform possibility among several, it is argued that it is an option that would potentially efficiently and fundamentally deal with the problems, while at the same time facilitate the move towards more integrated marine management in accordance with other EU initiatives such as the Marine Strategy Framework Directive and the Integrated Maritime Policy, which both focus on regional cooperation. It is also documented that regionalisation has considerable support in the stakeholder community. Many rounds of enlargements of the EU have left the centralised mode of governance, which might have been appropriate in 1983 when the CFP was basically concerned with managing the fisheries of the North Sea, unable to respond to the needs of very diverse areas and fisheries. However, as fish remains a shared resource it is not an attractive solution to resort to national management unless this being conditioned on regional cooperation. It is also suggested that part of regionalisation has to be increased stakeholder involvement to follow up on the success of the stakeholder-led Regional Advisory Councils set up from 2004.

In the synthesis Troels J. Hegland analyses the political process towards regionalisation. His diagnosis is that the CFP is on the edge of taking a wrong turn–or at least a detour—but that there might still be possibilities to develop regionalisation by means of so-called new modes of governance. However, this will, it is argued, require much stronger political will than what has been characteristic of the CFP over the years.

# Resumé (Danish Summary)

PhD afhandlingen, *'Fishing for Change in EU Governance - Excursions into the Evolution of the Common Fisheries Policy'* af Troels J. Hegland, Innovative Fisheries Management, Aalborg Universitet, består af syv papers og en syntese, alle omhandlende aspekter af den Europæiske Unions (EU) Fælles Fiskeripolitik. Hvor syntesen, Del 1 af afhandlingen, er forfattet af Troels J. Hegland alene, så er de medfølgende papers, Del 2 af afhandlingen, forfattet af Troels J. Hegland i samarbejde med forskellige kolleger.

Udgangspunktet for afhandlingen er en forståelse af den Fælles Fiskeripolitik som have været ude af stand til at levere optimale resultater siden etableringen i 1983. Ikke alene har politikken, som skal tilvejebringe bæredygtigt fiskeri, været ude af stand til at forhindre, at et antal europæiske fiskebestande er reduceret til faretruende lave niveauer, den har også, argumenteres der, bidraget til udviklingen og opretholdelsen af en alt for stor europæisk fiskeriflåde, der for en dels vedkommende kæmper med lav profitabilitet.

I flere papers identificeres den Fælles Fiskeripolitiks grundlæggende problemer. Disse inkluderer et indbygget incitament på medlemsstats niveau til at fravige målsætningerne i implementeringsfasen, hvorved egne gode intentioner på EU niveau undermineres; en manglende evne til at skræddersy forvaltningsinitiativer til bestemte områder eller fiskerier uden at disse beslutninger knyttes til beslutninger i for andre områder eller fiskerier, hvorigennem evnen til at skræddersy forvaltningsinitiativer reduceres i et fiskerisystem, der er mere præget af forskellighed end fællestræk; en mangel på overbevisende inddragelse af interessentgrupper i beslutningsprocessen på EU niveau, hvilket har undermineret den Fælles Fiskeripolitiks legitimitet; såvel som en manglende klarhed over fordelingen af roller og autoritet i systemet, hvilket har resulteret i manglende fokus på langsigtet bæredygtighed og i at Kommissionen ofte bebrejdes for forvaltningsproblemer, der retteligen burde bebrejdes Rådet og medlemsstaterne. Uanset at det er andre problemer, identificeres overstående som grundlæggende.

Over flere papers undersøges mulighederne for at regionalisere den Fælles Fiskeripolitiks politiko-administrative strukturer for at få politikken tilbage på sporet. Desuagtet at regionalisering baseret på regionale havområder (Nordsøen, Østersøen, etc.) er en blandt flere reform muligheder, så argumenteres der for, at denne mulighed potentielt set effektivt og fundamentalt kan imødekomme problemerne, og på samme tid muliggøre integreret marin forvaltning, som allerede gennem andre EU-initiativer, så som Havstrategidirektivet og den Integrerede Maritime Politik, forudsættes baseret på regionalt samarbejde. Det dokumenteres også, at regionalisering har betydelig opbakning blandt interessenter. Adskillige udvidelser af EU har efterladt den stærkt centraliserede Fælles Fiskeripolitik—som måske var et passende svar på udfordringerne i 1983, hvor det basalt set drejede sig om forvaltningen af fiskeriet i Nordsøen—i en situation, hvor den ikke kan respondere på behovene i forskelligartede regioner og fiskerier. Ikke desto mindre, eftersom fisk forbliver en fælles ressource, er det ikke et attraktivt alternativ at lade medlemsstaterne stå for forvaltningen med mindre disse bindes op på at samarbejde på regionalt plan. Det fremføres endvidere, at en komponent af regionalisering nødvendigvis må være yderligere inddragelse af interessenter i forlængelse af de positive erfaringer med de Regional Rådgivende Råd, der er blevet etableret fra 2004.

I syntesen analyses den politiske proces mod regionalisering. Diagnosen er, at den Fælles Fiskeripolitik synes tæt på at tage en uheldig retning, men at der fortsat er mulighed for at udvikle regionalisering via 'new modes of governance'. Dette vil imidlertid kræve en dedikeret politisk vilje, som man hidtil har været uvant med.

# Appendix: Projects, Papers and Research Techniques

## *Projects and Papers*

Over the years where I have been employed at the Institute for Fisheries Management and Coastal Community Development (IFM; 2004-2007) and Innovative Fisheries Management – an Aalborg University Research Centre (IFM-AAU; 2007 to date) I have worked on approximately 10 different research projects relating to various aspects of the CFP—most of these in collaboration with other research institutions spread across all of Europe and wider. Of these projects three deserve a brief introduction as work within these projects has contributed with one or more papers to the collection in Part 2 of the thesis. Consequently, in the following I will briefly introduce the objective of each of these projects as well as a very rough overview of the research design.

Besides the publications and papers mentioned in the following sections, a few other publications and documents of mine deserve mentioning as parts of the fundament for Part 1 of the thesis. These are: Hegland (2004)—my Master thesis; Hegland (2006)—a book chapter developed in relation to the EFIMAS project (*Operational Evaluation Tools for Fisheries Management Options*; 2004-2008)[i]; and Hegland (2009)—a working paper developed as a PhD course assignment.

### The ITAC Project

Within the Research Council of Norway funded ITAC project (*Implementation of TACs in the Atlantic Fisheries*; 2006-2008) we studied—not least in a historical perspective—the administrative processes of implementing fisheries conservation policies in the North Atlantic. We did this by looking into and comparing the practices of three countries carrying out significant fisheries activities in this area: the Faroe Islands (a self-governing territory within the Kingdom of Denmark but outside the EU), Norway (outside the EU), and, finally, Denmark (as member of the EU and hence subjected to the CFP). The responsibility of IFM / IFM-AAU (represented by myself and my colleague Professor Jesper Raakjær) included in particular looking at the practices in Denmark and the EU.

In terms of research design, the ITAC project combined literature reviews, document studies and key informant interviews. The branch of ITAC that related to the EU was basically carried out as a desk study due to the significant amount of publications (and thereby secondary data) available. In relation to the description of the Danish system and its developments a more explorative approach was needed due to the very limited number of previous publications on the topic. Hence, for that part of ITAC, we resorted to the use of archival documents as well as open, explorative key informant interviews with researchers, fisheries sector representatives and managers; over time we moved towards more semi-structured interviews, as we got better grasp of the issues at stake. Details on the use of different techniques will be supplied further beneath in this appendix. ITAC contributes with the following papers to Part 2 of this thesis:

Paper 1: T.J. Hegland and J. Raakjær (2008): RECOVERY PLANS AND THE BALANCING OF FISHING CAPACITY AND FISHING POSSIBILITIES: PATH DEPENDENCE IN THE COMMON FISHERIES

[i] Project website: www.efimas.org/.

POLICY. Chapter 5 in S.S. Gezelius and J. Raakjær (Eds.): *Making Fisheries Management Work. Implementation of Policies for Sustainable Fishing.* Dordrecht: Springer.

*Abstract:* *The Common Fisheries Policy (CFP) of the European Union (EU) has for long been accused of being unable to provide sustainable fisheries or actually in itself being an obstacle to this. Not least the inability of the CFP to achieve a sustainable balance between available resources and fishing capacity has been an issue of debate. By looking at the historical development of the implementation of the structural and conservation policies, this chapter sets out to provide an understanding of why the EU has for long been unable to choose another course in its fisheries policy. A key aspect in relation to this is the path dependence of the system, which has to a great extent made any real reform attempts unsuccessful. Nevertheless, based on recent changes in relation to the political cleavages between member states and the outcome of the CFP reform of 2002, the chapter describes how the evermore present resource crisis has opened a window-of-opportunity which makes a change in course possible. This is to some extent evidenced by the adoption of a series of recovery plans. Whether this will be enough to provide for a bright future of the CFP is, however, questionable.*

Paper 2: T.J. Hegland and J. Raakjær (2008): IMPLEMENTATION POLITICS: THE CASE OF DENMARK UNDER THE COMMON FISHERIES POLICY. Chapter 6 in S.S. Gezelius and J. Raakjær (Eds.): *Making Fisheries Management Work. Implementation of Policies for Sustainable Fishing.* Dordrecht: Springer.

*Abstract:* *Denmark is among the more loyal European Union (EU) member states when it comes to national implementation of the Common Fisheries Policy (CFP). However, even in Denmark several mechanisms contribute to sub-optimal implementation of the CFP. Looking at implementation problems for a relatively loyal member state, this chapter sheds critical light on national implementation of the CFP in the EU as a whole. The chapter initially provides a description of the institutional set-up for fisheries policy-making and implementation in Denmark, including a short historical account of the development of the Danish fisheries and their management since 1983. Subsequently, the chapter provides an understanding and of the mechanisms and processes behind the Danish implementation of fisheries policy, arguing that these mechanisms and processes have led to a situation where the goals agreed at the EU level are supplemented or even replaced by national priorities. The chapter concludes that in order to capture the domestic politics associated with CFP implementation in Denmark, it is important to understand the policy process as a synergistic interaction between dominant interests, policy alliances/networks and prevailing discourses. The inability of the EU to ensure that the conservation goals agreed at the EU level are loyally pursued during national implementation is one of the reasons why the EU has been struggling to keep fishing mortality rates at a sustainable level.*

Paper 3: S.S. Gezelius, T.J. Hegland, H. Palevsky and J. Raakjær (2008): THE POLITICS OF IMPLEMENTATION IN RESOURCE CONSERVATION:

COMPARING THE EU/DENMARK AND NORWAY. Chapter 7 in S.S. Gezelius and J. Raakjær (Eds.): *Making Fisheries Management Work. Implementation of Policies for Sustainable Fishing.* Dordrecht: Springer.

*Abstract:* *This chapter discusses implementation as a policy instrument in terms of fisheries resource conservation. Implementation is primarily a means of pursuing established political goals. However, it is also a potential means of deliberate subversion or change of political goals. The chapter describes the development of multiple goals in fisheries management and addresses mechanisms through which conservation goals are subverted or changed at the implementation stage. Through comparison between the EU/Denmark and Norway, this chapter identifies factors that promote and prevent subversion of conservation goals during implementation.*

In addition, though not included in Part 2, Gezelius, Raakjær and Hegland (2010) also forms part of the fundament for Part 1 of this thesis.

## The MEFEPO Project

During most of the time of this PhD project, I and IFM-AAU colleagues, primarily my supervisor, Professor Jesper Raakjær, and a Research Assistant, Kristen Ounanian, have been working on the EU 7th Research Framework Programme project MEFEPO[ii] (*Making the European Fisheries Ecosystem Plan Operational*; 2008-2011). The MEFEPO project was coordinated by the University of Liverpool and involved 10 research institutions from eight European countries from Spain in south to Norway in north.

This project aimed among other things to show how an ecosystem approach to fisheries could be made operational within selected European maritime regions (namely the regions covered by respectively the North Sea RAC, the North Western Waters RAC, and the South Western Waters RAC) and evaluate different modes of fisheries governance. Responding to increased interest in the topic during 2008, it was early in the MEFEPO project agreed that IFM-AAU (and to a limited extent other partners working on MEFEPO) should specifically use the project to explore the role of the regional level (being the level between the member states and the central EU institutions) in the EU fisheries management system, i.e. regionalisation.

A multitude of research techniques were employed to investigate regionalisation. The first step of our research process involved a literature review to familiarise ourselves with and develop an understanding of the concept of regionalisation. Subsequently, we moved to a more explorative phase where we combined observations of meetings and conferences with key-informants interviews with researchers, managers, policy-makers and stakeholder representatives to get a better idea of the main themes specifically in the context of the EU. To the material obtained through the observations and the interviews, we added a document study of (for the most part) position documents submitted to DG MARE in connection with the coming reform of the CFP. Simultaneously, we carried out a web-based survey of those who participate in meetings of Regional Advisory Councils.[iii] Details on the use of different techniques will be supplied in the following sections. MEFEPO contributes with the following papers to Part 2 of this thesis:

[ii] Project website: www.liv.ac.uk/mefepo.

[iii] The survey was predominantly carried out by my colleague, Kristen Ounanian.

Paper 4: T.J. Hegland, K. Ounanian and J. Raakjær (Forthcoming 2012): WHY AND HOW TO REGIONALISE THE COMMON FISHERIES POLICY: A THEORETICAL FRAMEWORK. Submitted to *Maritime Studies*.

*Abstract:* *The concept of regionalisation, as it has been employed in connection with the Common Fisheries Policy, is both ambiguous and multidimensional in the sense that it can have different meanings to different people and subsumes several discussions under one heading. This fact further complicates an already delicate discussion. Similarly, the perceived benefits of regionalisation can vary. In this article we are concerned with developing a theoretical and conceptual framework, which allows structuring of different perceived benefits of regionalisation, as well as disentangles the different sub-discussions that the discussion of regionalisation subsumes. Eventually, we present a suite of five different models of regionalisation—'archetypes'—that we believe are relevant representations of important perspectives on what regionalisation means in practice and might facilitate further discussion of where the European Union should be heading in relation to fisheries governance.*

Paper 5: T.J. Hegland, K. Ounanian and J. Raakjær (Forthcoming 2012): WHAT DOES 'REGIONALISATION' MEAN? AN EXPLORATORY MAPPING OF OPINIONS ON REFORM OF THE COMMON FISHERIES POLICY. Submitted to *Maritime Studies*.

*Abstract:* *Regionalisation has in recent years been intensely discussed as a possible future path for the Common Fisheries Policy of the European Union. The motivations for wanting to move in this direction are, however, as varied as the perceptions of what regionalisation as a mode governance would entail in practice. To draw implications for policy, we explore these perceptions and seek, by means of material from primarily interviews and a survey of participants in the Regional Advisory Councils who have hands-on experience with regional cooperation in European fisheries management, to put flesh on both the question of whether and why regionalisation is seen as potentially a good idea, as well as how people perceive different models of regionalisation when confronted with them. The article documents and substantiates the widespread interest in regionalisation but it also highlights the need to develop common understandings of what options for regionalisation are available and what they offer in terms of future benefits and challenges.*

Paper 6: K. Ounanian and T.J. Hegland (Forthcoming 2012): THE REGIONAL ADVISORY COUNCILS' CURRENT CAPACITIES AND UNFORESEEN BENEFITS. Submitted to *Maritime Studies*.

*Abstract:* *The 2002 Common Fisheries Policy (CFP) reform introduced the Regional Advisory Councils (RACs) to enhance stakeholder involvement and correct one of the policy's primary deficiencies, its lack of legitimacy arising from stakeholder involvement. While some criticize the 2002 reform as not going far enough to alleviate problems of lacking process and content legitimacy, in certain ways the RACs may be thought of as representing an interim institutional stage, facilitating better information sharing and cultivating stakeholder relationships. Based on a survey of RAC participants, this paper illuminates the current capacities and functions of the RACs. The*

*paper reveals that the RACs possess additional—often not sufficiently recognised—roles and values to the advice they produce as they facilitate understanding across and within sectors and interest groups and act as key purveyors of information. Additionally, the data also shows mixed feelings of impact among those participating in the RACs.*

In addition, though not included in Part 2, own work in Nolan et al. (2010) and own work in Raakjær et al. (2010), which are grey documents associated with MEFEPO, also form part of the fundament for Part 1 of this thesis.

## The SAFMAMS Project

The SAFMAMS project[iv] (*Scientific Advice for Fisheries Management on Multiple Scales*; 2005-2008), which was coordinated by IFM / IFM-AAU and funded by the EU 6th Research Framework Programme, sought to collate insights from existing research projects and management processes on the most useful forms of scientific advice for marine environmental management and communicate those insights to scientists and decision-makers.[v]

The SAFMAMS project investigated various ways of producing scientific advice at various geographical/politico-administrative levels. Under this project my responsibilities included in particular looking into processes going on at the level of the RACs. I did this by studying the Pelagic RAC as it in late 2006 embarked on a process of developing a long-term management plan for the western stock unit of Atlantic horse mackerel.

I studied the development process of the management plan for western horse mackerel by means of several research techniques (see Supplement 1 attached to this appendix for a detailed overview of the SAFMAMS research process). In short, a number of meetings were observed and I gained access to minutes, presentations and papers from all RAC meetings, as well as to significant amounts of e-mail correspondence between the involved horse mackerel scientists. Finally, after the development process ended, I administered a small e-mail survey among key participants in the process.[vi] Details on the use of different techniques will be supplied further beneath in this appendix. SAFMAMS contributes with the following paper to Part 2 of this thesis:

Paper 7: T.J. Hegland and D.C. Wilson (2009): PARTICIPATORY MODELLING IN EU FISHERIES MANAGEMENT: WESTERN HORSE MACKEREL AND THE PELAGIC RAC. In *Maritime Studies*. Vol. 8(1).

*Abstract:* *In 2006 the stakeholders of the Pelagic Regional Advisory Council (Pelagic RAC) contacted scientists with expertise on western horse mackerel and asked them to assist the RAC in developing a long-term management plan. This article reports on that process and contributes to the knowledge of best practices for interactive processes between scientists and stakeholders. Overall, the participants considered the process, which led to the first step of the implementation of the management plan from 2008, as a considerable*

[iv] Project website: www.ifm.aau.dk/safmams.

[v] The description of the SAFMAMS research process builds on Hegland and Wilson (2008).

[vi] The SAFMAMS work contained elements of 'action research', where the researcher assumes a position of participant, as opposed to only an observer, in a change process - and at the same time observes and researches the process to gain new knowledge of the social mechanisms of the process (Hegland, Jørgensen and Hastrup, 1994). This was related 1) our ability to help facilitate a Pelagic RAC meeting on the horse mackerel management plan in early 2007; and 2) the involvement of us in discussions on how to handle the limited response to a questionnaire presented by the group of horse mackerel scientists to the stakeholders.

*success. As such, the process could serve as an inspiration for stakeholders, researchers and policy-makers wishing to do similar exercises.*

In addition, though not included in Part 2, Hegland and Wilson (2008), which is a grey document associated with SAFMAMS, also forms part of the fundament for Part 1 of this thesis.

## *Research Techniques*

As described, this PhD thesis draws on work carried out in three different research projects: SAFMAMS, ITAC and MEFEPO. Having above briefly described the objective and research design of each project, I will in the following go more in detail with the research techniques employed; both in terms of introducing their qualities in general and describing in detail how the techniques were put to use in the projects. The three projects share features in terms of research techniques chosen and these techniques thus figures as particularly important for the PhD thesis as a whole. The following sections draw on the papers constituting Part 2 of this thesis, as well as in addition Hegland and Wilson (2008) for the SAFMAMS project, and Raakjær et al. (2010) for the MEFEPO project. Reflecting the fact that MEFEPO is the project that has filled the most in the period of my PhD work, the account for the use of different techniques in this project will be more detailed compared to the other two projects.

### Literature Review

A literature review is a traditional first step of a research process, at what point the researcher reviews the current scientific knowledge base and thereby outlines the basis for the future research—and this has also been the case in relation to my research endeavours in the three projects contributing to the thesis.

In SAFMAMS the theme of the (brief) literature review was participatory modelling between stakeholders and scientists.[vii] In the ITAC project the literature review evolved around the development of the CFP since its inception, as well as administrative practices relating to the implementation of the CFP in Danish fisheries management. Finally, in MEFEPO the themes of the literature review were decentralisation, regionalisation, and co-management, primarily in a fisheries context.[viii]

In practical terms, the literature reviews in general involved structured searches with specific keywords in journal databases to identify relevant articles, usage of lists of references in relevant articles, discussions with other scientists able to point to other articles or 'grey' literature, creative Google-searches, as well as any other means of getting information on relevant literature.

### Document Study

All three projects involved the study of primary documents (such as meeting minutes, position documents, legal texts etc.) as a research technique.

In ITAC the documents studied included archival material from the relevant Danish ministry, in particular minutes from meetings of the advisory Board of Commercial Fishing from the beginning of the 1980's to date, as well as EU and Danish legislative acts and official reports and communications etc. In SAFMAMS the documents included

[vii] The literature review for SAFMAMS was carried out by my colleague Douglas C. Wilson.
[viii] A colleague, Kristen Ounanian, was heavily involved in the literature review for MEFEPO.

a limited pool of RAC meeting PowerPoint presentations and personal e-mail communication between horse mackerel scientists.

In MEFEPO the documents studied included various EU legislative acts, reports and communications, as well as the pool of position documents submitted in connection with the public consultation on the Commission's Green Paper, all of which we were able to access due to the timing of our research. The documents received were by default public and accessible on a dedicated website.[ix]

The Commission received 382 contributions (Commission, 2010). Consequently, we initially went through the list to identify the documents that were of interest to us ensuring that we captured a good variety and that we at least looked at the documents from key actors, e.g. the RACs.[x] Having narrowed down the number of documents substantially, we skimmed through them and discarded those which did not directly deal with issues of interest to us. Of the documents left we chose to focus on the ones that elaborated most on regionalisation, though still attempting to have a decent variety in these documents. Position documents from key actors not submitted as part of the public consultation process were also taken into account, as well as other texts that we found useful in attempting to outline the main issues, challenges and perspectives.

## Observation

Observing meetings can be regarded as a simple version of the method of participant observation. Traditionally participant observation requires developing a relationship and adopting some sort of role within the group observed, a task that requires that significant time are spent on participating and observing. However, in general, the way we used observations was somewhat more basic, as we in SAFMAMS and MEFEPO were able to sit in on and observe relevant meetings (without really adopting the role as participant) with the dual objective of learning about the factual content of the discussion, as well as observing interactions between stakeholders and scientists (SAFMAMS) and interactions between different groups of stakeholders (MEFEPO).

In SAFMAMS I or a colleague of mine observed five of the seven meetings of the Pelagic RAC where the development of the horse mackerel management plan appeared as an item on the agenda. For the two meetings we could not attend, I benefited from information from a stakeholder representative that was associated with the project (see Supplement 1 attached to this appendix).

Specifically in MEFEPO, the observation of meetings served multiple purposes. First and foremost, the objective of observing the participants deliberating in meetings was to give us a preliminary understanding of the issues and discussions surrounding the issue of regionalisation. This, in turn, would facilitate developing the guide for the key informant interviews (see beneath). Secondly, attending the meetings presented an opportunity to meet some of the people who we had already planned to interview. We thought—that whenever possible—making initial contact face-to-face as opposed to the usual e-mail would increase our chance of getting that person to agree to be a key informant. Finally, we also felt that our presence at the meeting would help raise the awareness of MEFEPO; an exposure that we believe (but have no way of knowing) proved particularly useful when sending out a survey on regionalisation to RAC participants (see relevant section beneath).

[ix] See http://ec.europa.eu/fisheries/reform/consultation/received/index_en.htm, accessed 23 July 2010.
[x] At this point of our research process it was—in general—also not feasible to consider documents submitted in other languages than English.

In practice in MEFEPO, the researcher(s) present at the meeting listened to the discussion and took notes during the meeting. Subsequently, the researcher(s) communicated the main insights from the meeting to the core team of researchers and distributed notes and in some cases presentations from the meeting. A list of meetings and conferences observed is included as Supplement 2 attached to this appendix.

## Interview

Interviews have been one of the most important sources of empirical material behind this thesis. Generally, the interviews have been key informant interviews, an interview type that is particularly useful whenever there is limited access to written material on the topic of investigation, which was in particular the case in relation to the work carried out on the MEFEPO project, but also to some extent on the ITAC project in particular in regards to information on the Danish administrative practices. At the same time we also found the key informant interview attractive because we believed that the topics on both projects were of such interest that it would in fact be possible to get interviews with the real key persons, even though they are generally often rather busy and therefore selective.

Key informant interviews are semi-structured interviews with persons who are expected to possess key information about a topic of interest to the researcher. A vital aspect of key informant interviews is selecting the right informants. At the level of the individual informant it is of course important to pick a person who has useful insights, but equally as important is that the person is able and willing to communicate these insights openly in an interview situation. In addition to carefully selecting the individual interviewee, it is important that the group of interviewees as a whole is somewhat representative of the different groups of people you wish to learn from. In both ITAC and MEFEPO significant efforts were made in order to live up to these aspirations.

In ITAC eight key informant interviews (three of those with two informants present) were conducted, covering informants representing administration, the fisheries sector and research. The aim was to strike a reasonable balance and also to ensure that the informants had been involved with fisheries management for a substantial period in order for them to be able to reflect on the changing dynamics over time. In total six informants were from administration/research and five from the sector; all informants had a minimum of 15 years of experience with fisheries management in one way or the other—and most had actually even longer experience. All interviews were transcribed to facilitate analysis and all 11 respondents were granted anonymity.

The ITAC interviews were carried out in three distinctive rounds. The first three interviews (four informants) were very open and exploratory, structured only by the pre-understanding and a few handwritten notes of the researchers. This strategy was chosen mainly for two reasons: 1) we had only a vague idea of what would be the main issues based on our pre-knowledge, and 2) we wanted the informants themselves to assist in identifying critical themes and issues. For the following two rounds of interviews (with respectively three and four informants), a more structured interview approach (but still with customised guides for each interview) was employed utilising the insights from the previous round(s) of interviews. However, all interviews remained relatively open and the informants were always encouraged to focus on what they found important

During MEFEPO we carried out 19 semi-structured key informant interviews with various academics, stakeholders, managers, and policy-makers on the issue of regionalisation to get a better idea of the discussion, the policy-process, the political positions, the options, the challenges, and the perceived advantages etc. A list of the

interviewees as well as some information about each interview can be found in Supplement 3 attached to this appendix.[xi]

Prior to the interviews an interview guide was developed based primarily on the insights from the literature review and the observation of meetings. The researchers carrying out the interviews were encouraged to report possible problems with the practical use of the interview guide in the interview situation back to the core team so that it could be determined if the problem demanded attention in relation to the remaining interviews. The final version of the interview guide can be found as Supplement 4 attached to this appendix. It should be noted, however, that the interviews were semi-structured and the interview guide was, as indicated by the name, only meant to act as a guide.

As for persons to interview, these were chosen according to a variety of criteria. Our most important concern relating to the individual interviewee was of course whether we were convinced that the potential interviewee held useful information (opinions, ideas, insights, etc.) on the issue of regionalisation. Of course another concern was whether the person was available and willing to openly debate the issues during an interview. For the entire group of interviewees we aimed to make sure that 1) we got a reasonable geographical spread across the three RAC regions dealt with in MEFEPO and 2) we got a reasonable mix of researchers, managers, policy-makers, and stakeholder representatives (including the fisheries sector as well as other interests). The interviews were generally carried out in the mother tongue of the interviewee, recorded and subsequently transcribed into text-files (during the transcription the interviews not carried out in English were translated). Most interviews were transcribed in full; however, a few of the interviews were—based on cost-benefit thinking—only transcribed partially, or the relevant points of the interview were condensed and turned into text. Finally, to facilitate analysis of the data from the interviews selected key interview transcripts were imported into qualitative text analysis software, where the relevant text units were coded according to their topics in order to be able to create structure in the material. It was decided to make the list of interviewees public, but statements from the interviews were not associated to specific persons when reporting.

## Focus Group

Only one focus group interview has been carried out in relation to this thesis, so this method will not be discussed at length. Generally, however, focus group interviews are considered to be particularly useful because the format reduces the role of the interviewer, who will often only set the agenda for discussion between the focus group participants. Ideally this reduces the bias that can be introduced by the interviewer leading the discussion often by means of a guide or a questionnaire.

The focus group interview was carried out in MEFEPO. Focus group interviews were not originally among the planned research techniques in that project. However, when we contacted a key official in DG MARE to ask for a key informant interview, this person decided that the topic was of interest to a wider group of his colleagues and invited these to participate. The focus group interview was carried out in Brussels in November 2009.

Rather than using the interview guide, which had been developed for the key informant interviews, we decided to open focus group interview with a short PowerPoint presentation to get the talk started. The format of the focus group interview turned out to work well for the information we were after. However, the dynamic between the

[xi] The interviews were divided on seven interviewers, primarily due to the language skills required.

participants was not as prolific as we would have liked. One explanation might be that there was a clear hierarchy between the participants from the same organisation. This was probably not be the best composition of focus group participants but in light of the way the focus group interview came into being this could not have been prevented. Particularly due to the timing of the focus group (during the open consultation on the Commission's Green Paper) the participants asked to be kept anonymous, which was accepted.

The focus group interview was conducted in English, recorded and subsequently transcribed into plain text close to *ad verbatim*. Finally, to facilitate analysis of the data, the transcript was imported into qualitative text analysis software in order to be able to create structure in the material.

## Survey

By developing a questionnaire, which—with relative ease—can be administered to a large number of respondents, the researcher is able to get hold of data from a much larger population than if he or she had to talk to people personally. Moreover, the researcher will often make sure that the options for answering are fixed—as opposed to open-ended—so that the answers can be associated with numerical values and treated statistically. This way of doing research provides a high level of reliability in the sense of the research being replicable. However, respondents are unable to add new aspects as they would have been able to in an interview situation; likewise the respondents have to answer according to the predetermined options—no matter if they would like to answer in another way or qualify their answer.[xii] Moreover, it can be difficult to ensure that the questions are interpreted similarly by all respondents as the one asking the question is not available for consultation. Surveying was an important research technique in MEFEPO and played a smaller role in SAFMAMS.

In SAFMAMS I sent out an e-mail to the key participants in the process that was studied with a number of questions on how they experienced the process after it had ended (Supplement 5 attached to this appendix contains the questions distributed). I distributed to six scientists and five stakeholder representatives and, after a round of reminders, I received six and three answers respectively. The respondents were granted anonymity. It should be noted, however, that this was not a classical quantitative survey. The questions were kept open ended and the answers were not threated statistically. Rather, the aim of the survey was to gather qualitative data but do so in a cost-efficient manner; fully recognising that interviews would probably have provided richer accounts.

In MEFEPO the objective of—among other things--uncovering relations between preferences for reform towards regionalisation and particular attributes (such as geographical affiliation, stakeholder type etc.) of respondents with an interests in European fisheries management lend itself well to the development of a quantitative survey.

The development of the survey presented a number of methodological challenges, the first one being how to define the population for our survey. The first choice was to focus attention on the RACs and the regional structure they represent. Although the European Union's fisheries management system includes seven RACs, only four came under investigation in this survey, namely those covered by the MEFEPO project: North Sea RAC, North Western Waters RAC and South Western Waters RAC, and additionally it was decided that it was appropriate to include the Pelagic RAC as this species specific

[xii] Often the respondents are given the possibility to qualify their answers in a comments box but these qualifications will not affect the numerical values of the provided answers.

RAC spans the waters covered by the other RACs. Within the four defined RACs, there were some concerns of how to define the exact population. We decided to define this as those who attended a General Assembly or an Executive Committee meeting in 2009 plus the participants from the first meeting within the 2009 calendar year of all working groups. That brought the survey population to 329 total potential participants.

Through the process of finding e-mail addresses (through the RAC secretariat and Internet searches), it became apparent that for various reasons e-mail would not reach the full population. Consequently, we adopted a mixed-mode survey utilising both a list-based web survey with e-mail invitations and a postal survey to follow-up with those who did not complete the web format. Since the survey population was tightly defined and the total number of participants was reachable via the outlined methods, we were able to send questionnaires to the entire population. The frame population therefore completely covers the target population and there was no sampling done randomly or otherwise. This meant that there were no replacements for participants who opted out or were unavailable through our methods of contact.

Before reaching its final form, the questionnaire underwent a rigorous draft process. The internal IFM-AAU team reviewed and revised multiple drafts of the text after which IFM-AAU solicited comments from external MEFEPO partners. Upon receiving comments from our external partners, some of our contacts and colleagues from outside the MEFEPO team were asked to review the survey. Finally, the survey went through a pilot test. The pilot group comprised seven individuals representative of the survey population but not in fact included in it. The questionnaire (in English) is included in in Supplement 6 attached to this appendix. A separate challenge in relation to the questionnaire was the issue of language translations. Due to the wide range of countries represented in the four RACs, three MEFEPO colleagues translated the final English version into French, Spanish, and Portuguese. With the intention to keep the survey questions and response options as close to the original English as possible, all translations were translated back into English and checked by other colleagues competent in the three languages.

In practice, the survey went out first through an e-mail, which provided a link to the online questionnaire. The cover letter e-mail was sent in the language of correspondence (English, French, Portuguese, or Spanish) as determined through name, organisation, e-mail address, or any combination thereof. After roughly one week, the participants received a second e-mail with the identical cover letter and information as provided in the initial distribution e-mail. Since the survey went out close to the Easter holiday, we waited until after the holiday to send a second e-mail reminder, this time with shorter text and more direct request to fill out the survey. The final e-mail reminder did inform potential participants that mailed surveys would go out if they did not complete the online version. The paper questionnaire was then mailed through the post a little more than a month after the first contact through e-mail.

The survey totalled 138 observations, of which 100 participants completed the online questionnaire, 30 completed the paper version and 8 partially responded online providing enough answers to merit inclusion. The response rate for the survey was 41.9 % (138/329).

## *Supplement 1: SAFMAMS Research Process*

| Date | Event | Action | Research undertaken* |
|---|---|---|---|
| Process of developing the management plan | | | |
| Sept 2006 | Kick-off of process | Invitation by PRAC to scientists. Consortium of scientists formed. | SAFMAMS team becomes notified of and engaged in the process. |
| Nov 2006 | PRAC Working Group meeting | Presentation of 3 possible HCR scenarios. Presentation of questions to industry. The Commission expresses its support. Presentation of SAFMAMS. | Meeting observed, PRAC minutes and presentations studied. |
| Dec 2006 | Preparation for February PRAC Working Group meeting | E-mail questionnaire on priorities sent to industry stakeholder representatives (questions presented at PRAC Working Group meeting, Nov 2006). | E-mail correspondence studied. |
| Jan 2007 | Preparation for February PRAC Working Group meeting | Limited response on questionnaires. Exploration of different approaches by horse mackerel scientists. | E-mail correspondence studied, SAFMAMS team involved in discussion of approach to February meeting. |
| Feb 2007 | PRAC meeting on management plan for horse mackerel / PRAC Working Group meeting | Update on industry priorities. Presentations of simulations on two different principles for HCR. / Decision to set up focus group with scientists and stakeholders in April to get more input from industry. | Meeting observed, PRAC minutes and presentations studied. |
| April 2007 | PRAC Horse Mackerel Focus Group meeting | Focused discussions between scientists and key industry stakeholder representatives. | Meeting observed, subsequent e-mail correspondence studied, presentations. |
| May 2007 | PRAC Working Group meeting | Combined presentation of 2 possible HCRs. Stakeholder representatives asked to consider the two options. Focus group members (incl. an NGO representative) to continue discussions. | Meeting observed, PRAC minutes and presentations studied. |
| June 2007 | PRAC Working Group meeting | Combined presentation of 2 possible HCRs. Decision by | PRAC minutes and presentations studied. |

| | | | |
|---|---|---|---|
| | | working group on management plan to fully develop and support. | |
| July 2007 | PRAC Executive Committee meeting | Draft management plan presented. Formal decision to ask the Commission to have the plan evaluated and possibly implemented by ICES. Management plan subsequently sent to Commission. | PRAC minutes studied. |
| Process of getting the management plan implemented | | | |
| Aug 2007 | EU Commission confirmation | EU Commission acknowledges management plan and forwards to ICES for evaluation | Mail correspondence studied. |
| Oct 2007 | PRAC Working Group meeting | ICES confirms having evaluated the management plan and found it consistent with the precautionary approach for the coming 3 years. (ICES recommends TAC of 180,000 tonnes for 2008, 2009 and 2010 based on plan). In the longer term several technical issues need to be addressed. | Draft PRAC minutes studied. |
| Nov 2007 | PRAC Executive Committee meeting | PRAC recommends that the Commission implements management plan. A focus group should work on aligning assessment areas and management areas. | Draft PRAC minutes studied. |
| Nov 2007 | Commission issues proposal on TACs for 2008 | Commission proposes rollover of TAC from 2007 (meaning a TAC of approximately 150,000 tonnes). | Commission proposal studied. |
| Dec 2007 | Council adopts TACs for 2008 | Council adopts TAC for 2008 according to the management plan (meaning 180,000 tonnes). | Adopted TACs studied. |
| * After the process had ended an e-mail survey was carried out among key participants in the process. | | | |

## *Supplement 2: Conferences and Meetings Observed in MEFEPO*

Meetings:

Working Group Meetings / Pelagic RAC, 16. Sept. 2009, Amsterdam, the Netherlands (Observer: Jesper Raakjær)

Demersal Working Group / North Sea RAC, 14 Oct. 2009, Haarlem, the Netherlands (Observer: Troels Hegland)

Meeting of the ad hoc group on the green paper on the reform of the Common Fisheries Policy / SWW RAC, 23 Oct. 2009, Madrid, Spain (Observer: Paulina Ramirez)

Working Group on Horizontal Issues (i.e. CFP Reform) / NWW RAC, 28 Oct. 2009, Dublin, Ireland (Observer: Kristen Ounanian)

Conferences:

Annual Science Conference 2009 / ICES, 21-25 Sept. 2009, Berlin, Germany (Observers: Jesper Raakjær and Troels Hegland)

Regional Fisheries Management - Making It Work for Fisheries and the Environment / WWF and Ocean 2012, 29 Sept. 2009, Brussels, Belgium (Observers: Troels Hegland and Staffan Zetterholm)

A new fisheries policy for fishers to take over stewardship of the fishery / DanFish, the Ministry of Food, Agriculture and Fisheries and the Danish Export Association, 8 Oct. 2009, Aalborg, Denmark (Observer: Kristen Ounanian)

Regionalization of the CFP / Nordic Council of Ministers, 13 Oct. 2009, Copenhagen Airport, Denmark (Observers: Troels Hegland, Kristen Ounanian and Staffan Zetterholm)

Decision-making within a reformed Common Fisheries Policy (CFP) / Inter-RAC Conference, 3-4 Nov. 2009, Edinburgh, Scotland, UK (Observer: Kristen Ounanian)

## *Supplement 3: List of Key Informants for MEFEPO*

| Name | Country | Position | Details about the interview * |
|---|---|---|---|
| Mr John Scott | UK (Scotland) | Member of the Scottish Parliament / representing Ayr | Interviewer: KO<br>Telephone<br>Language: English<br>NB: Not recorded |
| Mr Derek Duthie | UK (Scotland) | Chief Executive of the Scottish Pelagic Fishermen's Association / Pelagic RAC participant | Interviewer: KO<br>Telephone<br>Language: English |
| Mrs Cristina Moço | Portuguese | Mútua dos Pescadores; Rede Portugesa das Mulheres da Pesca – AKTEA (women in fisheries network) | Interviewer: HA<br>Face-to-face<br>Language: Portuguese |
| Mr Jan Birger Jørgensen | Norwegian | Vice-Secretary General of the Norwegian Fishermen's Association | Interviewer: CA<br>Face-to-face<br>Language: Norwegian |
| Mr Sean O'Donoghue | Irish | Chief Executive of Killybegs Fishermen's Organisation / NWW RAC and Pelagic RAC participant | Interviewer: KO<br>Face-to-face<br>Language: English |
| Mr Sverre Johanssen | Norwegian | Head of Department at the Norwegian Ministry of Fisheries and Coastal Affairs | Interviewer: CA<br>Face-to-face<br>Language: Norwegian |
| Mr Peter Gullestad | Norwegian | Former Director of the Norwegian Directorate of Fisheries (1996-2008) | Interviewer: CA<br>Telephone<br>Language: Norwegian |
| Mr Alain Cadec | French | Member of the European Parliament (Group: European People's Party), 2nd vice-chair of the Fisheries Committee | Interviewers: TJH + JR<br>Face-to-face<br>Language: French<br>NB: Simultaneously translated to English by assistant of Mr Cadec |
| Mr Liberato Fernandes | Portuguese( Azores) | President of the Federation of Fisheries of the Azores | Interviewer: PR<br>Face-to-face<br>Language: Portuguese<br>NB: Simultaneously translated to Spanish by colleague of PR |
| Mr Harm Dotinga | Dutch | Lawyer at Netherlands Institute for the Law of the Sea | Interviewer: CR<br>Face-to-face<br>Language: Dutch |
| Mr Ole Poulsen | Danish | Head of the Fisheries Policy Section in the Danish Ministry of Food, Agriculture and Fisheries | Interviewers: JR+TJH<br>Face-to-face<br>Language: Danish |
| Mr António Cabral | Portuguese | Secretary General of ADAPI Associação dos Armadores das Pescas Industriais (Portuguese Industrial Fishery Association) | Interviewer: HA<br>Face-to-face<br>Language: Portuguese |

| | | | |
|---|---|---|---|
| Mr Martin Pastoors | Dutch | Director at Wageningen UR Centre for Marine Policy, former (Vice-) Chair of Advisory Committee at ICES | Interviewer: CR<br>Face-to-face<br>Language: Dutch |
| Mr Hans van Nieuwenhuisen | Dutch | Project manager for Natura2000 Noordzee at the Dutch Ministry of Agriculture | Interviewer: CR<br>Face-to-face<br>Language: Dutch |
| Mrs Isabella Lövin | Swedish | Member of the European Parliament (Group: The Greens / European Free Alliance), member of the Fisheries Committee | Interviewers: JR+TJH<br>Face-to-face<br>Language: Swedish and Danish |
| Mr Javier Garat Perez | Spanish | President of Europêche, the Association of National Organisations of Fishery Enterprises in the European Union | Interviewer: PR<br>Telephone<br>Language: Spanish |
| Mrs Aurora Vicente | Spanish | Representative of the EU Fish Processors and Traders Association (AIPCE-CEP) | Interviewer: TJH<br>Face-to-face<br>Language: English |
| Mrs Niki Sporrong | Swedish | Director of a Swedish NGO, the Fisheries Secretariat, one of the main persons behind Ocean 2012 | Interviewer: TJH<br>Telephone<br>Language: English |
| Mr Michael Park | UK (Scotland) | Chairman of the Scottish White Fish Producer's Association / North Sea RAC participant | Interviewer: KO<br>Telephone<br>Language: English |

* The following researchers carried out interviews: Paulina Ramirez (PR), Troels Jacob Hegland (TJH), Jesper Raakjær (JR), Kristen Ounanian (KO), Christine Röckmann (CR), Claire Armstrong (CA) and Helena Abreu (HA).

## *Supplement 4: MEFEPO Interview Guide*

### Guide for Key-Informant Talks

Directions for researcher: Prior to staring the discussion, provide the participant with some basic information about yourself, the project, and the aim of the talk. The text outlined below should be used as a guide, not a definitive script.

*Name*
*Organization*
*MEFEPO involvement*

*Thank you very much for letting me have some of your time. The input the MEFEPO project gets from this and other talks is a key step in our efforts to learn more about regionalization as one possible way to reform the Common Fisheries Policy to facilitate the implementation of an operational eco-system approach to fisheries management, which is the main concern of the over all MEFEPO project. When we made this appointment I told you about the background of the MEFEPO project and the special interest we have in looking at possibilities and problems of regionalizing fisheries management in Europe, namely the CFP.*

*I hope that it is okay with you that I tape our talk. Taping these talks is important for us to review the discussion at a later time and compare with the notes we have written today. However, we will not be quoting you by name in our report. Instead we will refer to the people we interview with labels such as e.g. scientist, policy-maker, manager, eNGO representative, industry representative etc.*

**A. Background**

1 Initially I would like to know a little more about you and your background. I am particularly interested in how your work relates to the Common Fisheries Policy.

**B. Perceptions of Current System and Regionalization**
*As you know, this talk is largely related to the issue of regionalizing the Common Fisheries Policy of the European Union. However, as you are probably also aware there seems to be no clear picture of what regionalization exactly entails.*

2 Firstly, I would like you to expand on what you think are the major weaknesses and/or strengths in the way fisheries management decisions are currently made under the Common Fisheries Policy management system?

3 Could you try to expand on what comes to mind when you hear the phrase: regionalization of the Common Fisheries Policy? (If no response, then possibly suggest different ideas to the respondent – get inspired by Symes' paper…)

4 What would you list as the primary objectives for regionalizing Common Fisheries Policy fisheries management structure? Why would you like or *not* like to regionalize the CFP?

1

5 As you see it, are there particular lines of division in relation to the discussion on regionalization? Are there certain alliances of countries, eNGOs or fisheries industry interests etc. with particular ideas about regionalisation?

6 Where do you stand and what is your opinion on these differences in viewpoint?

7 From your point of view, do you see a link between regionalization and increased stakeholder participation? Why or why not?

8 Have participation in the Regional Advisory Councils led to particular groups gaining increased influence on the national fisheries policy in the country you know the best? For example, fishermen's organizations, eNGOs etc.?

C. **Role of the Regional Advisory Councils**

*At present the Regional Advisory Councils are the most concrete examples of a regional level in EU fisheries management; and it seems unlikely that a reform including some sort of regionalization would leave the Regional Advisory Councils unaffected.*

9 To what extent do you see the introduction of Regional Advisory Councils as a form of regionalization of fisheries policy? Please explain.

10 How would you describe the current role and performance of the Regional Advisory Councils?

11 What implications for the Regional Advisory Councils do you foresee as a result of regionalization? How will this affect the functioning of the RACs?

12 When you speak of the performance and future possible role do you then have a particular Regional Advisory Council or management area in mind?

13 With reference to the Regional Advisory Council you know the best, are there different opinions on the need for regionalization and on what regionalization should entail?

D. **The Policy-Process**

*As you know the CFP is up for reform in 2012 and in the years from now a policy-process will take place that will determine the contents of this reform in relation to regionalization.*

14 Until now in what ways have you participated in the policy-process related to regionalization? Conferences on the issue, meetings, discussions with peers etc?

15 What do you expect will eventually be the outcome of the coming reform in relation to regionalization? Please explain why you see this as the most likely outcome and why other outcomes are less likely.

## *Supplement 5: SAFMAMS E-mail Questionnaire*

Questionnaire to stakeholders, January / February 2008:

1. Did the group of scientists surprise you in any way by the how they acted and operated? If yes, how so?

2. What were the best elements of the process and why?

3. What were the worst elements of the process and why?

4. Were you satisfied with the way that the scientists presented and communicated their material? Why? / Why not?

5. What were (if any) your major concerns in relation to working with a group of scientists on developing a management plan?

6. How would you do the process differently if you were to repeat it?

Questionnaire to scientists, January / February 2008:

1. Did the group of stakeholders surprise you in any way by the how they acted and operated? If yes, how so?

2. What were the best elements of the process and why?

3. What were the worst elements of the process and why?

4. Where you satisfied with the level and usefulness of input provided by the stakeholders? Why? / Why not?

5. What were (if any) your major concerns in relation to working with a group of stakeholders on developing a management plan?

6. How would you do the process differently if you were to repeat it?

## *Supplement 6: MEFEPO Survey Questionnaire*

Making the European Fisheries Ecosystem Plan Operational

The survey is part of an EU project, Making European Fisheries Ecosystem Plan Operational (MEFEPO) and is the undertaking of Innovative Fisheries Management – an Aalborg University Research Centre. It aims to assess the current capacities of the Regional Advisory Councils (RACs) and opinions on regionalisation of the Common Fisheries Policy (CFP).

This is a voluntary and anonymous survey, which we expect to take about 30 minutes to complete.

### Section I: Background

**1: Gender**

Please indicate your gender.

- ❑ Female
- ❑ Male

**2: Age**

Please write your age: _____

**3: Experience**

How long have you been involved with fisheries?

- ❑ Less than 2 years
- ❑ 2-10 years
- ❑ 11-20 years
- ❑ 21-30 years
- ❑ More than 30 years

**4: Regional Advisory Councils participation**

**4a:** Please indicate the type of meeting(s) you attended at the following Regional Advisory Councils (RACs) during 2009 and 2010.

*N.B. The four RACs listed below are the subjects of investigation for the MEFEPO project, thus we have purposely NOT included the Baltic, Long Distance, and Mediterranean RACs.*

| | Executive Committee | General Assembly | Working Group |
|---|---|---|---|
| North Sea | ❑ | ❑ | ❑ |
| North Western Waters | ❑ | ❑ | ❑ |
| Pelagic | ❑ | ❑ | ❑ |
| South Western Waters | ❑ | ❑ | ❑ |

**4b: Primary RAC**

Please indicate the RAC of the four surveyed here in which you consider yourself to have been **MOST** involved.

- ❑ North Sea
- ❑ North Western Waters
- ❑ Pelagic
- ❑ South Western Waters

**** When answering questions from this point onward please base your responses, whenever relevant, on the RAC you just listed above.**

**5: Details of organisation/institution**

**5a:** When attending meeting(s) in the RAC you selected above, have you primarily participated as:

- ❑ A representative of an interest/stakeholder organisation, please specify:
  - ❑ Catching industry
  - ❑ Processing/trading
  - ❑ Aquaculture
  - ❑ Recreational fishing
  - ❑ Consumers
  - ❑ Women in fishing
  - ❑ Environmental
  - ❑ Other
  - ❑ Multiple interests
- ❑ A representative of an organisation/institution that is **NOT** an interest organisation, please specify:
  - ❑ European Commission
  - ❑ EU Member State
  - ❑ Non-EU country
  - ❑ Scientific body
  - ❑ Other
- ❑ Other, please specify: _____

Comments:

_____

_____

_____

**5b:** Please write the country or geographic affiliation of the organisation/institution you represent. In the case that you DO NOT represent an organisation, please write where you are from.
*(Examples given: Spain; Baltic Sea region; Europe; International)*: _____

## Section II: Current RAC Functioning and Capacity

### 6: Motivations for RAC participation

Please score how important you feel each of the following motivations are for you professionally when participating in RAC meetings.

| | Not important at all = 1 | 2 | 3 | 4 | Very Important = 5 | Not Applicable |
|---|---|---|---|---|---|---|
| Improve stakeholder advice in the EU | ❑ | ❑ | ❑ | ❑ | ❑ | ❑ |
| Network with other stakeholders | ❑ | ❑ | ❑ | ❑ | ❑ | ❑ |
| Communicate directly with Commission representatives | ❑ | ❑ | ❑ | ❑ | ❑ | ❑ |
| Serve those I represent in my organisation | ❑ | ❑ | ❑ | ❑ | ❑ | ❑ |
| Interact with scientists who provide fisheries advice | ❑ | ❑ | ❑ | ❑ | ❑ | ❑ |
| Observe | ❑ | ❑ | ❑ | ❑ | ❑ | ❑ |

Comments on the issue of *Motivations for RAC participation*:

_____

_____

_____

### 7: Challenges of the RAC

**7a:** Please score the degree of difficulty for each of the following challenges that may face your primary RAC.

| | Very Easy = 1 | 2 | 3 | 4 | Very Difficult = 5 | Not Applicable |
|---|---|---|---|---|---|---|
| Reaching consensus | ❑ | ❑ | ❑ | ❑ | ❑ | ❑ |
| Cultivating better cooperation between industry and non-industry interests | ❑ | ❑ | ❑ | ❑ | ❑ | ❑ |
| Communicating in different languages and across cultures | ❑ | ❑ | ❑ | ❑ | ❑ | ❑ |
| Addressing different national catching sector priorities | ❑ | ❑ | ❑ | ❑ | ❑ | ❑ |
| Balancing small-scale vs. large-scale fishing priorities | ❑ | ❑ | ❑ | ❑ | ❑ | ❑ |
| Responding to specific advice requests ("firefighting") | ❑ | ❑ | ❑ | ❑ | ❑ | ❑ |

**7b:** Of the challenges listed on the previous page which one do you consider to be the **MOST** critical to the success of your RAC?

- ❑ Reaching consensus
- ❑ Cultivating better cooperation between industry and non-industry members
- ❑ Communicating in different languages and across cultures
- ❑ Addressing different national catching sector priorities
- ❑ Balancing small-scale vs. large-scale fishing priorities
- ❑ Responding to specific advice requests

**7c:** For your primary RAC, please score the degree to which each of the following types of knowledge and expertise are available:

| | **Never Available = 1** | **2** | **3** | **4** | **Always Available = 5** |
|---|---|---|---|---|---|
| Technical fisheries knowledge | ❑ | ❑ | ❑ | ❑ | ❑ |
| Practical fisheries knowledge | ❑ | ❑ | ❑ | ❑ | ❑ |
| Scientific expertise on the ecosystem and fish stocks | ❑ | ❑ | ❑ | ❑ | ❑ |
| Economic expertise | ❑ | ❑ | ❑ | ❑ | ❑ |
| Social science expertise | ❑ | ❑ | ❑ | ❑ | ❑ |

Comments on the issue of *Challenges of the RAC*:

_____

_____

**8: Trust and understanding**

**8a:** Please score the degree to which your level of trust in the following groups has ***increased*** or ***decreased*** due to your participation in the RAC.

| | **Greatly Increased = 1** | **2** | **3** | **4** | **Greatly Decreased = 5** |
|---|---|---|---|---|---|
| Industry stakeholders | ❑ | ❑ | ❑ | ❑ | ❑ |
| Non-industry stakeholders | ❑ | ❑ | ❑ | ❑ | ❑ |
| Commission representatives | ❑ | ❑ | ❑ | ❑ | ❑ |

**8b:** Please score the degree to which the presence of the following groups at RAC meetings has ***increased*** or ***decreased*** your understanding of their priorities (being able to see issues from their point of view).

| | **Greatly Increased = 1** | **2** | **3** | **4** | **Greatly Decreased = 5** |
|---|---|---|---|---|---|
| Industry stakeholders | ❑ | ❑ | ❑ | ❑ | ❑ |
| Non-industry stakeholders | ❑ | ❑ | ❑ | ❑ | ❑ |
| Commission representatives | ❑ | ❑ | ❑ | ❑ | ❑ |

Comments on the issue of *Trust and understanding:*

_____

_____

**9: Information**

**9a:** Where do you most often seek information related to the impacts and implementation of EU fisheries management and policy decisions? Please select **TWO** from the list below:

- ❑ People at fish market and/or auction
- ❑ RAC
- ❑ Press/media
- ❑ Industry groups or associations
- ❑ Elected official in national government
- ❑ Information material from EU Commission or members of the EU Parliament
- ❑ Information from NGOs and other non-industry groups
- ❑ Other, please specify: _____

**9b:** From which RAC sources do you most often seek information? Check all that apply.

- ❑ Newsletters, emails, and/or website
- ❑ Industry representatives from the RAC
- ❑ Non-industry representatives from the RAC
- ❑ I do not consult RAC sources

**9c:** To what extent has the establishment of the RACs improved your access to information?

- ❑ Greatly improved
- ❑ Somewhat improved
- ❑ Improved very little
- ❑ No improvement at all

Comments on the issue of *Information:*

_____

_____

**10: Impact of RAC participation**

To what extent do you feel your organisation's participation in the RAC has impacted the decisions that change the course of fisheries management in the European Union?

- ❑ Greatly impacted
- ❑ Somewhat impacted
- ❑ Impacted very little
- ❑ No impact at all
- ❑ Not applicable

Comments on the issue of *Impact of RAC participation:*

_____

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_____

## Section III: Reform of the Common Fisheries Policy and Regionalisation

As you probably know, the concept of 'regionalisation' of the Common Fisheries Policy (CFP) has been intensely debated, particularly over the last year. In this section we ask a number of questions in order for us to get a better understanding of your perspective on this issue.

**** Some of these questions may feel like they are oriented to certain groups or RACs. Nonetheless, you are still encouraged to answer all of the questions as truthfully as possible.**

**We understand that in your capacity as a participant in the RAC you may represent an organisation; however, when answering the questions please do so based upon your personal opinions, not the official statements of your organisation.**

### 11: Conceptions and objectives of regionalisation

**11a:** Please indicate in the box beneath to what extent you agree or disagree with the following statements about regionalisation.

| | Strongly Disagree = 1 | 2 | 3 | 4 | Strongly Agree = 5 | Not Applicable |
|---|---|---|---|---|---|---|
| Regionalisation should bring together all interested parties related to a sea area—not just those related to fisheries | ❑ | ❑ | ❑ | ❑ | ❑ | ❑ |
| Regionalisation should give the RAC more influence within the present management structure | ❑ | ❑ | ❑ | ❑ | ❑ | ❑ |
| Regionalisation should be about giving the member states greater authority over fisheries management in their own EEZs | ❑ | ❑ | ❑ | ❑ | ❑ | ❑ |
| Regionalisation should be about setting up intermediate institutional structures—between the EU level and the member state level—to deal with fisheries management issues in the current RAC regions | ❑ | ❑ | ❑ | ❑ | ❑ | ❑ |
| Regionalisation should be about letting the industry assume a larger responsibility in the fisheries management | ❑ | ❑ | ❑ | ❑ | ❑ | ❑ |
| Regionalisation should be about giving sub-national governments and authorities more say in fisheries management | ❑ | ❑ | ❑ | ❑ | ❑ | ❑ |

**11b:** Please score how important you feel each of the intended outcomes of regionalisation is.

| | Not important at all = 1 | 2 | 3 | 4 | Very Important = 5 |
|---|---|---|---|---|---|
| Relieving the EU central level of tasks (Council, Commission, Parliament) | ❑ | ❑ | ❑ | ❑ | ❑ |
| Increasing compliance by giving stakeholders a larger say in fisheries management | ❑ | ❑ | ❑ | ❑ | ❑ |
| Providing better management by taking into consideration local/fishermen's knowledge of the system | ❑ | ❑ | ❑ | ❑ | ❑ |
| Integrating fisheries into general maritime policy | ❑ | ❑ | ❑ | ❑ | ❑ |
| Paving the way for ecosystem-based fisheries management | ❑ | ❑ | ❑ | ❑ | ❑ |
| Making fisheries management less costly by giving the industry more responsibility | ❑ | ❑ | ❑ | ❑ | ❑ |

Comments on the issue of *Conceptions and objectives of regionalisation:*

_____
_____
_____
_____

**12: Models of regionalisation**

As you may be aware, several models or understandings of 'regionalisation' have been presented during the past year. Setting aside the fact that to some extent these models appear as only sketched frameworks and some have been criticised for being legally problematic, please indicate your level of approval/disapproval for each model. You are welcome to provide comments for each of the models.

**Model 1: The present structure**

The present system with the current division of responsibilities and tasks continues to operate. The role of the RAC remains the same as what presently stands with possible minor adjustments.

- ❑ I would approve
- ❑ I would somewhat approve
- ❑ Neutral
- ❑ I would somewhat disapprove
- ❑ I would disapprove

Comments on *Model 1:*

_____
_____

**Model 2: Nationalisation**

The member states are awarded the responsibility for the conservation of resources in their own Exclusive Economic Zones. Issues relating to shared stocks would be sorted out through a system of bilateral agreements between member states or any other arrangements that the member states themselves deem necessary. The level of involvement of stakeholders would be an issue for the individual member state to decide.

- ❑ I would approve
- ❑ I would somewhat approve
- ❑ Neutral
- ❑ I would somewhat disapprove
- ❑ I would disapprove

Comments on *Model 2:*

_____

_____

**Model 3: Regional Fisheries Management Organisations**

Under this model the member states would be given wide authority for fisheries conservation on the condition that the member states with fishing interests in a regional sea area establish a regional fisheries management organisation (RFMO) to deal with fisheries management issues specific to that area. A general framework for regional approaches will be provided by the central EU institutions. The stakeholders' input will continue to be channelled through the RAC. However, the RAC would in most cases advise the RFMO rather than the central EU institutions. The exact extent to which stakeholders' input is given weight in the decision-making process of the RFMO is up to that organisation on a case-by-case basis.

- ❑ I would approve
- ❑ I would somewhat approve
- ❑ Neutral
- ❑ I would somewhat disapprove
- ❑ I would disapprove

Comments on *Model 3:*

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_____

**Model 4: Regional Fisheries Co-Management Organisations**

Under this model the member states would be given wide authority for fisheries conservation on the condition that the member states with fishing interests in a regional sea area establish a regional fisheries co-management organisation (RFcoMO) to deal with fisheries management issues specific for that area. A general framework for regional approaches will be provided by the central EU institutions. The RACs would cease to exist; instead stakeholders, scientists and member states' administrators would work together within the RFcoMO to determine the best strategies for their regional area.

- ❑ I would approve
- ❑ I would somewhat approve
- ❑ Neutral
- ❑ I would somewhat disapprove
- ❑ I would disapprove

Comments on *Model 4:*

_____

_____

**Model 5: Regional Marine Management Organisations**

Under this model the member states would set up regional marine management organisations (RMMO) with responsibility for coordinating all matters relating to the regional sea areas. Stakeholders from all sectors would be involved in some form—either as advisors or in a more co-management-like structure. The RACs could continue to operate, but would only be providing advice as one of the affected sectors of the RMMO. Alternatively, the current RACs could be opened for a wider group of stakeholders. A general framework for regional approaches will be provided by the central EU institutions.

- ❑ I would approve
- ❑ I would somewhat approve
- ❑ Neutral
- ❑ I would somewhat disapprove
- ❑ I would disapprove

Comments on *Model 5:*

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_____

**Model 6: Cooperative Member State Councils**
The institutional structure and formal distribution of powers remains largely unchanged. However, the member states with fishing interests in a regional sea area establish mini-councils to deal with fisheries management issues specific to that area. These mini-councils forward their recommendations for formal approval to the overall EU Fisheries Council. The RAC would in most cases advise the mini-council rather than the central EU institutions. The exact extent to which stakeholders' input is given weight in the recommendations of the mini-council is up to that mini-council on a case-by-case basis.

- ❑ I would approve
- ❑ I would somewhat approve
- ❑ Neutral
- ❑ I would somewhat disapprove
- ❑ I would disapprove

**Comments on *Model 6:***

_____

_____

**13: Model ranking**

**13a**
Model ranking: Please indicate your ***top choice*** and ***least desirable*** model from those previously presented.

**Top Choice:**

- ❑ Model 1: Present Structure
- ❑ Model 2: Nationalisation
- ❑ Model 3: Regional Fisheries Management Organisations
- ❑ Model 4: Regional Fisheries Co-Management Organisations
- ❑ Model 5: Regional Marine Management Organizations
- ❑ Model 6: Cooperative Member State Councils
- ❑ None of the above

**Least Desirable model:**

- ❑ Model 1: Present Structure
- ❑ Model 2: Nationalisation
- ❑ Model 3: Regional Fisheries Management Organisations
- ❑ Model 4: Regional Fisheries Co-Management Organisations
- ❑ Model 5: Regional Marine Management Organizations
- ❑ Model 6: Cooperative Member State Councils
- ❑ None of the above

**13b**

Possible changes to the RAC: How do you think the work of the RAC would change if the model you picked as your top choice above were adopted (e.g. focus of activities, changes in membership, ability to reach consensus, costs, time, etc). Please write your answer in the space below.

_____
_____
_____
_____
_____
_____

Comments on the issue of *Model ranking:*

_____
_____

**14: Final thoughts?**

Thank you for your contribution. In the box beneath you are free to provide any comments on regionalisation that you feel you have not been able to provide through answering the questions.

_____
_____
_____

**OPTIONAL:** Please provide your contact email for the chance to win an internet shop gift certificate worth 50 euro in appreciation for your participation. _____

# Part 2

**Paper 1:**
**RECOVERY PLANS AND THE BALANCING OF FISHING CAPACITY AND FISHING POSSIBILITIES: PATH DEPENDENCE IN THE COMMON FISHERIES POLICY**
Book chapter by T.J. Hegland and J. Raakjær (2008) in: S.S. Gezelius and J. Raakjær (Eds.): Making Fisheries Management Work. Implementation of Policies for Sustainable Fishing. Dordrecht: Springer: 131-159 (60 % authorship)

**Paper 2:**
**IMPLEMENTATION POLITICS: THE CASE OF DENMARK UNDER THE COMMON FISHERIES POLICY**
Book chapter by T.J. Hegland and J. Raakjær (2008) in: S.S. Gezelius and J. Raakjær (Eds.): Making Fisheries Management Work. Implementation of Policies for Sustainable Fishing. Dordrecht: Springer: 161-205 (60 % authorship)

**Paper 3:**
**THE POLITICS OF IMPLEMENTATION IN RESOURCE CONSERVATION: COMPARING THE EU/DENMARK AND NORWAY**
Book chapter by S.S. Gezelius, T.J. Hegland, H. Palevsky and J. Raakjær (2008) in: S.S. Gezelius and J. Raakjær (Eds.): Making Fisheries Management Work. Implementation of Policies for Sustainable Fishing. Dordrecht: Springer: 208-229 (30 % authorship)

**Paper 4:**
**WHY AND HOW TO REGIONALISE THE COMMON FISHERIES POLICY.**
**A THEORETICAL FRAMEWORK**
Draft journal article by T.J. Hegland, K. Ounanian and J. Raakjær (forthcoming 2012) submitted to: Maritime Studies (60 % authorship)

**Paper 5:**
**WHAT DOES 'REGIONALISATION' MEAN? AN EXPLORATORY MAPPING OF OPINIONS ON REFORM OF THE COMMON FISHERIES POLICY**
Draft journal article by T.J. Hegland, K. Ounanian and J. Raakjær (forthcoming 2012) submitted to: Maritime Studies (60 % authorship)

**Paper 6:**
**THE REGIONAL ADVISORY COUNCILS' CURRENT CAPACITIES AND UNFORESEEN BENEFITS**
Draft journal article by K. Ounanian and T.J. Hegland (forthcoming 2012) submitted to: Maritime Studies (20 % authorship)

**Paper 7:**
**PARTICIPATORY MODELLING IN EU FISHERIES MANAGEMENT: WESTERN HORSE MACKEREL AND THE PELAGIC RAC**
Journal article by T.J. Hegland and D.C. Wilson (2009) in: Maritime Studies. Vol. 8(1): 75-96 (80 % authorship)

**Co-Author Statements**

# 5 Recovery Plans and the Balancing of Fishing Capacity and Fishing Possibilities: Path Dependence in the Common Fisheries Policy

**Troels Jacob Hegland and Jesper Raakjær**

**Abstract** The Common Fisheries Policy (CFP) of the European Union (EU) has for long been accused of being unable to provide sustainable fisheries or actually in itself being an obstacle to this. Not least the inability of the CFP to achieve a sustainable balance between available resources and fishing capacity has been an issue of debate. By looking at the historical development of the implementation of the structural and conservation policies, this chapter sets out to provide an understanding of why the EU has for long been unable to choose another course in its fisheries policy. A key aspect in relation to this is the path dependence of the system, which has to a great extent made any real reform attempts unsuccessful. Nevertheless, based on recent changes in relation to the political cleavages between member states and the outcome of the CFP reform of 2002, the chapter describes how the evermore present resource crisis has opened a window-of-opportunity which makes a change in course possible. This is to some extent evidenced by the adoption of a series of recovery plans. Whether this will be enough to provide for a bright future of the CFP is, however, questionable.

## 5.1 Introduction

The adoption of multi-annual recovery plans for a number of fish stocks is the latest attempt to promote sustainable fisheries management in the European Union (EU; Union)[1] and has become an integrated component of the Common Fisheries Policy (CFP). In this chapter we examine how administrative procedures around the CFP and its implementation and resulting unforeseen problems have led to the need for the adoption of this specific management tool.

We describe how historical events have to a considerable extent shaped the future course of the CFP, a process commonly referred to as path dependence. That the political process is path dependent – a key concept of the social theory of

[1] We have chosen generally to use the term European Union, although in a historical and legal context the term European Community would technically be more correct in some cases.

(historical) new institutionalism – means that choices made at an earlier stage have decisive impact on the choices which are perceived as possible or plausible at a later stage. In other words, *"once actors have ventured far down a particular path, they are likely to find it very difficult to reverse course* […] *The 'path not taken' or the political alternatives that were once quite plausible may become irretrievably lost"* (Skocpol and Pearson 2002, p. 665).

The present chapter provides, consequently, an account of how prior decisions and developments of the CFP in previous years have influenced subsequent decisions and developments. It is, however, too narrow a perspective to focus on implementation choices in isolation; they need to be seen in a broader political context. This chapter therefore examines the different political positions surrounding the proposal and decision to adopt the recovery plans in their current shape.

The CFP was adopted January 25th 1983 by introducing a fisheries conservation policy to complement the already adopted structural, market and external policies. This marked the completion of a comprehensive package of fisheries policy regulations, which had been in the making for more than 15 years. Although the CFP has been reformed twice since 1983 one can reasonably argue that the period up to 1983 was the period where the main political decisions were taken, and the period from 1983 and onwards the period of implementation and adaptation of existing policies. Although the basic legal provisions of the CFP were revised in 1992 and 2002 they are today basically based on the same fundamental principles as when the CFP was adopted in 1983.

To set the scene for our further analysis, we initially provide a brief introduction of the main actors and decision-making procedures relating to the CFP. This is followed by a description of the process leading up to the adoption of the conservation policy in 1983. Then we investigate problematic implementation/administration of the CFP from 1983 to 2002, which made it necessary to integrate recovery plan schemes, and we look at their content and innovative components. Finally, we discuss our results and the implications in terms of future fisheries management in the EU. Overall the chapter provides the necessary background for a case of CFP implementation at national level (Denmark in Chapter 6) in the multi-level governance system of the EU.

## 5.2 The Common Fisheries Policy

The CFP is a European Union policy framework consisting of four pillars: conservation policy, structural policy, market policy and external issues. The focus of this chapter will be the conservation policy (including control and enforcement) and the structural policy.[2] These two policy areas impact most directly on the core issue of targeting fishing mortality rates in the North Atlantic. Target fishing mor-

[2] For those interested in a general introduction to the CFP, we refer to Lequesne (2000).

tality rates is an explicit focus of the conservation policy, but also the structural policy has *de facto* had direct implications on resource conservation, not least because of flawed implementation of total allowable catches (TACs) under the conservation policy, which has made the CFP particularly vulnerable to the problem of fleet overcapacity. The problems in the way that the EU has implemented the TAC system are to a large extent related to the setting of TACs above scientific advice, institutionalised discarding, and a control and enforcement failure.

The conservation policy aims to ensure that stocks remain at healthy levels, and the main instruments used are fixed TACs for the most important species and technical conservation measures. The TACs are divided into national quotas according to the principle of *relative stability*, which means that the member states are allocated the same fixed percentages of the different TACs every year. The question of dividing the TACs between the member states was the most sensitive part of the political negotiations leading to the agreement on the CFP. The member states are responsible for the domestic allocation of their share of the quota.

The TAC system is supported by a number of technical measures, which are directed mainly at preventing (by-) catch of juvenile fish or non-target species. Connected to the conservation policy is a policy for control and enforcement, which seeks to ensure that CFP regulations are respected. It should be emphasised that efficient control/enforcement structures are a precondition for effective implementation and administration of the CFP, irrespective of the approach adopted within the conservation policy.

The aims of the structural policy are to ensure that the industry can face international competition, increase productivity, provide a fair standard of living for those who depend on fishing for their livelihood and guarantee regular supplies at reasonable prices for consumers by adapting and managing the structural development of the fishing industry as well as processing and marketing of fish and fish products. These aims are pursued by means of a range of structural policy measures.[3] In relation to fleet structure, the most important element has traditionally been Multi-Annual Guidance Programmes (MAGP) which have been implemented with financial support from the Financial Instrument for Fisheries Guidance (FIFG).

[3] It is important to keep in mind that structural policies have *de facto* been resource conservation tools as well. As an example, capacity reduction targets under the structural policy have been set with reference to high fishing mortality rates (Gulland 1990; Lassen 1995), something that indicates a recognition of structural policies as supplements to the TAC system and as a means of counteracting the flawed implementation of it; particularly its inability to handle the problems associated to incidental catch, discards and illegal landings. Under the CFP it can in principle be rational for vessels to continue fishing as long as there is anything they can land legally, even though this leads to massive discarding of other species. The fact that there is no ban on discards – rather the opposite – indirectly encourages high-grading as well. This makes TAC implementation under the CFP very vulnerable to overcapacity. However, it should be mentioned that in Denmark, as an example, it is illegal to discard fish that can be landed legally, and hereby Danish regulations prohibit high-grading (see chapter 6). Nevertheless, this provision is extremely difficult to enforce.

The two main institutional actors in the decision-making system regarding the CFP are: (1) the Council of the European Union (Council), which consists of the relevant ministers from the EU member states and serves as the main legislator in the area of fisheries, and (2) the Commission of the European Communities (Commission) / Directorate General for Fisheries and Maritime Affairs (DG Fish), which serves as the EU bureaucracy seeing to the day-to-day management. The Commission has significantly more authority and political power than a traditional national bureaucracy. It is, for instance, the sole institution authorised to initiate, draft and propose legislative acts in the area of the CFP. The Commission also takes active part in the negotiations in the Council, although without the right to vote. This effectively means that it is not possible to draw a clear line between the political system and the bureaucracy / administration in the context of the CFP. This also means that inter-institutional struggles are common between the Council and the Commission over where the line should be drawn between the two institutions' responsibilities and powers.

In most cases, the CFP legislative adoption process begins with initial proposals drafted by DG Fish, incorporating to a varying extent advice received from scientists or other stakeholders.[4] The Commission's proposal is then submitted to the European Parliament (EP), which has the right to be heard on most acts relating to the CFP. In light of the response of the EP, the Commission can – but is under no obligation to – amend the proposal before the negotiations within the Council, the final step of the legislative procedure. In the Council all member states discuss the proposal from the Commission and all member states are entitled to vote – also in the cases where they do not have a direct stake in the question at hand. Legislative acts relating to the CFP are adopted by a qualified majority voting, which means that no single member state can block proposals. In case of disputes, the Court of Justice of the European Communities (ECJ) rules on the interpretation of CFP legislation.[5]

## 5.3 Towards a Common Fisheries Policy

To understand the evolution of the CFP and the adoption of the scheme for recovery plans, it is necessary to investigate the fundamental principles that have guided the adoption and evolution of the CFP even before the first legal acts relating to the CFP were established in 1970. These decisions set the path for the direction of fisheries policy and management in the EU. In this respect, the international fishery commissions have had significant influence on the direction of the CFP.

[4] For an account of how scientific advice and other types of knowledge feeds into the decision-making process, see Hegland (2006).

[5] For a detailed description of the decision-making procedures of the EU, we refer to the numerous accounts elsewhere, e.g. Hix (1999).

Gezelius (Chapter 2) describes how discussions in the second half of the 1960s within the North East Atlantic Fisheries Commission (NEAFC) and its twin commission, the International Commission for the Northwest Atlantic Fisheries (ICNAF), in response to growing concern about overfishing, led to the decision to favour the use of catch limitations in the form of catch quotas rather than effort regulation.

NEAFC is the framework for international cooperation on the conservation of fish resources in the North East Atlantic waters outside the national fishing zones, which were still rather narrow in the end of the 1960s, extending only 12 nautical miles (nm) off shore. The fact that the national zones were so narrow meant that conservation was essentially an international issue. According to Gezelius (chapter 2) NEAFC and ICNAF consequently "*became the arenas for the development of modern resource management,"* which in the longer perspective made it all the more important when the commissions in the late 1960s opted to restrict fishing activities through catch control (outputs limitation) rather than introducing restrictions on input. Until that point in time conservation instruments had primarily been technical measures, primarily in the shape of mesh size restrictions.

Among the arguments that tipped the decision in favour of catch quotas was the focus on controlling fishing mortality. It is difficult directly to relate fishing mortality and fishing effort, whereas TACs were regarded the more feasible option in terms of finding a standardised measure of fishing mortality that states could agree on. In addition, developments within marine science at the time resulted in refined tools and models (i.e. the so-called cohort analysis) to estimate TACs, which favoured output control in terms of catch quotas. Consequently, from the end of the 1960s until the first half of the 1970s, the commissions successfully worked on implementing a TAC-based approach for the North Atlantic. As mentioned above, an important element of implementation of fisheries regulations, independent of the specific tool chosen, is to ensure compliance and put effective enforcement mechanisms in place. In this respect it is generally acknowledged that the commissions were less successful in enforcing the measures and ensuring compliance with the introduced regulations.

Since the late 1960s, fisheries management in the North Atlantic has in practice become about TACs. The choice of the North Atlantic fisheries commissions to opt for TAC-based management established a precedent that had major influence on policy negotiations and decisions in the following decades, not least in the process leading to the adding of a conservation policy to the CFP in 1983. However, let us first return to the implications of the first CFP measures adopted in 1970.

In response to the requirements of the Treaty of Rome, the Commission in 1966 drafted proposals for common regulations concerning structures and markets relating to fisheries resources. The two regulations were not adopted by the Council until 1970, however, and then only after long and hard negotiations. The two regulations did not directly touch upon how the issue of conservation should be solved. Nevertheless, a provision for "equal access" contained in the structural

policy regulation turned out to have immense importance in relation to the development of a conservation policy of the CFP. Equal access means that, as a general rule, vessels from one member state have the right to fish inside the territorial waters of any of the other member states – in principle this means "fishing up to the beaches". According to Leigh (1983, p. 31) the adoption of the principle of equal access was not a requirement of the Treaty of Rome and the decision was therefore *"a political one and not a legal obligation"*. The obvious alternative to equal access would according to Leigh (1983) and Churchill (1977) have been the principle of "freedom of establishment", which would have left the concerned member states in more control of their territorial waters, something that would have set a different path for the conservation policy discussion taking place a decade later.

Anyway, due to the upcoming accession negotiations with the United Kingdom (UK), Norway, Denmark and Ireland, the original six EU member states were finally able to arrive at a political agreement on the two CFP regulations including equal access on 30 June 1970. This agreement should be in place until 31 December 1982. The explanation for the sudden momentum was that the six original member states were well aware that it was in their own interest to reach an agreement before the enlargement came into place. The agreement would then be part of the *acquis communautaire*[6], which the applicants had to accept when joining the EU. If the six member states waited, the acceding countries would be able to join the negotiations and the six original member states would not be able to get the same agreement.

It was agreed to deviate from the principle of equal access by allowing member states to restrict access within the six nm zone. In areas heavily dependent on fishing, the limit was extended to 12 nm (Leigh 1983).[7] The provision for equal access still remains one of the fundamental principles underlying EU fisheries management and strongly contributes – together with the presence of many shared stocks and fisheries – to the prisoner's dilemma[8] nature of EU fisheries management, as no single member state can be certain to reap the benefits of applying a strict focus on long-term resource conservation. The fact that even this fundamental principle of the CFP was adopted as part of a manoeuvre to achieve a favourable position prior to an enlargement illustrates the importance of the EU's unique position as a collective of states rather than an ordinary, unitary state. Deliberations and decision-making related to fisheries management are, consequently, subjected to a set of processes and incentives that do not apply to fisheries management in a unitary state. It might be argued that, in the EU, national autonomy is lost at the basic policy formation level, but regained at national implementation level (see Chapter 6).

[6] The body of EU laws.

[7] Certain historical rights enjoyed by other member states remained applicable even within the special 12 nm zones. For a thorough account of the geographical areas affected by the 12 miles derogation and the discussions over this issue, we refer to Wise (1984).

[8] See Chapter 1 for an introduction to the prisoner's dilemma logic in relation to fisheries.

Moreover, the structural policy regulation instituted the principle that the European Union should be responsible for conservation in territorial waters. The full implications of this provision were hardly recognised at the time of adoption, as the national fishing zones were rather narrow and conservation therefore essentially an international issue, as mentioned earlier. This was, however, going to change dramatically during the 1970s (Leigh 1983).

The fact that agreement between the six original member states came on the very same day as the enlargement negotiations were initiated did not go unnoticed. Norway, Denmark, the UK and Ireland all have significant fisheries interests. Especially Norway and Ireland had rich fishing grounds within their national fishing waters and were upset about the provision for equal access. The UK was critical too, but its negotiating position was affected by a well-organised distant water fishing industry, which saw the provision as a protection of UK fishing interests off the Norwegian coast in the event of a future extension of the national fishing zones. As it turned out, the issue of fisheries attracted little popular interest in Ireland, which joined the EU after a comfortable yes-vote in a referendum. In contrast, the Norwegians voted no in a referendum where the issue of fisheries proved important. This left the UK, which entered the Union without a referendum, deprived of the expected benefits of equal access in Norwegian waters. This affected the UK position and willingness to compromise in later CFP negotiations (Leigh 1983).

In the middle of the 1970s the international setting for fisheries management changed dramatically over a relatively limited number of years when coastal states, mainly in light of the increasing awareness of the risk of overfishing, began claiming larger exclusive fishing zones (EFZ). Iceland was the first major fishing nation to enlarge its EFZ,[9] but the trend spread quickly and by the mid-1970s, it was relatively clear that the final outcome of the international negotiations on the issue would be the general institution of 200 nm exclusive economic zones (EEZ).

As a result of the changing international environment, the EU member states – in a concerted action agreed upon by the Council in The Hague on 30 October 1976 – extended their EFZs to 200 nm beginning 1 January 1977. This meant that the EU and its member states were effectively responsible for areas that were large enough to make resource conservation a significant "domestic" issue. While the

[9] Iceland was the forerunner in enforcing its exclusive rights to fish on its continental shelf, but not the first to declare its right to do so. The move towards nationalization of the coastal seas was initiated by the United States' Truman Declaration of 1945, which claimed rights to extract mineral resources from the seabed of the entire continental shelf of the United States. Other nations followed soon suit, most notably all the nations of South America, which claimed their territorial waters out to 200 nm in the Santiago Declaration of 1952, extending their claims not just to the seabed minerals covered by the Truman Declaration, but also to the continental shelf fisheries. Iceland gained most notoriety for its fisheries claims, however, because rather than simply making a nationalist statement, it enforced its claims by excluding British trawlers from Icelandic waters, first to a zone of 12 nm around the coast in 1958, then to 50 nm in 1972 and to 200 nm in 1975, resulting in a series of conflicts with the UK known as the "Cod Wars". We are thankful to Hilary Palevsky for pointing our attention to this excellent example of path dependence.

so-called Hague Resolutions, the outcome of the Council meeting, contained an agreement among the member states to extend their EFZs and create a centralised EU external fisheries policy, it was not at that time possible to reach consensus on the arrangements for a conservation policy. The Commission had proposed a system of TACs divided into national quotas in continuation of what was known from for instance NEAFC and other international organisations (Leigh 1983; Wise 1984). The Commission did not propose any limitation of fishing effort besides a licensing system for fishermen. The decision not to emphasize fishing effort limitations does not seem to have caused much debate, but critical comments were nonetheless expressed towards the perceived failure to sufficiently address the effort issue:

> Previous experience with the quota schemes of international fishery commissions has shown that licensing and checks on landings, although helpful, are easily evaded. What is needed is a limitation on effort. (Churchill 1977, p. 34)

As a consequence of the failure to reach agreement on a conservation policy, the Hague Resolutions contained provisions that authorised the member states – in consultation with the Commission – to adopt non-discriminatory conservation measures to protect resources in the fishery zones off their coastlines. These provisions were to provide the main mode of instituting EU conservation measures in the period from 1976 to 1983. One last noticeable element of the agreements was the "Hague preferences", which stipulated that when implementing the CFP the Union should take into account the needs of local communities most heavily dependent on fishing. These areas included Ireland, parts of northern UK and, finally, Greenland[10] (Leigh 1983; Wise 1984).

In the negotiations in The Hague and the subsequent discussions leading up to the eventual adoption of a conservation policy in 1983, Ireland and the UK were pitted against the other member states with a demand for exclusive national zones extending up to 50 nm. The Commission had initially proposed a system of exclusive national zones of 12 nm in 1976. This was, on one hand, not acceptable to UK and Ireland, which favoured larger zones. On the other hand, other member states – most notably France – argued that the national zones adopted in connection with the accessions of 1973 were derogations valid only until 1983 and that equal access ultimately ruled out the possibility of having exclusive national zones. In the end, a compromise was found which determined that equal access as decided in 1970 should continue to apply in the waters of the EU member states. However, the member states would be allowed to reserve the waters within 6 nm off the coast for their own nationals and the waters between 6 and 12 nm would also primarily be reserved for the member states' fishermen, although member states with historic rights could continue a limited fishery. The derogations to equal access within the 12 nm zone would apply for ten years and be renewable for another ten, i.e. to the end of 2002 (Leigh 1983).

[10] Greenland left the EU in 1985.

The discussion over access was obviously strongly interlinked with the second major issue relating to the conservation policy, namely the adoption of TACs and the subsequent allocation of national quota shares, which was seen as necessary for the TAC system to work without creating an unsustainable "race for fish".[11] As mentioned earlier, the TAC system was from an early stage favoured over some sort of effort regulation system mainly due to the managers' familiarity with TACs from the Atlantic commissions. However, it proved difficult to reach an agreement:

> The reason for the long delay in reaching agreement is not hard to discover. For the apparently technical rubric 'TACs and quotas' disguises a political problem of resource distribution between member states. The sum of member states' demands added up to more than the total amount of fish available. In the bad old days when this situation arose in the fishery commissions it led to the inflating of TACs, followed by overfishing. In the Community the excess of demand over supply led to a prolonged debate about the criteria for distributing quotas among member states and about the sharing out of specific stocks. (Leigh 1983, p. 90)

In retrospect it is easy to see that it was not only in the "bad old days" that the excess of demand over supply led to inflated TACs; the Council inherited this practice.

The conservation policy of the CFP, which was finally adopted on 25 January 1983, included the above-mentioned compromise in relation to the access provisions. In relation to TACs and quotas, allocation keys for the different stocks were found. These keys built on the consideration of three elements: historic catches of the different stocks by different member states; the Hague preferences, which favoured Ireland, the UK and Greenland; and compensation for jurisdictional losses, which referred to the losses incurred by some member states, particularly Germany and the UK, when non-member states extended their EFZs (Leigh 1983). The agreed system of allocation keys – referred to as "the relative stability" – remains today virtually unaltered[12] and stands as one of the most fundamental elements of the CFP.

Finally, in connection with the conservation policy, a control regulation, which provided the Commission with certain powers in terms of overseeing the control efforts of the member states, was adopted in 1982. However, the powers of the Commission were relatively limited. When looking at contemporary accounts of the CFP negotiations, it is striking how little attention for instance the control issue attracted in the beginning of the 1980s. The difficulties of agreeing on the basic principles seem to have overshadowed the discussions of how to properly implement the system. That the question of proper enforcement and implementation

[11] The discussion over allocation of quotas took more than six years and is to some extent rather technical. We will not in this chapter go into a detailed description of it, but rather refer the interested reader to Wise (1984).

[12] The only amendments made to the relative stability have been made i relation with the accession of new EU members and these amendments have not changed the relative stability between the member states originally agreeing on the CFP.

is pivotal had nevertheless been confirmed by the experiences in the Atlantic commissions.

Despite these difficulties, the EU managed to adopt a relatively coherent CFP, which was primarily designed to be able to control fishing mortality by the adoption and enforcement of TACs for a large number of stocks. Moreover, a structural policy was in place, including provisions to enable the EU to move towards a balance between resources and capacity. However, we know today that there was no reason for any particular optimism. The main political hurdles might have been passed by 1983, but the CFP was not going to prove easy to implement and administer.

## 5.4 1983 to 1992 – Muddling Through Without Change[13]

In the years following 1983, neither the conservation policy (including control and enforcement) nor the structural policy were implemented and administered in a coherent manner, nor did they ensure sustainable and efficient utilisation of the fish stocks in EU waters. The consequence hereof was that the problems of overcapacity and overfishing escalated further after 1983.

The structural policy was to a large extent based on the idea of "auto-sufficiency", which was also a major driver in the creation of the Common Agricultural Policy. The idea of auto-sufficiency developed after World War II and its basic objective was to increase Europe's internal capacity to provide food in order to ensure that the people of mainland Europe would never again starve as they did during the war. This led to an emphasis on catching more fish, i.e. by providing grants to expand and increase the fleet, without any particular consideration to the impact on the long-term sustainability of the fish stocks. This policy, based on the outdated notion that the sea was too vast for its resources to ever be exhausted, caused a massive increase in the fishing capacity of the EU fleet. The increase from 1970 to 1983 was more than 60 percent in terms of gross registered tonnage (GRT) and considerably more in terms of kilowatt (kW) engine power (Holden 1994; Commission of the European Communities 1997; Lindebo 2003).

That it was possible to expand fishing capacity without significant negative economic consequences for the individual fishermen might to some extent be due to the fact that a number of fish stocks upheld abnormally high recruitment rates from the mid-1960s and until the beginning of the 1980s. This camouflaged the magnitude of the problems of overcapacity in the fleet and made continuous increase in catches beyond "normal" or sustainable level possible (Holden 1994).

[13] The use of the phrase 'Muddling through' is inspired by Lindblom (1959). Lindblom used this phrase mainly to describe the way that bureaucracies find ways through a trial and error process. We use the term less positively and refer to a situation where the trial and error process does not really lead to improvement, but merely a continued trial and error process because of the path dependence of the system.

However, there were also significant exemptions to this trend, e.g. the North Sea herring stock, which was severely fished down despite reasonable recruitment, leading to a ban on herring fishing in the North Sea from 1977. Holden (1994) offers two explanations as to why nobody within the system was able to foresee the problems that the increase in capacity subsequently caused, even though the risk of overfishing was well documented at the time. Firstly, until 1978 there was effectively no expertise on fisheries issues in the Commission to warn against this situation. Secondly, nearly all member states benefited from the funds and had no immediate interest in altering the arrangement. However, contrary to what might have been expected, the development with increasing capacity continued even in the years after the adoption of the conservation policy.

By the early 1980s (some) awareness of the need to control fishing capacity had penetrated into the system. This led to the adoption of a series of programmes, the MAGPs, aimed towards balancing the fishing capacity of the different member states' fleets to the size of the fish stocks. All MAGPs have primarily been setting targets for the future size of the fleets in terms of GRT and kW for each member state. MAGP I, in place from 1983 to 1986, set targets that were modest and basically aimed at keeping capacity constant. Nonetheless, all but two member states failed to reach their targets and overall fleet capacity continued to increase (for a description of this development in Denmark, see Chapter 6). The EU had no experience with implementing such programmes, and fleet registers and methods to measure the capacity of the member states were incomplete and inconsistent across member states. Although MAGP I was a rather limited success, it does stand as the first concrete expression of the wish to restrict the increase in fishing capacity and as such it was an indication of a fundamental, although insufficient, reorientation (Holden 1994; Lindebo 2003).

Paradoxically, the financial funds allocated under the structural policy's FIFG continued to be awarded mainly for the construction or modernisation of vessels while the amounts spent on reducing capacity through scrapping programmes were comparatively negligible. This situation lasted at least until 1987, after which the Commission according to Holden[14] (1994) took a more rigorous approach and only approved grants for construction of vessels to the member states which had met their MAGP targets. However, this is a good example of how one of the two fundamental parts of the CFP can be counterproductive to the other.

For various reasons, the conservation policy, like the structural policy, was not implemented in a way that really approached the problems in the first years after 1983, though the problems were increasingly recognised. As described above, the negotiations on the conservation policy had been lengthy and extremely complicated. This caused the Commission to choose a cautious road when suggesting TACs in order to give the fragile compromise time to settle. Furthermore, in the first years the TAC agreements were well behind schedule. The TACs adopted at the meeting on 25 January 1983 were those of 1982; those for 1983 were not

[14] Mike Holden held various, prominent positions in DG Fish in the period from 1979 to 1990.

adopted before late in the year. The TACs for 1984 were adopted on 31 January 1984 and, finally, those for 1985 were adopted before the beginning of the year, as has been the case since. In these first years the TACs proposed by the Commission basically reflected the actual fishing mortality at the time, a level of fishing mortality that was not biologically sustainable. In 1985, the negotiations of the TACs for 1986 were affected by the accession of Spain and Portugal on 1 January 1986. An agreement on quota allocations to the two new member states was concluded, but at the cost of setting TACs well above historic catches. In terms of using TACs to restrict fishing mortality, these first years were to a large extent wasted and consequently served as nothing more than an opportunity to get the TAC-instrument accepted and institutionalised (Holden 1994). Moreover, the TACs and quotas were hardly enforced in the early years. This meant that the recorded landings did not in any way reflect the actual landings, which were much larger than those reported. This meant that fishing mortality was effectively underestimated, which also served to disguise the problems created by the mismatch between fishing capacity and the resources available in the longer term.

It is therefore reasonable to conclude that even though a relatively coherent policy was adopted in 1983, the first years hereafter were lost in terms of sustainable fisheries management because of ineffective and inconsistent implementation/administration. Rather, the period served basically – although the importance of this should not be underestimated – to get the newly adopted CFP package institutionalised. It is noteworthy that most of the deficiencies in the implementation practice of this period can be traced back to the problems of getting a large number of different countries to cooperate. The reluctance to propose reasonably restrictive TACs was mainly based on the fear of destroying a fragile compromise, which it had taken several years of negotiation between the member states to agree on. Moreover, the failure to halt the increase in fishing capacity was to a large extent the result of the administrative difficulties of implementing programmes aiming at capacity reduction in many different member states with a number of different recording and reporting practices.

MAGP II, in place from 1987 to 1991, reflected the experience of the first MAGP where only a few of the member states had reached their targets. The Commission outlined a programme where the reductions to be achieved over the period was as modest as 3 percent in tonnage and 2 percent in power. When the increased efficiencies coming from technological development are taken into consideration, this corresponded *de facto* to an increase in fishing capacity. According to Holden (1994) the Commission stuck to modest targets – even though problems with fish stocks were now obvious – in order to at least accustom the member states to the idea of decreasing capacity, something which might facilitate compliance with more ambitious targets in later programmes. However, only five member states managed to reach even these modest targets and the Community continued in the period to provide funds for construction of vessels which by far outweighed the funds deployed for scrapping. This meant that overall capacity

continued to increase (Holden 1994; Lindebo 2003). According to the Commission the main limitations of the two first MAGPs included the following:

> - Insufficient classification of the fleet into categories related to the species caught, fishery zones and methods of fishing;
> - monitoring of the fleet based on a limited number of physical capacity parameters only, without any consideration of the remaining parameters and fleet activity (fishing effort);
> - absence of short- and long-term objectives based on the actual situation of particular stocks;
> - lack of statistical data and inadequate measures to control fishing capacity and fishing effort;
> - non-obligatory status of the programmes. (Commission of the European Communities 1991, p. 28)

Holden (1994) points moreover to a specific problem in implementing the programmes, namely the fact that the member states weeded out from the registers mainly the vessels, which fished very little or not at all (see also chapter 6). For whatever reasons, the consequence was that fishing capacity – and fishing mortality – did not decrease as a consequence of MAGP I and II.

The setting of TACs in accordance with the scientific advice continued to be problematic as well. A number of specific issues[15] demanded the attention of the Council in the end of the 1980s and resulted in less attention to the question of the sustainable size of TACs. Furthermore, some of these specific issues were "best" solved by setting the TACs above the scientific advice. The failure to stop the increase in capacity was clearly not the best background upon which to agree on cuts in TACs either. Holden describes the basic mechanism of TAC-setting in this way:

> It is not surprising that the level of TACs is mainly determined by political decisions because politicians regard it as their responsibility to respond to the pressures from their fishing industries as they consider fit. That is democracy in action. Account is taken of the scientific advice but more often than not it has been disregarded for socio-economic reasons, which is little more than coded language for saying 'avoiding political unpopularity'. Only when the consequence of disregarding the scientific advice would appear to be calamitous has it been acted upon, but often then not rigorously. (Holden 1994, p. 70)

Holden might as well have been writing today. Nevertheless and in all fairness, the Commission has since 1991 adopted a new strategy for proposing TACs, which are now more in line with the scientific advice provided. However, this did in general not immediately change the actual size of TACs, as the Council continued its policy of adopting larger TACs than suggested by the Commission. Moreover, enforcement of TACs and quotas remained a problem. The changing attitude within the Commission, which can mainly be attributed to personnel changes, coincided with the publications of two reports, the *Gulland report* in 1990 and *Re-*

[15] These issues related to Svalbard cod, western mackerel, and North Sea cod and haddock, see Holden (1994) for specifics.

*port 91* in 1991, which in very specific terms recognised and outlined the problems of the CFP.

The Gulland report (Gulland 1990) was the outcome of an expert committee set up by the Commission to give advice in relation to the preparation of MAGP III, which systematically documented and, for the first time, set figures for the overcapacity of the EU fleet. The report concluded that fishing mortality needed to be reduced by 40 percent. As a consequence, the report recommended that fishing for demersal stocks be reduced by 30 percent and fishing for benthic stocks by 20 percent. Fishing for pelagic stocks was not affected by the recommendations from the Gulland report (Gulland 1990 in Lindebo 2003).

The Commission used the Gulland report to back its proposals and the Council agreed on significant capacity reduction targets for MAGP III, which was in place from 1993 to 1996,[16] reducing fishing effort by 20 percent for demersal stocks and 15 percent for benthic stocks; fishing effort for pelagic stocks was kept unchanged. This was less of a reduction than recommended by the scientists, but still substantial. In contrast to previous programmes, the reductions were not expressed in capacity, but in fishing effort – a product of capacity (GRT), engine power (kW) and number of days at sea. The member states could thereby choose to achieve part of their reduction by reducing the number of days-at-sea for vessels. Furthermore, in contrast to the previous programmes, MAGP III aimed at the largest reductions for the fleets targeting the most threatened stocks (Lindebo 2003).

In 1991 the Commission published Report 91 (Commission of the European Communities 1991) containing a review of the CFP based on the experiences from 1983 to 1990. Report 91 was meant to stimulate and provide guidance for a debate in the various Community institutions and other bodies in order for them to provide the input necessary for the Commission to propose during 1992 new rules for the period 1993–2002 (Commission of the European Communities 1991). Report 91 outlined a number of problems with the performance of the CFP from 1983 to 1990, and stated that in general terms the stocks were in danger because of excessive fishing mortality, which also negatively affected fishermen's income.

Furthermore, the Commission concluded that there was large overcapacity in the EU fleet and that most fleets had to reduce their level of activity. This was described as a latent sectoral crisis. As a consequence the Commission concluded that *"*[p]*resent mechanisms are inadequate*" (Commission of the European Communities 1991, p. III).

The Commission identified a number of problems which had contributed to the situation. These problems included: the exclusive reliance on TACs and quotas without any real control over fishing capacity, which led to a race for fish and discarding at sea; the lack of political will to ensure that the regulations were complied with; the lack of coordination and coherence between the different parts of

[16] A one-year transitional programme was adopted for 1992 to provide time for negotiations in the Council after which MAGP III was amended for the period from 1993 to 1996 (Lindebo 2003).

the CFP, etc. Finally, the Commission warned about the consequences of not taking action:

> "If no mandatory decisions are taken to restructure the industry and significantly reduce fishing effort, with emphasis on the 'at risk' fisheries, the fishing sector and connected activities risk causing a real and irreparable tear in the socio-economic fabric of the coastal and island regions heavily dependent on fishing." (Commission of the European Communities 1991, p. 60)

The Commission furthermore identified seven main areas where the CFP could be improved. Most of the identified areas related to the setting of TACs, getting capacity under control or control and enforcement:

> - distribution of responsibility at all levels, in accordance with the principle of subsidiarity, conferring responsibility on the parties concerned, in particular the fishermen's organizations which could be given the task of implementing the management measures at the appropriate level;
> - more stringent regulation of access to resources by a system of licenses in order to rationalize fishing effort (by zone, species, fisheries, etc.), cutting back excess capacity and improving the planning of fishing so as to reduce over-investment and economic inefficiency;
> - a new classification of fishing activities (multiannual, multispecies, and analytical TACs, as appropriate), definitions being based on existing rights and the economic and social characteristics of each fishery;
> - more stringent control mechanisms, using modern technologies for vessel location and communication of information, in order to monitor the movements of certain vessels and inform the authorities concerned, while coordinating the information obtained;
> - enforcing compliance with rules which are in the common interest, ideally through economic incentives encouraging good behaviour by fishermen (use of selective gear, compliance with landing standards), and deterrent sanctions at Community level (penalty quotas, withdrawal of licenses, withholding of aid, fines);
> - stronger structural management, by segmentation of the fleet, on the basis of new parameters, providing a basis for the assessment and control of fishing effort, and inclusion of structural measures under the umbrella of the reform of the structural Funds;
> - greater synergy between management of internal and external resources, other sources of supply and market management. (Commission of the European Communities 1991, p. V)

According to Raakjær Nielsen (1993), Report 91 clearly stated that the main problem for the CFP was that it did not ensure rational utilization of the fish resources. The instruments used in the past had created a severe overcapacity in the fleet. Thus Report 91 primarily focused on conditions that contribute to a more appropriate utilization of the fish resources in EU waters. Report 91 strongly emphasised the need to ensure a coherent balance between fishing capacity and activity and the size of the stocks, focusing on capacity reduction. Instruments that would facilitate this development were suggested. These included, for instance, multi-annual and/or multi-species TACs. Economic incentives to ensure a more appropriate utilization of the fish resources were proposed, but the Commission did not provide any guidelines on how to implement economic incentives in the management regulations.

Approaching the mid-term revision in 1992, nobody could be unaware of the severity of the situation and of the steps to be taken to approach the situation. The

goals set under MAGP III were also considerably more ambitious than in previous programmes. However, the mid-term revision of the CFP and especially the way it was subsequently implemented turned out differently than would be expected from this lead-up.

## 5.5 1993 to 2002 – Turning the Blind Eye to an Emerging Crisis

As described above, it was not a shortage of challenges that plagued EU fisheries managers in the run-up to the revision of 1992. The Commission had identified a number of problems in Report 91 and as a result, the Commission proposed a wider reform than what was required by the 1983 basic regulation, which merely stated that the rules of access were to be revisited. A number of new elements were added to the basic regulation of the CFP in connection with the mid-term revision. The revised basic regulation entered into force on 1 January 1993. Some of the most important new features included: the prolonging of the exceptions to equal access until 31 December 2002, which was the only issue that the Council *had* to decide on; the introduction of the possibility to adopt multi-annual TACs; the introduction of the possibility of using days-at-sea to limit fishing effort; and the adoption of a scheme for developing an EU licensing system (Council of the European Communities 1992).

In reality, the EU decision-makers did not utilise the possibilities of adopting days-at-sea restrictions or multi-annual TACs, which were mandated by the modified basic regulation adopted in 1992. The implementation of management based on days-at-sea failed mainly because of opposition to the idea of having both TACs and effort restrictions at the same time and because of the limited scientific ability to calculate the needed effort reductions. As for the question of multi-annual TACs the Commission actually came forward with a proposal in 1993. However, the Council failed to make a decision on multi-annual TACs mainly due to limitations in the scientific advice, which had been approved by authorised bodies, as well as opposition from the fishing industry (Commission of the European Communities 2001b).

As it turned out, the most important new addition of the 1992 basic regulation became the licensing system, which was subsequently amended and expanded several times and improved the ability to monitor and guide the development of the EU fleet. However, without failing to appreciate the importance of the licensing system, it seems fair to argue that the progress achieved by the 1992 revision in the most pivotal areas was only modest considering the rather obvious severity of the situation.

Following the revision of the CFP a new regulation on control measures was adopted in 1993 (Council of the European Communities 1993). Monitoring and control measures had for a long time been insufficient and the Commission stated in Report 91 that as a result of the lacking political will in this respect,

*"*[c]*ompliance with TACs and quotas had been very limited"* (Commission of the European Communities 1991, p. 22). The 1993 control regulation provided for a more integrated approach covering the different aspects of the CFP. The Commission powers to oversee the national monitoring authorities were strengthened and a requirement to impose dissuasive penalties was instituted. Moreover, the 1993 regulation opened the possibility of using modern satellite based surveillance methods (Commission of the European Communities 2001b). The control regulation has been significantly amended over the years, most significantly in 1998. The satellite-based vessel monitoring system, as an example, has over time become a key element of the EU member states' monitoring efforts, incrementally being applied to more and more vessels. However, neither the 1993 regulation nor later amendments changed the balance between the member states and the Commission fundamentally in this area. The member states remain more or less in control of monitoring and enforcement efforts,[17] although the 2002 reform did increase the Commission's powers in the area. Moreover, as a result of the 2002 reform, a Community Fisheries Control Agency is being set up in Vigo in Spain. This institution will by means of operationally coordinating the member states' control and inspection activities most probably strengthen the uniformity and effectiveness of enforcement without actually taking over the national control agencies.[18]

Overcapacity is arguably a major driver for the enforcement problems within the EU fisheries sector. Thus getting the capacity in balance with fishing opportunities must be seen as pivotal, since it is an impossible task to monitor the fleets of the member states at all times, even with the newest available technologies. The capacity reduction programmes must therefore also be understood as an important effort to reduce the incentives for breaking the rules. However, in consideration of the stark conclusions of the Gulland report, progress on this issue remained modest in the first half of the 1990s, which meant that the control authorities did not get the necessary helping hand in terms of a capacity-reduction. MAGP III led, nevertheless, to some reduction of the overcapacity of the EU fleet. According to the Commission's Green Paper from 2001, the overall cut in the fleet was around 15 percent in terms of GRT and 9.5 percent in terms of kW (Commission of the European Communities 2001b, details are provided in Table 5.1).

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[17] It should in this respect be noted that the Commission has the possibility to refer cases of non-compliance to the ECJ, whose judgements are binding on the member states. The penalties can in extreme cases be significant as this excerpt shows: *"The European Commission has welcomed this morning's decision by the European Court of Justice to request France to pay a lump sum of € 20 million and a periodic 6-month penalty of € 57,761,250 running from today, for failing to comply with a 1991 Court ruling on serious shortcomings in its enforcement of fisheries rules."* (Commission of the European Communities 2005).

[18] The fact that this is a coordinating rather than operating institution is underlined by its annual budget of around € 5 million, which is little more than half of what Denmark alone spends on control activities (Fødevareministeriet and Fiskeridirektoratet 2006; Commission of the European Communities 2006).

**Table 5.1.** Development of the EU Fleet 1991 – 2002 (excl. Finland and Sweden). Figures for 1991 from Commission (1997) cited in Lindebo (2003), other figures from Eurostat (2006a, b)

| Year | 1991 | 1996 | 1998 | 2000 | 2002 |
|---|---|---|---|---|---|
| Tonnage of Fleet (1000 GRT) | 2,010 | 1,964 | 1,945 | 1,951 | 1,900 |
| Power of Fleet (1000 kW) | 8,347 | 7,468 | 7,524 | 7,190 | 6,880 |

By the end of 1996 and MAGP III, the EU fleet had as a whole reached its targets, but this masked the fact that some member states, notably the Netherlands and the UK, had failed to reach their individual targets. Furthermore, even though most member states had reached their overall targets, this did not necessarily mean that the reductions had taken place to the required extent in the targeted fisheries (Lindebo 2003); as described earlier, MAGP III targeted the fleets fishing on the most threatened stocks. Thus although MAGP III did go part of the way towards approaching the problem of overcapacity, the problem continued to be massive. Moreover, the member states, which reached their targets, could benefit from EU grants for vessel renewal and modernisation under the FIFG, adding to the problem of increasing efficiency due to technological development.

In preparation of MAGP IV, the Commission commissioned an expert report to follow-up on the Gulland report. This expert report, known as the "Lassen report" (Lassen 1995), documented once again that fishing pressure on a number of stocks was still much too high (Commission of the European Communities 1998). Nevertheless, the Council continued to fail to sufficiently reduce capacity, just as the Lassen report documented in previous programmes, and MAGP IV turned out yet again not to ensure an appropriate reduction of the capacity of the EU fleet. According to the Commission (2001b), the targets set were not even able to counter the increases in efficiency due to technological development. That the targets were in fact modest was also evidenced by the fact that the member states' overall targets were in general reached long before the end of the programme.

Two main issues were identified as reducing the effectiveness of the programme. One issue was the method used to calculate reductions in fishing effort:

> For MAGP IV, the Commission had proposed to cut fishing effort by 30% for stocks at risk of depletion and 20% for those overfished. The Council decided that, instead of applying the proposed reduction rates to the various sections of the fleet on the basis of the stocks targeted, these rates should be weighted according to the composition of the vessel catches. This system has the perverse effect that the more a stock is depleted, the lower the proportion of the catch is likely to represent, and the lower protection that stock receives under MAGP IV. (Commission of the European Communities 2000)

A second issue was that part of the effort reduction on behalf of a member state could be achieved by means of days-at-sea schemes limiting fishing activity. These schemes were, according to the Commission, comparably difficult to control (Commission of the European Communities 2000).

The disappointing experiences with MAGPs led the EU to abandon these after MAGP IV and instead, as a result of the 2002 reform, apply a strict but relatively simple entry-exit regime from 1 January 2003.[19]

As the EU approached the reform of 2002, the situation had not been improved from the situation before the revision of 1992. The problems were obvious and a wider reform was required. The reason why decision-makers had failed to tackle the increasingly obvious resource base crisis was probably related to the fact that in the last half of the 1990s and in the beginning of the new millennium the fishing sector experienced favourable economic conditions, e.g. decreasing interest rates and increasing fish prices; had this not been the case, the fleet would most likely have been operating on the brink of bankruptcy (something that was also the case in Denmark, see Chapter 6). The favourable economic climate created a situation similar to the abnormally high recruitment of the stocks in the late 1970s, covering up the crisis in the sector. Thus, the fishing sector has twice been helped by external factors and thus avoided facing the consequences of too high fishing mortality. Although policymakers are not unaffected by evidence of problems of biological sustainability, they tend to be more strongly affected by socio-economic concerns, which have to some extent been masked by external factors. Furthermore, many years of justified warnings about the looming crisis had created an end-result similar to that in the story of the boy who cried wolf. The severity of the situation was consequently not really acknowledged until the cod stocks were virtually on the verge of collapse.

As part of the preparation for the reform of the CFP in 2002 the Commission published the "Green Paper on the future of the Common Fisheries Policy" (Commission of the European Communities 2001a) equivalent to Report 91. The Green Paper, evaluating the CFP at the turn of the century, painted a dark picture as it identified the sources of the problems:

> As far as conservation is concerned, many stocks are at present outside safe biological limits. They are too heavily exploited or have low quantities of mature fish or both. The situation is particularly serious for demersal fish stocks such as cod, hake and whiting. If current trends continue, many stocks will collapse. At the same time the available fishing capacity of the Community fleets far exceeds that required to harvest fish in a sustainable manner.
>
> The current situation of resource depletion results, to a good extent, from setting annual catch limits in excess of those proposed by the Commission on the basis of scientific advice, and from fleet management plans short of those required. Poor enforcement of decisions actually taken has also contributed to over-fishing. (Commission of the European Communities 2001a, p. 4)

The reform that the Commission proposed in the aftermath of the discussion on the Green Paper was much more wide-ranging than the revision in 1992. Virtually no aspect of the CFP remained untouched. On several points, the Commission

[19] We will not go in detail with the entry-exit regime here. However, it deserves to be mentioned that the abandonment of the MAGPs in favour of a new approach is an indication of the increasing awareness of the implications of the EU fleet overcapacity.

proposed more extensive changes than were actually adopted by the Council in the end. In this chapter we will, however, not go into the specifics of the entire reform but only the dynamics surrounding the decision to adopt multi-annual recovery plans.

## 5.6 Adoption of Recovery Plans – Hope for the Future?

One of the key outcomes and innovative changes in the reform of 2002 was the decision to adopt the scheme for recovery plans.[20] On 19 December 2003 the European Union adopted a long-term recovery plan covering four cod stocks, including the most important in the North Sea (Council of the European Union 2004). This plan represented the first application of an instrument which had been added to the "toolbox" of the Common Fisheries Policy almost precisely one year before. The provisions for recovery plans were motivated by the alarming state of a number of stocks in the waters of the EU. The Gulland report and the Lassen report had both indicated that fishing mortality was much too high and needed to be reduced for most stocks in EU waters. The necessary decreases were typically estimated to be some 40 percent for many stocks. In the "Green Paper" the Commission reflected on the causes of the failure to successfully implement the TAC-system and thereby control fishing mortality:

> To control exploitation rates of fish stocks, the CFP has almost exclusively used upper limits on the quantities of fish which may be caught in a year (Total Allowable Catches or TACs and associated national quotas) and establishment of measures such as mesh sizes, closed areas, closed seasons (technical measures). […] Difficulties with TACs are due to the Council's systematic fixing, in some cases, at levels higher than indicated in the scientific advice, over-fishing, discards and illegal or black landings and to the over-capacity of the fleet. Moreover TACs can only play a limited role in the management of fisheries in which many species of fish are taken simultaneously by each operation of the fishing gear (the mixed or multi-species fisheries). (Commission of the European Communities 2001c, p. 8)

The objective of recovery plans is to ensure the recovery of stocks to safe biological limits, with a requirement to specify target conservation reference points. Targets are expressed in terms of: (a) population size and/or (b) long-term yields and/or (c) fishing mortality rate and/or (d) stability of catches. Recovery plans are to be drawn up on the basis of the precautionary approach to fisheries management and taking account of limit reference points recommended by the relevant scientific bodies. They must ensure the sustainable exploitation of stocks and that

[20] As mentioned, the 2002 reform contained several other important elements besides the provisions for recovery plans, e.g. the adoption of a strict entry-exit regime in relation to the fleet, the control agency and increased stakeholder involvement. However, here we choose to focus on the instrument of recovery plans, which is the instrument that most directly approaches the issue of fishing mortality rates.

the impact of fishing activities on marine eco-systems is kept at sustainable levels. They may cover either fisheries for single stocks or fisheries exploiting a mixture of stocks, and must take due account of interactions between stocks and fisheries. The recovery plans must be multi-annual and indicate the expected time frame for reaching the targets established (Council of the European Union 2002d).

Several novel elements are noteworthy in relation to the scheme for recovery plans. Firstly, the basic regulation requires that the recovery plans should be multi-annual in scope. This must be considered a key issue. A main problem of the conservation policy has allegedly been its failure to provide plans covering more than just a single year; something which has been criticised by both industry and conservation organisations. Secondly, the article outlining the provisions for recovery plans includes a reference to the possibility of employing *"harvesting rules which consist of a predetermined set of biological parameters to govern catch limits"* (Council of the European Union 2002d, art. 5(4)). If adopted in accordance with scientific advice (and respected in the following years), harvest rules effectively eliminate the Council's possibility of agreeing on TACs exceeding the biological advice, which the Council has gained a reputation for doing (Commission of the European Communities 2001a). Thirdly, the regulation states that the *"*[r]*ecovery plans shall include limitations on fishing effort unless this is not necessary to achieve the objective of the plan"* (Council of the European Union 2002d, art. 5(4)). Considering the prevailing problems of over-capacity of the fleet, discards and illegal landings this means *de facto* that fishing effort limitations must be applied in most recovery plans. Direct limitation on fishing effort (input-regulations) in combination with the overall restrictions of TACs (output-regulations) has generally been ill-received by the industry, which has argued strongly against being subjected to both measures at the same time.

Introducing the scheme for recovery plans did not become *the* controversial element of the reform, although the Commission's proposal gave rise to a debate which to a certain extent reflected general cleavages within the Council in connection with the 2002 reform. The debate regarding the recovery plans related mainly to who should be in control of setting TACs and fishing effort limitations, as well as to the role of fishing effort limitations.

The most heavily disputed part of the proposal was the Commission's suggestion that once a multi-annual plan had been adopted by the Council and the catch and effort limits for the first year decided, the Commission itself should in the following years (under the Management Committee procedure[21]) decide on catch and fishing effort limitations in accordance with the harvest rules set out in the plan (Commission of the European Communities 2002). This proposal was unacceptable to most member states *"as decisions on catch and fishing effort limits* [can] *not be reduced to an arithmetic automatism"* (Council of the European Union

[21] A Management Committee consists of member states' representatives. If the Commission's decision is not supported by a qualified majority in the committee then the proposal will be dealt with by the Council (European Union 2004).

2002b, p. 13). Only Sweden and the UK among the member states with fisheries interests were willing to consider the proposal (Council of the European Union 2002a, c). The proposal was consequently not accepted. It is possible that the Commission genuinely considered that the setting of TACs according to a harvest rule was a management decision, which the Council would be willing to turn over to the Commission. However, it is probably equally likely that this specific proposal should partially be seen as a bargaining chip in the larger context of reform. According to a high-ranking representative of DG Fish (Interview, November 2003) *"any Commission proposal is a sort of mixture of what we honestly believe should be the final outcome and what we need to propose in order to get the final outcome that we want."* This conflict, however, was probably just as much rooted in the inter-institutional struggles as in fisheries. Any suggestion by one EU institution that it unilaterally expand its powers at the expense of another institution will almost always be ill-received by the institution that stands to loose power.

Another debated issue, which in part emerged from the negotiations in the Council rather than from the Commission's original proposal, was a suggested obligation to use fishing effort limitations in recovery plans in addition to the traditional TACs. This idea found considerable support in the Council. In general Belgium, Germany, Denmark, Sweden, the Netherlands and the UK supported the Commission's idea, and argued that fishing effort limitations could be used in parallel with TACs which in isolation had not been effective. In contrast, Spain, France, Greece, Portugal, Ireland, Italy and Finland were sceptical about the Commission's approach to fishing effort limitations (Council of the European Union 2002c). These member states were either sceptical about the value of effort limitations in general or, at least, sceptical about the usefulness of combining TACs and effort limitations. The compromise became the following provision: *"Recovery plans shall include limitations on fishing effort unless this is not necessary to achieve the objective of the plan"* (Council of the European Union 2002d, art. 5(4)). In reality, this postponed the debate on this issue until the negotiations on individual recovery plans began. Considering the situation, fishing effort limitations will probably have to be part of most recovery plans.

## 5.7 Political Cleavages in EU Fisheries Policy-Making

The general political cleavages within the Council, which were also to some extent visible in the discussion regarding the recovery plans (see above), can be analysed and understood within a general framework proposed by Charles (1992), who argues that *"conflict can often best be understood as rising from natural tensions between three differing fishery paradigms (or 'world views'), each based on a different set of policy objectives"* (Charles 1992, p. 379). Charles (1992) identifies the three paradigms to be: *conservation*, which focuses on the policy objective of resource conservation; *rationalization*, which focuses on economic performance

in the sense of productivity; and *social / community*, which focuses on community welfare in the sense of equity. The paradigms can be organised in a triangular model where each corner is occupied by a "pure" paradigm. In between the pure positions all kinds of mixtures can in theory be found.

Three different political positions[22] could generally be observed in the Council in connection with the reform:[23] The Commission, which does not have the right to vote, but nevertheless plays an important role in Council negotiations and the general decision-making process, proposed a radical reform marked by a conservationist world view. A somewhat similar position was assumed by a network of member states, which informally referred to themselves as the "Friends of Fish" (FoF), composed of Germany, the UK, Sweden, the Netherlands, and Belgium (and to a lesser extent Finland which views on structural aid especially diverged from those of the rest of the network). FoF favoured a comprehensive reform, but were less radical than the Commission in terms of conservationist focus. The network's nickname was chosen in response to the opposing group of member states who referred to themselves as "Amis de la Pêche" (AdlP), or in English "Friends of Fishing". AdlP was composed of France, Spain, Ireland, Portugal, Italy and Greece and had been formed around December 2001 in response to the Green Paper and what they saw as an overly conservationist approach from the Commission. These member states, which to a large extent argued from a social / community perspective, engaged in an unprecedented level of coordination of strategies, meetings at high levels, publication of joint conclusions and counterproposals, etc.

In Fig. 5.1 we plot the positions within the Council using the triangular model of fishery paradigms developed by Charles (1992). The specific positioning of the different political groupings is merely indicative, as it is hardly possible to place the players in the triangle in a way that cannot be contested, especially in such a complicated process as the 2002 reform where other factors not necessarily related to fisheries also influenced the political position of the member states (e.g. jurisdiction of national authorities and balance of power between EU institutions). Moreover, it should be kept in mind that individual member states have their own hobbyhorses, which affiliation with either group does not change.

All players in the reform debate placed themselves relatively far from the rationalization corner, which is explained by the fact that the fundamental principle of relative stability, which was not seriously contested during the reform, complicates any real attempts to reform the CFP towards the perspectives of the rationalization paradigm. At national level, however, several member states have

[22] Outside the main groupings in the Council, the Danes, who chaired the Council meetings in the second half of 2002 in their role of President (a position that rotates among the member states), took the relatively neutral approach, which is traditionally required from the Presidency to facilitate compromises. Landlocked Luxembourg and Austria played negligible roles in the discussions.

[23] The section about the configuration of the Council in connection with the 2002 reform draws on Hegland (2004).

adopted part of the rationalization paradigm and are increasingly using economic incentives to ensure a more appropriate utilization of their fish resources.

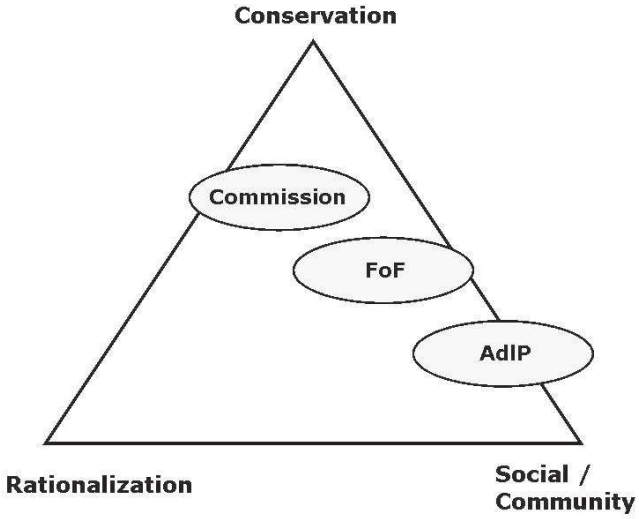


**Fig. 5.1.** Council configuration during the 2002 Reform. Inspired by Charles (1992)

The Commission clearly positions itself closer to the conservation paradigm with its emphasis on recovery of stocks as a dominating concern. The AdlP group largely keeps to the social / community paradigm, as they have done for two decades, prioritising socio-economic concerns over conservation. This group also has a predisposition towards various kinds of public aid to the sector, a view that places this group further from the rationalization corner than the other parties. Finally, in many of the debates, the FoF positioned themselves somewhere between the Commission and the AdlP, on most issues arguably slightly closer to the Commission.

In-depth analysis of why the different member states assumed these positions and ended up in these coalitions is a study beyond the scope of this chapter, but a few significant factors ought to be mentioned. The fisheries sector is more important for AdlP member states than for FoF member states, where conservation interests are progressively gaining weight compared to fisheries interests. Furthermore, the FoF member states are in general net financial contributors to the EU, whereas the AdlP member states are net beneficiaries, making them more supportive of subsidies in general. Moreover, the fleets of the AdlP member states are generally more in need of modernisation than those of the FoF member states. Finally, the FoF member states had more immediate experience with the crisis of resources, which has so far been most severe in the North Sea and the Baltic Sea.

An interesting fact of the 2002 reform was that it was actually possible to agree on a number of substantial changes to the CFP without significant debate. For example, this was the case in relation to multi-annual plans and to some extent the use of harvest control rules. Nevertheless, we would like to emphasise that the 1992 revision of the CFP actually provided the instruments required to introduce recovery plans. This underlines the fact that the successfulness of the measures under the CFP is primarily determined by the political will among member states to reduce fishing effort and confront and alter the present path of the CFP, rather than by the availability or absence of specific instruments.

As the account provided in this chapter substantiates, the story of the CFP is to a large extent a story of failed administration and implementation. This failure can to a large extent be explained by path dependence in the decision-making process, which has resulted in insufficient action from decisions-makers towards altering the course of the CFP and, most importantly, approaching the problem of overcapacity.

It is our understanding that the balance between the paradigms presented above has shifted in the Council in recent years. The reform in 2002 may have been the first step towards a break with the unsuccessful path of the CFP. Path breakage is usually precipitated by the occurrence of an extraordinary event/process, creating a window–of–opportunity for "path-change". These events, which cause significant institutional changes and breaks in the path, are referred to by Hall and Taylor (1996) as critical junctures. Although the critical development in relation to the fishery resources managed under the CFP has been gradual, it is reasonable to argue that the present situation, where a number of commercially important fish stocks are on the verge of collapse, constitutes a critical juncture that may open a window for reorientation.

The CFP implementation failure of past years has recently been demonstrated by the near collapse of several fish stocks. Decision-makers are now questioning the present path and becoming motivated / forced to make changes, more actively reducing fishing capacity and activity in order to allow the stocks to rebuild. Already in 1992, the Commission expressed this opinion, and in Report 91 it proposed a number of potentially effective ways to improve the situation. The Commission thereby demonstrated its move from the social/community corner towards the conservation corner of Charles' triangle. A decade later, however, decision-makers in the Council mostly refrained from applying new instruments and remained strongly biased towards the easy, short-term political solution of pleasing the industry and the dependent communities, a behaviour which has now in reality turned into a tragic disservice to the same industry and communities.

The FoF member states have in recent years followed the example of the Commission and increasingly realised the need to change the implementation of the CFP to allow the stocks to recover and maintain fishing communities for the future. In contrast, protection of fishing and fishing communities has to a larger extent remained the priority of AdlP member states; although an increasing understanding of the need for change can also be observed within this group. We can

thus observe a crisis-driven change in the centre of gravity for decision-making related to the CFP, especially in recent years.

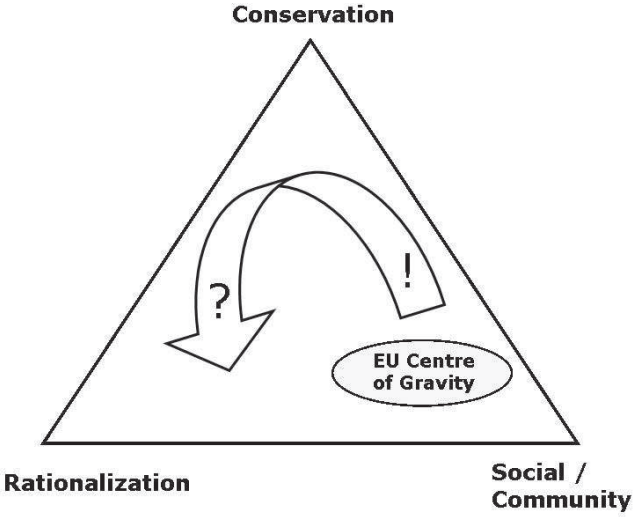


**Fig. 5.2.** Changes in the relative strengths of paradigms. Inspired by Charles (1992)

As illustrated in Fig. 5.2, the CFP's centre of gravity has moved, and is increasingly moving, from being firmly associated with the social/community corner towards the conservation corner. Based on domestic developments in the member states, as well as developments in other parts of the world,[24] it is likely that this development will eventually be supplemented by a move towards the rationalization corner.

Although we foresee that the centre of gravity will continue to move from the social/community corner towards the conservation corner, (potentially the rationalization corner) we are by no means certain of how far and at what pace, something only the coming years will show. As we have demonstrated in this chapter, two decades of implementation of the CFP have not lead to an effective administration. Even though the need for change is becoming increasingly evident and recognised, the principle of relative stability and other elements have until to now in many respects kept the system in a deadlock. The relative stability can probably be considered one of the most resilient elements creating path dependence. It is difficult to see how the CFP can be truly reorganised in an economically efficient manner without at least redefining the concept of relative stability. Whether the shock that the system has incurred will be enough to promote this development remains an open question. The way the centre of gravity has moved within the

[24] This is illustrated by the increasing spread of management systems building on some sort of privatised harvesting rights (see also Chapter 6).

Council nonetheless gives reasons for some optimism, at least with regard to the EU actually employing more of its available instruments in the future.

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# 6 Implementation Politics: The Case of Denmark Under the Common Fisheries Policy

**Troels Jacob Hegland and Jesper Raakjær**

**Abstract** Denmark is among the more loyal European Union (EU) member states when it comes to national implementation of the Common Fisheries Policy (CFP). However, even in Denmark several mechanisms contribute to sub-optimal implementation of the CFP. Looking at implementation problems for a relatively loyal member state, this chapter sheds critical light on national implementation of the CFP in the EU as a whole. The chapter initially provides a description of the institutional set-up for fisheries policy-making and implementation in Denmark, including a short historical account of the development of the Danish fisheries and their management since 1983. Subsequently, the chapter provides an understanding of the mechanisms and processes behind the Danish implementation of fisheries policy, arguing that these mechanisms and processes have led to a situation where the goals agreed at the EU level are supplemented or even replaced by national priorities. The chapter concludes that in order to capture the domestic politics associated with CFP implementation in Denmark, it is important to understand the policy process as a synergistic interaction between dominant interests, policy alliances/networks and prevailing discourses. The inability of the EU to ensure that the conservation goals agreed at the EU level are loyally pursued during national implementation is one of the reasons why the EU has been struggling to keep fishing mortality rates at a sustainable level.

## 6.1 Introduction

Controlling the fishing mortality rates is an underlying key concern in any modern fisheries management approach. In the member states of the European Union (EU), fisheries regulations that are aimed at or have implications for controlling fishing mortality rates are to a large extent centrally imposed through the Common Fisheries Policy (CFP).[1] However, in some policy areas the member states are free to decide on the specific way of implementing the rules. Furthermore, there are differences between the member states with regard to the procedure for how to

[1] An account of the development of the CFP from its adoption in 1983 can be found in Chapter 5.

arrive at decisions on implementation. This chapter's point of departure is that the specific choices in relation to implementation influence the ability of the EU to effectively control fishing mortality rates through the CFP. This chapter will consequently look into how Denmark has implemented the CFP regulations and the driving forces for implementation choices.

A prominent feature of the Danish decision-making system is the extent to which the fisheries sector[2] itself, and particularly the catch industry, has managed to influence the way in which CFP regulations have been implemented. This has to a significant extent (but not only) been possible through the Board for Commercial Fishing (BCF). The BCF is an advisory institution of central importance because the responsible minister will, in line with a Danish tradition in public administration of involving stakeholders in decision-making, go a long way to follow its advice when implementing fisheries legislation (Raakjær Nielsen 1994; Raakjær Nielsen and Christensen 2006). However, at a more basic level, it is our hypothesis that there must be more fundamental, underlying drivers that determine why decisions are made in the way they are. These drivers are surely influenced by the Danish decision-making model, which focuses on stakeholder input, but it seems likely that as drivers behind fisheries management decisions they are also rooted in fundamental features of the Danish fisheries system.[3] Consequently, our research will explore the implications of having the catch industry heavily involved in the decision-making process and, more importantly, try to uncover fundamental drivers in order to understand the behaviour of the fisheries decision-making system and administration over time. Using the Danish experience as an example, the chapter also looks into the implications of the fact that decisions made at the supranational level of the EU are implemented at the national level by actors with different preferences and objectives than those of the EU bureaucracy. Despite national autonomy in the implementation of EU rules, however, it is ultimately often the EU bureaucracy and not the national governments that is held accountable for the ramifications of decisions taken at a national level.

Although this chapter casts a critical light on the implementation of CFP regulations in Denmark, this does not indicate that Denmark is worse than other member states in this respect. On the contrary, Denmark is in our opinion among the most loyal member states when it comes to implementation of the CFP. This is also indicated in the evaluation of the control, inspection and sanction system that the European Court of Auditors (2007) carried out in the six member states with the largest value of catch. A simple count in the report shows that Denmark and the Netherlands each received three critical remarks, placing them as the most loyal states in terms of these aspects of CFP implementation. In comparison, Spain, Italy and the UK each received more than 10 critical remarks. France received almost 20.

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[2] By *sector* we refer to the *catch industry*, consisting of the fleet, as well as the *processing industry*.

[3] This is composed by natural, social and governance systems, following Charles (2001) and Raakjær (forthcoming).

This chapter is divided into four main sections. The first covers the legal and institutional setting for Danish implementation, beginning with the CFP (see also Chapter 5) and subsequently presenting a short introduction to the Danish system in terms of laws, institutions and legislative processes. The second describes the general evolution of the Danish fisheries system and its management from 1983 (when the full CFP was adopted) to 2007. The third section presents and outlines the main domestic drivers of Danish implementation and administrative practices, which we have uncovered during our research, as well as examples of how these drivers function and have influenced the development of policy and implementation practices. The final section synthesises the main lessons learned and provides a discussion of their possible implications.

In order to understand the evolution of the administrative practices and the Danish implementation of fisheries regulations, 11 key informant interviews were conducted, covering informants representing administration, industry and research.[4] Only fishermen (or fishermen's representatives) who have held a high-level position within Danish fishermen's organisations were selected. The aim was to strike a reasonable balance between respondents from administration, research and industry and also to ensure that the informants had been involved with fisheries management for a substantial period of time so that they could reflect on changes over time.[5] Furthermore, an effort was made to select informants that would supplement one another and thus contribute different views and perspectives.

The interviews were conducted from the fall of 2006 to the fall of 2007 and all were transcribed before the analysis. All 11 respondents were granted anonymity, and are thus referred to by their interviewee number (1–11, see list with experience background at the end of the chapter) rather than by name. All interviews were conducted in Danish and direct quotations are in our translation. The interviews were carried out in three rounds. The first four interviews were very open and exploratory, structured only by a very rough interview guide. This strategy was chosen mainly for two reasons: (1) we had only a vague idea of what would be the main issues based on our pre-knowledge, and (2) we wanted the informants *themselves* to assist in identifying critical themes and issues. For the following two rounds of interviews (four and three interviews respectively), a more structured interview guide was elaborated utilising the insights from the previous interviews. However, all interviews remained relatively open and the informants were always encouraged to focus on what *they* found important. In addition to key-informant interviews, a large body of legal documents, statistics and archive material from the Directorate of Fisheries was investigated.

[4] In total 6 informants were from administration/research and 5 from industry. Furthermore, one of the authors has in his capacity first as a fisherman and later as a researcher and chairman for a larger processing plant closely followed the evolution of the Danish system since the CFP was adopted.

[5] All informants had a minimum of 15 years of experience during the period we analyse and most have actually been involved for the entire period.

To the best of our knowledge, no research has previously been conducted focussing specifically on Danish administrative practices and the Danish implementation of CFP regulations. The relatively few works that touch upon the issues have other primary focuses (e.g. Raakjær Nielsen 1992a, b; Vedsmand 1998; Raakjær Nielsen and Vedsmand 1999; Raakjær Nielsen and Mathiesen 2003; Sandbeck 2003; Byskov 2005; Raakjær Nielsen and Christensen 2006; Hegland and Sverdrup-Jensen 2007). Consequently, the research providing the information for this chapter has been highly exploratory. This chapter thus does not claim to represent a conclusive and complete picture of the Danish administrative practice and its driving forces in the period in question. Rather, it represents a first attempt[6] to outline some of the key-issues influencing Danish implementation and relate them to target fishing mortality.

## 6.2 The Legal and Institutional Set-Up

Conservation of living marine resources (the crucial conservation policy component of the CFP) is one of only a few areas where the EU has exclusive competence *vis-à-vis* the member states. This means that the member states cannot adopt their own legislation within the area of living marine resource conservation unless that power has explicitly been given back to them, and the member state cannot under any circumstances legally adopt legislation which works counter to the objectives of the EU.

The cornerstone of the conservation policy is an output-based system (see Chapter 1) setting total allowable catches (TACs) for individual (or in some cases multiple) fish stocks on an annual basis. Member states are allocated the same fixed percentages of the TACs every year, a principle known as the *relative stability.* TACs are applied in combination with technical measures that primarily aim to reduce catches of non-target species or juveniles. Regulation of fleet capacity has traditionally also been high on the agenda under the structural policy component of the CFP (see Chapter 5). In recent years, the CFP has been developed to include additional input-based elements (see Chapter 1) such as days-at-sea regulations.

The EU definition of "fishing mortality rate" is *"the catches of a stock over a given period as a proportion of the average stock available to the fishery in that period"* (Council of the European Union 2002b, Art. 3(f)). It is important to note that this definition is supplemented by the definition of "catch limit", which is *"a quantitative limit on landings of a stock or group of stocks over a given period*

[6] Within the constraints of the project we were not able to go further, but the analysis and arguments presented in this chapter would benefit from further research, particularly by looking into the Directorate of Fisheries' archives as well as those of the fishermen's representative organisations.

*unless otherwise provided for in Community law"* (Council of the European Union 2002b, Art. 3(m)). This creates a situation where the EU does not actually monitor catches, but rather the landings. Consequently, it becomes difficult to assure that the agreed TAC actually results in the preferred fishing mortality rate, since fishing practices such as discarding, high-grading and unreported landings undermine this approach to control fishing mortality. This has created a muddy situation where, although scientists try to take these issues into account when they advise on TACs, the inability to directly measure their impact on the fish stocks nevertheless creates uncertainty. Furthermore, it is not uncommon that the Council of the European Union (Council) adopts TACs well above scientific recommendations. This has, it has been argued (Commission of the European Communities 2001), contributed to the development of a situation where a number of stocks in EU waters have fishing mortality rates that are far above advisable levels (Gulland 1990; Lassen 1995; Commission of the European Communities 2001).

Implementation of EU decisions is a significant part of Danish fisheries policy and management. However, this does not mean that member states have no freedom in how they choose to implement EU decisions. The member states have substantial decision-making powers in some areas, and national choices regarding implementation can significantly influence the actual fishing mortality rates. Below, we give four examples of areas in which national implementation and decisions can impact the CFPs ability to actually match TACs with target fishing mortality rates.

1. *Allocation of fishing opportunities.* Although overall TACs are adopted by the Council, it is up to the member state to decide on the method of allocating the TAC between the vessels flying its flag (Council of the European Union 2002b). Some groups of vessels are notoriously known to have higher discarding rate than others and this will affect the fishing mortality rates.
2. *Adjustment of fishing capacity.* A major cause of the EU's struggle with much too high fishing mortality rates is the overcapacity of the member states' fleets. Paradoxically, the EU's Financial Instrument for Fisheries Guidance (FIFG) facilitated an immense capacity build-up (see Chapter 5 for details). It is a well-established fact that the overcapacity has been transferred into excessive fishing mortality rates, particularly because control measures have been inadequate and because allocations have not reflected fishing practices. It was not until December 2002 that an amendment to the basic structural policy regulation was adopted that specifically stated that measures under the structural policy *"shall not increase fishing effort"* (Council of the European Union 2002a, Art. 1(1)).
3. *Control and enforcement.* The member states are responsible for control and enforcement within their own waters. The basic regulation states that: *"*[u]*nless otherwise provided for in Community law, Member States shall ensure effective control, inspection and enforcement of the rules of the Common Fisheries Policy"* (Council of the European Union 2002b, Art. 23(1)). The basic regulation also outlines guidelines as to how the inspection should take place and what

elements it should contain. However, it is well-known that control and enforcement have been an Achilles heel of the CFP from the beginning (e.g. Commission of the European Communities 2001; Commission of the European Communities 2006).

4. *Measures applying only to the state's own vessels.* The member states have the right to adopt more restrictive legislation relating to the conservation and management of stocks in their own waters, but these can only be applied to the state's own vessels (Council of the European Union 2002b). In principle, more restrictive legislation should lead to lower fishing mortality rates, but this is not always the case, as it might instead be converted into higher discard rates and thereby contributing to the discrepancy between catches and landings. Denmark has for several species introduced minimum landing sizes that are higher than required by EU regulations.

The legal and institutional set-up for Danish fisheries policy and management has significantly influenced how Denmark has employed its implementation powers in relation to the CFP. The Fisheries Law of 1999[7] can be considered the Danish equivalent to the basic regulation of the CFP. However, in contrast to the regular and significant (although not particularly successful) reform endeavours (see Chapter 5), that have contributed to regulatory development in the EU, the Danish Fisheries Law was not the result of a policy reform-process. In fact, the period from 1983 to 1999 was poor on policy developments in Denmark. Nevertheless, since the new Fisheries Law came into place, there have been wide-ranging reforms of the Danish fisheries policy (see section on allocation of fishing rights beneath). However, these reforms are still in their infancy and partly outside the remit of this chapter. They were prompted not by the Fisheries Law of 1999 itself, but rather by changes in the political environment (see section on strong individual actors beneath).

The overall legal framework and guiding principles of the fisheries policy is usually modified yearly in the Regulation Announcement, which announces the rules governing the different fisheries for the following year. This announcement is the national equivalent to the annual TAC and quota regulation of the EU, and sets out the principles regarding how to implement the Fisheries Law as well as the outcome of the EU negotiations in terms of limitations on catches and effort etc. However, following the Regulation Announcement, more specific management regulations are determined throughout the year and announced in so-called Supplement 6 communications.

[7] From 1983 to 1999 the national Danish marine fishery policy was outlined in three main laws supported by a number of laws of relatively minor importance. In 1999, the previous laws on the subject were merged into one general Fisheries Law (Folketinget 1999) covering almost every aspect of Danish fisheries policy. However, this merge did not constitute a reform but can more correctly be termed as a legal clean up.

The day-to-day implementation of the rules is the responsibility of the minister in charge of fisheries policy. Consequently, the system is relatively centralised, as there are in principle no management decisions taken at regional level. Until 1994, the fisheries sector had its own ministry, subsequently agriculture and fisheries constituted a dual ministry from 1994 to 1996, and fisheries issues have been dealt with under the Ministry for Food, Agriculture and Fisheries (MFAF) after 1996. As the ministry has evolved to include within its purview an increasing number of topics in addition to fisheries, fisheries-specific issues have become less central to the overall ministry objectives. Rather than considering only the business aspect of fisheries management, as was common under the original pre-1994 ministry, the ministry now increasingly has to consider fisheries within the context of the overall food supply system in Denmark with significant focus on the consumer perspective.

MFAF constitutes the political level with two sections within the Department specifically dedicated to fisheries issues. Their main tasks in relation to fisheries policy and management include servicing the minister and developing policy. The objectives include sustainable exploitation of the fisheries resources, making sure that Denmark lives up to its international obligations, the protection of Danish interests in the EU and other international negotiations, and safeguarding the best possible conditions to develop and ensure structural adjustment within the Danish fisheries sector.

The Directorate of Fisheries (DoF), which was extracted from (but remains responsible to and financially dependent on[8]) the Ministry of Fisheries in 1995 after the merge with the Ministry of Agriculture in 1994, consists of a central unit, three inspectorates and four control vessels. The DoF is responsible for the day-to-day implementation and administration of fisheries management in Denmark, including enforcement and data collection.

In conducting its tasks the administration is supported and informed by a number of boards. Two of these boards are particularly important: the Board for Commercial Fishing[9] (BCF), mandated to advise on the *"planning and development of rules on how to practice commercial fishing, as well as on the catch capacity, use of gear etc. and on the development of rules regarding the firsthand sale of fish"* (Folketinget 1999, §6, our translation), and the Board for EU-fishing (BEUF), mandated to advise on the *"position regarding the Common Fisheries Policy of the European Community and on developing the rules in the area of fisheries necessary to implement the EC legal acts mentioned under §10"* (Folketinget 1999, §5, our translation). In this chapter we focus on the BCF,[10] which is

[8] The DoF has been operating on the basis of a so-called Performance Contract signed with MFAF, which outlines its budget and the tasks to be undertaken within that budget (Fødevareministeriet and Fiskeridirektoratet 2005).

[9] Formerly known as the Regulation Advisory Board.

[10] We have gained access to the minutes of BCF meetings. In contrast, minutes and recommendations of the BEUF are confidential as they to some extent relate to the Danish position *vis-à-vis* EU legislation, which is still under negotiation.

the most important board for implementing policy rules and regulating how the fisheries are actually carried out.

The BCF has traditionally played an important role in the day-to-day implementation of the national fisheries policy as laid out in the Fisheries Law and the Regulation Announcement, as well as in amending the overall Fisheries Law and developing the next year's Regulation Announcement. The BCF is the central stakeholder institution in the implementation of fisheries policy in Denmark and has been so for the entire period since 1983 when the CFP was adopted at the EU level. The Board consists of a number of permanent members who are listed in the Fisheries Law and can be joined by members appointed by the responsible minister either on an *ad hoc* or semi-permanent basis.

The membership of the BCF has generally been quite stable since 1983. The board has consisted of representatives of the central administration, various representatives of the fishermen (fishermen's associations and producer organisations), representatives of the processing industry, and representatives from workers' and employers' organisations. It should be emphasised that until 1994, two fishermen's associations were represented in the BCF: the Sea Fishermen's Association, which represented the larger vessels primarily situated on the west coast of Jutland and had its main office in Esbjerg, and the Danish Fishing Association, which represented the fishermen in the rest of Denmark and had a larger proportion of small-scale fishermen. In 1994, the two organisations merged and created the Danish Fishermen's Association (DFA). In addition to the members specifically mentioned in the law, the minister has recently invited the World Wide Fund for Nature (WWF) to become a member of the BCF. The BCF reflects a relatively traditional and to some extent narrow conception of legitimate stakeholders (for a discussion of the changing perception of legitimate stakeholders see Mikalsen and Jentoft 2001).

The minister often appoints members from the BCF to serve on other committees as well. This was for instance the case with the working group that was set up in May 2005 to advice on the future regulation model for the Danish demersal fisheries. It was partly based on the recommendations from this working group (Udvalget vedrørende Ny Regulering i Fiskeriet 2005) that the regulation of the demersal fisheries underwent reform in 2006/07 (see section on allocation of fishing rights below). Although this did not formally take place within the BCF (because it would be outside its remit) it seems reasonable to understand groups like this one as BCF offspring.

The institutional set-up for policy-making and implementation within the fisheries domain in Denmark can be captured by the notion of corporatism as it is commonly employed today. Whereas corporatism as a theory was traditionally associated with macro-level issues involving the state and the national organisations of employees and employers, the concept of corporatism is today used in a broader sense covering a range of policy-making models involving a significant degree of formalised stakeholder involvement (Blom-Hansen and Daugbjerg 1999). Today, corporatism is often found to be a relevant term for describing the set-up on the

meso-level in more specific policy areas. This is especially true in Denmark where there is a strong tradition of corporatism/stakeholder involvement on the meso-level without there actually being any formal macro-level corporatist arrangements (Blom-Hansen 2001).

Another concept relevant to this discussion is co-management. Co-management has been a prolific research agenda within fisheries for the last couple of decades. Co-management schemes can be captured by corporatism in its broadest sense but generally co-management schemes distinguish themselves from sectoral or meso-level corporatist arrangements by the extent of involvement of the stakeholders. In co-management schemes the stakeholders will not only be involved in making and shaping the decisions regarding the rules and their implementation, but also be actively involved in the implementation hereof. In essence, corporatism and co-management place themselves differently (but nonetheless close to each other) on a continuum ranging from, at one end, complete state-control with interest groups functioning only as outside pressure groups to, at the other end, complete self-control where all decision-making and management tasks are handed over to the fishermen themselves (see Sen and Raakjær Nielsen (1996) for more details).

A classical question in the study of user-group and stakeholder involvement in policy-making is whether these arrangements serve to further or to work against the interests of society at large. Stakeholder involvement may increase the acceptance of policies that serve the common good by providing some sort of buy-in from the members of the involved interest groups. On the other hand, stakeholder involvement may also lead to regulatory capture, where interest groups hijack the policy process and exploit the system to shape or develop policies that serve their own interests, but may not be in the best interest of the society at large. This can also be regarded an underlying theoretical question for this chapter, which we will return to in the concluding sections.

Traditionally Scandinavia has been viewed as a special case where the presence of powerful, encompassing interest organisations has had a particularly positive influence on the overall development of the societies in the post-war period. It has been argued that the key reason for the positive role, which has been played by interest organisations exerting their influence in corporatist arrangements with the state, has been the fact that the interests of the organisations have been the same as those of the societies at large – primarily overall economic growth (Blom-Hansen 2000). However in recent decades, both actors within the corporatist system as well as scholars have, according to Blom-Hansen (2000), argued that the system does not always work as it should, but rather in some instances serves to maintain structures that are in need of change. Moreover, in some areas the traditional corporatist structures have been weakened as new interests and priorities have forced their way onto the arena. This has for instance been the case in the area of agriculture where the agricultural interest organisations have been forced to accept environmental legislation (Blom-Hansen 2000; Blom-Hansen 2001).

In sum, Denmark is not without powers within the fisheries policy-area. Although the CFP outlines the overall system and provides some basic rules and

conditions, there are areas where the member states have considerable decision-making power, and it is up to the member states' administrations to implement CFP rules. This in itself provides powers, which can influence the CFP's ability to monitor and match target fishing mortality rates.

The Danish system is, as described, highly centralised, with almost all decisions taken at the national level. However, the way that the Danish political system has arrived at decisions on how to implement fisheries regulations in Denmark has, nonetheless, been heavily influenced by a national tradition of involving user-groups and stakeholders in policy-making through corporative structures. Within these structures, boards of an advisory character have at times been awarded almost *de facto* decision-making capabilities within the overall guidelines set down in the legal framework. Thus, even though we are dealing with a highly centralised system at national level, it has not exclusively been functioning in a top-down manner.

## 6.3 Danish Fisheries and Their Management

### *6.3.1 The Geographical Setting*

It is a challenge to provide a short introduction to the development of the Danish fisheries and their management from 1983 to today. Although we attempt to provide a simple and informative picture, the reality is muddy and complex, and a recognition of the extreme complexity both in the natural and social components of the Danish fisheries system is a basic precondition for understanding the way Danish fisheries policy has developed and been implemented.

Fishing ports are scattered over most of Denmark, although the most important fishing ports are primarily located in Jutland. This concentration is not surprising insofar as the west coast of Jutland faces towards the North Sea, which is traditionally the most important fishing area for the Danish vessels. In 2006, a little more than half of the value of the Danish fishermen's total catch was taken in the North Sea; Skagerrak and Kattegat together accounted for around 20%; and the Belt Sea and the Baltic Sea accounted for a little less than 15% (Fiskeridirektoratet 2007). The balance was slightly different throughout the previous two decades, when the fisheries outside the North Sea, particularly in the Baltic Sea, were in general relatively more important, although the North Sea was still the most important area.

### *6.3.2 The Fisheries and the Fish*

The Danish fishing fleet, which in 2005 consisted of 1,167 vessels, each with a yearly turnover of more than 216,731 Danish Kroner (DKK)[11] (Fødevareøkonomisk Institut 2006) and employed some 2,000–2,200 full-time fishermen (Interviewees 1 and 2), is extremely diversified both in terms of vessel sizes and fishing methods. Danish vessels use mussel scrapers, Danish seines, purse seines, nets, hooks, traps, bottom trawls and pelagic trawls. This diversification also reflects in the types of vessels represented in the Danish fleet, which ranges from wooden, one-man operated vessels under 6 m to large, highly modern combined trawlers/purse seiners over 40 m costing up to several hundred million DKK (including tradable fishing rights). In terms of tonnage, however, trawlers dominate the industry, accounting for around 2/3 of the total tonnage (Fiskeridirektoratet 2007). It goes without saying that these vessel types have very little in common besides the fact that they catch fish. This has also been a source of constant tension within the industry and the DFA in particular (see section on cleavages and dilemmas beneath).

At a very general level, the Danish fleet can be divided into three main segments: (1) the vessels engaged in pelagic fishing primarily for mackerel and herring for human consumption, (2) the vessels engaged in non-human consumption fisheries,[12] and (3) the vessels primarily fishing for demersal consumption species of which cod has traditionally been the most important. The two first segments are relatively homogenous while the third one is not. The vessels fishing for herring and mackerel for human consumption and the vessels fishing for non-human consumption species are generally large trawlers and purse seiners, and there is some overlap lap between these two segments. The third segment consisting of vessels mainly targeting demersal species for human consumption is the largest and most difficult to characterise, as it includes vessels of all sizes employing different types of fishing gear. One useful division is between smaller so-called "coastal" vessels with crews of 1–3 usually making short fishing trips (1–2 days) employing different types of gear, and larger vessels primarily trawlers usually having an operational crew of four (including the skipper). The larger vessels often employ a total of six people, as the crew rotates according to a system where each fisherman works for two fishing trips and then takes time off during one trip. These vessels are highly geographically mobile and can easily change gear at sea and thus target one species during the day and another during the night. (Christensen and Raakjær

[11] The figure 216,731 DKK is a calculated lower limit for commercial fishing vessels from the Danish fisheries statistics. Vessels landing less than the lower limit are considered as being operated on a part-time basis. The vessels in the group above the lower limit account for 97% of the turnover (Fødevareøkonomisk Institut 2006).

[12] These fisheries targeting species to be reduced into fishmeal and oil are often referred to as "industrial fisheries", which is, however, a slightly ambiguous term. We will therefore refer to non-human consumption fisheries instead.

2006). For more information on the interaction between the different segments, see section on cleavages and dilemmas below.

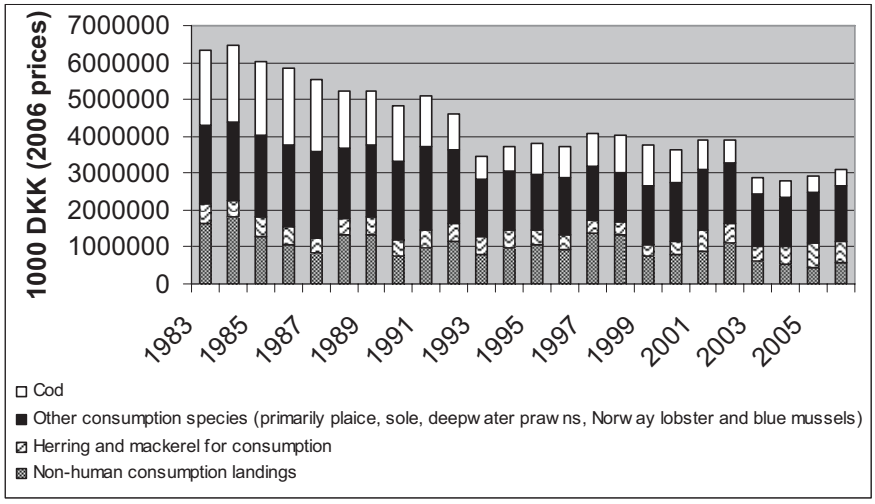


**Fig. 6.1**. Value of landings (domestic and abroad) by Danish vessels 1983 – 2006 in 2006 prices. Basic data from Fiskeridirektoratet (1992, 1999, 2007). Own calculation into 2006 prices based on inflation rates of the period

Figure 6.1 shows the importance based on the value of landings of the three segments, with cod depicted in a separate colour. Most notable is perhaps the fact that when calculated in 2006 prices,[13] the value of landings has been halved since 1983. This is not primarily because fish has become a cheaper commodity, although globalisation and aquaculture etc. are changing the market and prices for some species have gone down (Raakjær forthcoming), but rather because landings in Denmark have dropped because a number of stocks have been depleted and have not been able to recreate former years' harvestable surplus. Figure 6.2 below illustrates fishing trends for the cod stocks. Several other species have developed similarly, although not as dramatically. As a result of these stock declines, the importance of the catch industry in Denmark has been severely shrinking over the last 20 years. Figure 6.1 shows that the value of landed cod in 1983 was equal to the value of all other demersal consumption species. Furthermore, throughout the period shown, demersal consumption species have accounted for some 60–75% of the total value of landings, but with the share of cod decreasing continuously except for a period at the end of the 1990s. The industry segment has accounted for

[13] It should be emphasised that recalculating into "2006 prices" means that inflation has been taken into consideration. It has consequently nothing to do with the prices of the different species in 2006.

15–30% of the value of landings. There are two primary explanations for the fluctuations in non-human consumption fisheries: (1) non-human consumption fisheries are often conducted for short-lived species that can be plentiful one year and gone the next, and (2) in some years, vessels from the other segments have supplemented their income with non-human consumption fisheries and *vice versa*. Finally, the mackerel and herring segment has managed to increase its economic value since 1983: herring and mackerel for consumption accounted for between 8 and 9% of the value of landings in 1983 and almost 20% in 2006. There are two reasons for this: (1) the most important species, herring, has been in relatively good shape during most of the period, although recruitment has been very low since 2003, and 2) there has been political focus on utilizing herring for human consumption (historically much herring has been used to produce fish meal and oil).

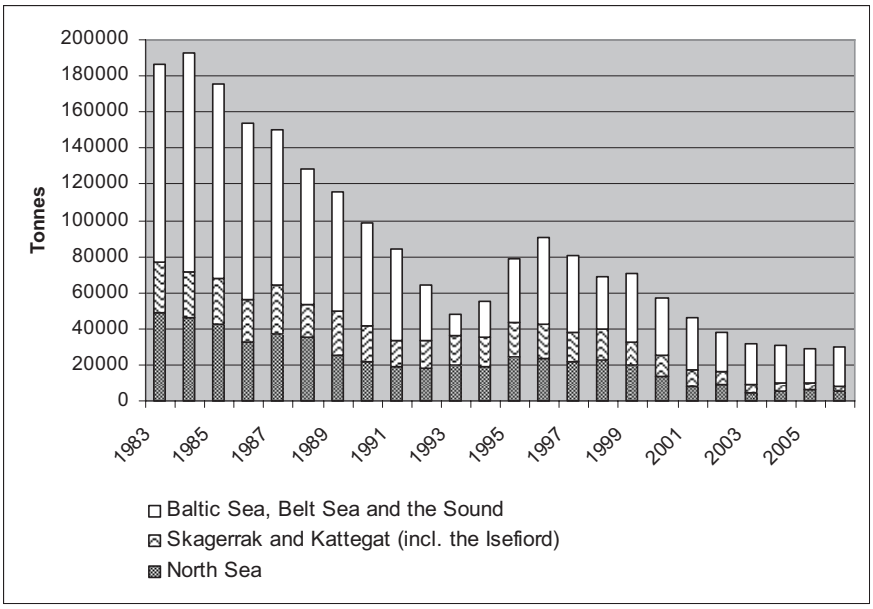


**Fig. 6.2.** Volume of cod caught by Danish vessels from 1983 to 2006 divided on main sea areas.[14] Data from Fiskeridirektoratet (1992, 2000, 2007)

Figure 6.2 further illustrates some of the points made above and gives a concrete example of the situation that fisheries management faces today. Cod is chosen as the example because it has traditionally been the most important species for the Danish fleet. Although stock decline has reduced the importance of cod, it re-

[14] Figure 6.2 does not include all Danish cod catches as some cod are caught outside the chosen areas. This has, however, been insignificant amounts in most years.

mains of central importance and is still, together with plaice, the species that many Danes associate with white fish.

Figure 6.2 shows that although decline has been the general trend for cod landings, there have been occasional regional upswings and downswings, particularly in the Baltic Sea. The Baltic Sea has traditionally attracted fishermen from all over Denmark in the winter season because this fishery was particularly profitable. Changing fishing areas like this was made possible by the flexibility offered by the traditional Danish management system with free access to quotas (see section on allocation of fishing rights below). This, however, also led to conflicts with local fishermen, a dilemma that the management authorities had to deal with and which we will explore in the following section on cleavages and dilemmas. The drastic downswing in cod in the beginning of the 1990s coincided with a severe crisis of the Danish catch industry where many vessels operated on the brink of bankruptcy. In contrast, the Danish fleet was in the beginning of the second half of the 1990s favoured by generally increasing fishing possibilities, improved fish prices and lower interest rates, which together made the fisheries quite profitable (Statens Jordbrugs- og Fiskeriøkonomiske Institut 2001; Raakjær Nielsen and Mathiesen 2003).

### *6.3.3 Allocation of Fishing Rights*

As mentioned earlier, the Danish system for allocating fishing rights in the demersal fisheries recently underwent a wide-ranging reform, referred to as *New Regulation* or the *FKA-system*.[15] As a result of the adoption of this system most Danish fisheries are now managed primarily through some form of transferable quotas. The full range of long-term effects of the reform and the new situation for Danish fisheries are difficult to outline this soon, although some effects, which will certainly have long-term implications, are already identifiable. This is especially the case for the reallocation of capacity and fishing rights across regions and fishing ports and between different fleet segments (see also section on structural policy beneath). In the following, we will initially look at the *catch quota-system*, which basically dominated the management of Danish fisheries from 1983 to 2007. After this, we will briefly describe the system of individual transferable quotas (ITQ) that was implemented for herring from the beginning of 2003 and served to a large extent as an inspiration for the reform of the demersal fisheries regulation, which was established from the beginning of 2007. At the end of the section, we will discuss *New Regulation*.

It will be impossible within this section to provide a full account of the development of the Danish fisheries management system, but we will provide a brief

[15] "FKA" refers to "fartøjs kvote andele", which means vessel quota shares.

description[16] of the general development and changes in general principles over time. In order to be specific, we will to some extent use the cod fisheries as an example.

From the time quotas were introduced in Danish fisheries management until 2007, the fishing rights in demersal fisheries were primarily distributed as *catch quotas,* allocated to individual fishing vessels and varying in size depending on the length of the vessel. These quotas were to be caught within a specified, often relatively short time period and in a specified fishing area. The overall national quotas were often divided into 3 to 4 *periods* over the year to ensure that the quota was not fished up too fast as well as to meet other concerns, such as the interests of different regions, vessels using specific gear or the catch-ability of the species in the particular period. As an example, in 2005 the cod quota in the Kattegat was divided in the following periods: 50% to be caught from 1 January to 31 March; 10% to be caught form 1 April to 30 June; 20% to be caught from 1 July to 30 September; and, finally, 20% to be caught from 1 October to 31 December. This reflects that the fishing waters of Kattegat and the Baltic Sea have a peak season in the first quarter and thus attract fishermen from outside these areas due to particularly high catch per unit effort (CPUE). The cod quota in the North Sea, where fishing intensity is more equally spread over the year, was evenly distributed over three periods of four months (Fødevareministeriet 2004). The periodic share of the quota was subsequently divided into the catch quotas that should be fished within a week, a fortnight, 1 month or even two months. A catch quota was as such equivalent to an individual vessel quota, however, usually to be fished within a short period. The catch quotas were set according to vessel sizes and announced in Supplement 6 communications. When determining the sizes of the catch quotas, the amount to be taken within the period (e.g. 50% of the national quota, referred to as the "fix point"[17]) as well as the expected number of participants in the fishery were taken into account.[18] In fisheries where the quotas were not too restrictive, the fishery was regulated as free competitive fishing within the total quota until a certain percentage of the quota had been taken (also referred to as the fix point) af-

[16] It should be kept in mind that in a brief description like this, some details are deliberately left out, which a person with in-depth knowledge about the system might find important. Moreover, we have chosen not to discuss the implications of the days-at-sea regulations, which were introduced at EU level in connection with the cod recovery plan. The days-at-sea system is, of course, important and has significant implications for the management of Danish fisheries. Nonetheless, it is a centrally imposed management measure, which leaves little room for manoeuvre on behalf of the member states, and it is thus outside the remits of this chapter.

[17] As an example, if the overall national quota for a species in a specific area was 1000 tonnes and the quota was equally distributed over the year in four periods; then the fix point for the first period would be 250 tonnes caught, for the second period 500 tonnes caught, for the third period 750 tonnes caught, and for the final period 1000 tonnes caught.

[18] E.g. in the first half of June 2005 vessels below 6 meters were allowed to land 50 kg of cod from Kattegat; vessels 6–12 m 125 kg, vessels 12–16 m 250 kg; and vessels above 16 m 300 kg (Fiskeridirektoratet 2005).

ter which a stricter quota regime was implemented along the lines described above (Vedsmand 1998).

The system has been characterised by a high degree of openness and flexibility, in the sense that almost all vessels have in principle been allowed to participate in any fishery in any area,[19] although there have been some restrictions relating to gear and size of vessels in some areas. However, the flexibility of the system was to some extent the result of the short period of the catch quotas (most often two weeks or a month), which came at the expense of possibilities for long-term planning in order to lower costs (e.g. by not fishing in bad weather) or maximise income (e.g. by adjusting catches to the market situation to obtain the highest price or fish when CPUE is high). Since catch quotas could not be "saved for later", but had to be taken within a specific period, the vessels were forced to fish no matter the weather and land the fish no matter the price in order to obtain an income from the catch quota. The pronounced flexibility was also difficult to manage from a control perspective.

Specifically in relation to cod, the wish for more security and a longer planning horizon as opposed to flexibility to fish in different areas led, among other things, to the introduction of the possibility to obtain an annual individual catch quota in the Baltic Sea from 1995 (Fiskeriministeriet 1994). The annual catch quota, which specified an amount of cod depending on vessel size, required a license, which contained the conditions regarding how the quota should be fished. Vessels were not allowed to fish outside the Baltic Sea as long as they operated under the system of annual cod quotas, and those vessels thus gave up the flexibility of being able to switch fishing areas, gaining the security of knowing that nothing was necessarily lost if you had to stay in port for a limited time (although there were provisions outlining how a vessel could leave the system of annual quotas during the year). Alongside the annual catch quota-system a traditional catch quota-system with shorter quota periods continued to operate to uphold the flexibility of the system to the benefit of vessels only operating in the Baltic Sea on a seasonal basis. In the North Sea, Skagerrak and the Kattegat similar systems of annual catch quotas for cod (and other important demersal species) were introduced as of 2002 for the smallest (and least flexible) vessels under 15 m (Fødevareministeriet 2001).

Whereas a TAC system based on annual quotas by definition complicates planning beyond one year ahead, the traditional, short-period quota system sometimes made it difficult to plan further ahead than one week. Although the short-period system often aimed to keep the size of the catch quotas stable, this was in many cases not possible because of the uncertainty as to how many vessels would take part in the fishery. The fisherman was thus highly dependent on the strategies of other fishermen. Moreover, the traditional, short-period quota-system benefited the most flexible vessels to some extent, as they could cream off the different

[19] A few fisheries have demanded a restricted entry license, most notably the fishery for blue mussels, primarily in the Liim Fiord, and the fishery for common shrimps in the Wadden Sea.

fishing possibilities, whereas the smaller, less flexible vessels had to stay behind and carry the expense of the lack of security and short planning horizon. The small vessels were also generally more sensitive to weather conditions and had to stay in port while larger vessels were fishing. However, it has been argued (Raakjær Nielsen 1992a) that the value of flexibility might have been overestimated because, at least early in the period, fishermen tended to focus on turnover rather than the contribution margin, and in many cases fishermen would probably have been better off continuing in the same fishery rather than changing to another, due to the costs associated with the change.

Finally, the traditional, short-period quota-system created an inexpedient situation where the most threatened species (e.g. cod) had to be managed with very small catch quotas to be caught over short periods to ensure that the quotas were not overfished before the next catch quota could be set – or at least to avoid having to close the fishery altogether. This was both administratively cumbersome and also a problem for the fishermen in terms of planning. In some periods the situation has been so extreme that weekly quotas of for instance down to 25 or 50 kg have been set in order to be able to keep fisheries open without risking officially breaking the quota.[20] However, as we will discuss in the section on strong persons, this also allowed fishermen to be at sea legally and catch fish that could then be landed illegally. Moreover, short periods, which are necessary when catch quotas are low, also increase the risk of vessels failing to catch their quota because of bad weather or other reasons, another explanation of why the periodic catch quota-system was increasingly challenged over time.

The BCF played a key-role in the implementation of the catch quota-system, as the minister normally listened very carefully to arguments regarding quota sizes and periods put forward by the industry. The industry's preference for keeping the fisheries open even if catch quotas were low was guided by the principle of not excluding vessels, which became a very important principle for the administration of the catch quota-system.

From 1983 to 1990, the herring fisheries were managed by individual quotas for licensed purse seine vessels. From 1990, they were managed by licenses allowing trawlers fully into the fisheries,[21] accompanied by catch rations decided on a weekly or monthly basis. From 1990 to 2003, the BCF, complemented by a BCF sub-group dealing with herring, was an important body in the process of determining regulations. Denmark decided in 2002 to adopt an ITQ-system for the herring

[20] High-grading is illegal under Danish legislation, which since 2002 (for the main commercial species) states that all catch that can be landed legally (meaning that a quota for it is available and that the fish is above minimum landing size) shall be landed. This provision is, however, notoriously difficult to enforce. Moreover, vessels are still obliged to discard catches of fish for which they do not have a quota (Interviewees 5 and 11; Andersen et al. 2003; Fødevareministeriet 2001).

[21] The change of the management system was made at very short notice and benefited trawlers primarily based in Esbjerg at the expense of purse seine vessels based in Northern Jutland (Dansk Institut for Fiskeriteknologi og Akvakultur et al. 1991).

fisheries. The main new feature of this system was not so much that individual quotas were given for a year at a time, which had also been done previously, but rather that the quota rights were given for a number of years and could be traded. This system introduced private ownership to fishing rights.[22] The ITQ-system was implemented in 2003 for a 5-year trial period with the possibility of a 3-year extension. However, the arrangement became permanent half way through the trial period.[23] It is worth noting that even though the ITQ-system was implemented as a trial, it lead to rapid structural adjustment, as the number of vessels was reduced by 50% within the first two years (Fiskeridirektoratet and Fødevareøkonomisk Institut 2005).

The latest step in the adaptation of the principles for allocating fishing rights in Denmark was taken in the fall of 2005 when a small majority in the Danish parliament agreed to develop a new regulatory system, known as *New Regulation* or the *FKA-system*, for the most important demersal species. At the same time the ITQ-system for herring was made permanent, and the parliament decided to develop similar ITQ-systems for mackerel and non-human consumption species (Regeringen og Dansk Folkeparti 2005). The new management scheme, which was implemented beginning 1 January 2007, is based on the distribution[24] of vessel quota shares for specific species in specific areas. Although the FKA-system imposes restrictions on the sale of fishing rights, the adoption of the system nonetheless means that almost all Danish fishing activities are now managed by means of some form of transferable quotas.

The FKA-system is relatively complex and includes a number of special elements established mainly to accommodate the different interests within the sector, in addition to ensuring that the capacity follows the quota shares. A special bonus system reserved an amount of cod and sole for vessels under 17 m making short fishing trips. In return for this extra allocation, these vessels are only allowed to transfer their rights to other coastal fishermen. This alternative system was introduced to protect the smaller vessels, as there was a fear that they would lose out in a market-based system. It has been made possible for groups of fishermen to pool their quotas, which also benefits smaller vessels because it means that they do not need to have shares for all species in all fishing areas themselves.

The political agreement on the FKA-system was to a large extent based on the input from a working group set up earlier in 2005, composed of the stakeholders and user-groups represented in the BCF. However, the working group had to work within a relatively fixed mandate since the government had already determined

[22] For more information on the background of the decision, see section on strong individual actors beneath or Hegland and Sverdrup-Jensen (2007) and Christensen et al. (2007).

[23] For a detailed account of the system, see Hegland and Sverdrup-Jensen (2007) or Fiskeridirektoratet and Fødevareøkonomisk Institut (2005).

[24] The quota shares were distributed to the fishermen based on their fishing pattern from 2003 – 2005. *New Regulation* provides the fishermen with *de facto* ownership over their quota shares, although the system can in theory be terminated at eight years notice. However, the shares cannot be sold freely, but have to follow the capacity of the vessel.

that the reform should increase the possibility of the individual fisherman to acquire and pool together quotas (Udvalget vedrørende Ny Regulering i Fiskeriet 2005), based on the experiences from the herring fishery described above.

The FKA-system was expected to contribute to structural adjustment in the fleet, working towards a better balance between fishing capacity and fishing possibilities. As of late 2007, the first indications of the new system show an immense concentration of fishing quotas, as the number of vessels has been reduced significantly, which has resulted in a regional reallocation of the fleet, among other things. In the FKA-system, the role of the BCF has also been significantly reduced, resulting in shorter BCF meetings (Interviewee 2), as the decisions on how to fish have been individualised. The influence of the sector will, consequently, have to manifest itself in different ways in the future.

The development described above changed the system from a catch quota-system managed as a common pool resource open to any vessel to the present ITQ- and the FKA-system, where vessels' activities are locked by their quota allocation. This is a significant change from an open and flexible system to a system focussing on security and segmentation in order to ensure long-term planning. Under the previous catch quota-system it was always uncertain what the vessel's fishing opportunities would be, as this depended not only on the national quota, but also on other vessels' strategies.

### *6.3.4 Structural Policy and the Fleet*

In terms of structural policy, Denmark has traditionally employed scrapping programmes[25] in order to cut capacity. This has to some extent been done in response to the (mostly modest) requirements set out in the EU capacity reduction programmes, but it has also to some extent been implemented on Denmark's own initiative to improve the economic performance of the fleet (Interviewee 1 and 3). Even though some of our respondents mention capacity reduction as a national Danish management strategy, the results have over the period been unconvincing, as we will discuss below. The development of the Danish capacity in terms of tonnage is depicted in Fig. 6.3 below.

In order to make sense of the tonnage development in terms of fishing capacity, it is necessary to take increases in efficiency caused by technological development into consideration.[26] The implication of this is that the capacity of the Danish fleet

[25] In scrapping programmes, fishermen are offered a premium for scrapping their vessel. Scrapping a vessel has always required that the vessel left the fishing fleet, and later on it also became a requirement that it was physically removed.

[26] There is a common understanding that efficiency over time increases by at least 2% per annum due to technological improvements. Although it is here called capacity creep, it should be emphasized, that sometimes innovations lead to larger jumps, e.g. improvements of fishing gear or pulling power.

should annually be reduced by at least 2% in tonnage just to maintain *status quo* and avoid an increase in fishing capacity. Figure 6.3 shows that many years of scrapping programmes in the Danish fleet have not even compensated for the expected creep in fishing capacity, even though the tonnage has been reduced from approximately 118,000 tonnes in 1982 to approximately 83,000 tonnes in 2006. In other words, there has most likely been a *de facto* increase in fishing capacity, which adds to the problem of securing sustainable utilization of fish stocks.

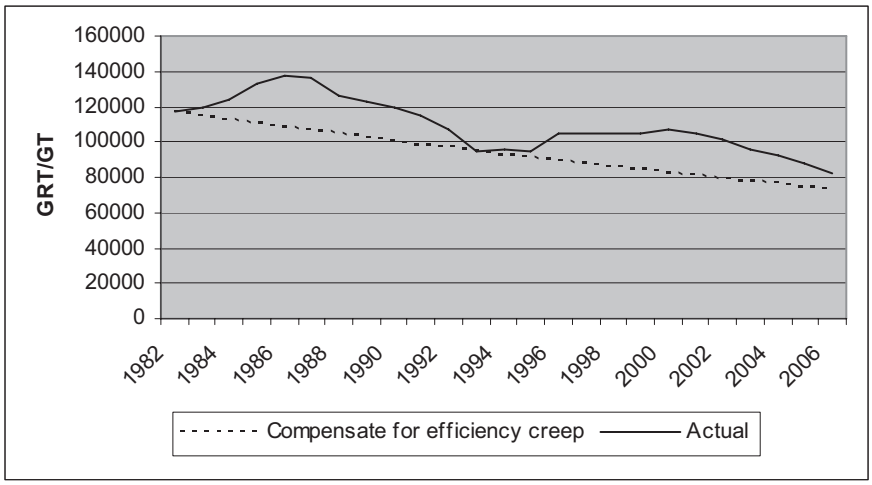


**Fig. 6.3.** Development of fleet capacity in Denmark from 1982 to 2006 (vessels over 5 GRT/GT).[27] Raakjær (forthcoming)

In relation to Fig. 6.3 it is also worth noting that the dotted line indicating how the Danish capacity should have developed to compensate for efficiency creep does not imply a balance between fishing capacity and fishing opportunities in Denmark. There are at least three reasons for this. Firstly, if the compensation for capacity creep should maintain a balance, we would have to be convinced that there actually was such a balance in 1982. This may likely be true (Vedsmand 1998), but it is not given, and if there was any lack of balance, it was probably towards overcapacity and not undercapacity. Secondly, when scrapping, there is generally a tendency towards choosing to scrap the least efficient vessels. This was also confirmed by our interviews in relation to the situation in Denmark (particularly Interviewees 1 and 7). Thirdly and most importantly, for the 1982 bal-

[27] Gross Register Tonnage (GRT) represents the total measured cubic content of the permanently enclosed spaces of a vessel with some allowances or deductions for exempt spaces, such as living quarters. Gross Tonnage (GT) refers to the volume of a vessel from keel to funnel measured to the outside of the hull framing and is always higher than GRT. Since 1994 GT has replaced GRT as the measurement of capacity and from 1982 to 1994 the two measurements were used in parallel. There has been a break in data for the period 1993–1995, which explains the drop and increase before and after.

ance to have been maintained merely by compensating for efficiency creep, the general fishing opportunities based on the available fish stocks would have to have stayed at the 1982 level. This has definitely not been the case. A large number of stocks relied upon by the Danish catch industry have declined since 1982, and it has been argued that several stocks were at an abnormally high level until the beginning of the 1980s and thus produced fishing opportunities that could not be maintained long-term (see Chapter 5; Holden 1994). Cod, as discussed above, is the prime example of fish stock decline in this period (see Fig. 6.2). To keep a reasonable balance between fishing capacity and fishing opportunities, the decrease in tonnage should have been even more rapid than indicated by the dotted line in Fig. 6.3. The continued failure to reach that balance has in itself contributed to the deteriorating state of the stocks, creating a self-perpetuating vicious cycle.[28]

The significant build-up of capacity in the years 1983–1987 is noteworthy in relation to the situation that developed in Denmark. Over that short period the capacity increased by approximately 15%, laying the foundation for the continuing capacity problems in Denmark. Two interesting questions are why this was allowed to happen while the EU was implementing programmes aimed at restricting capacity (see Chapter 5) and whether anybody noticed the implications of this increase in capacity.

According to Raakjær Nielsen (1992b), the situation was caused by a combination of (1) good fishing possibilities, primarily in the cod fishery in the Baltic Sea, (2) easy access to subsidies, and (3) an aversion among fishermen to pay tax (the fishermen could avoid tax by making investments, often financed by loans). However, according to Raakjær Nielsen, the fishermen soon realised that the combination of reduced quotas for several stocks and a heavy debt burden was making fishing an unprofitable business. This generated support for refocusing the structural policy towards scrapping, and scrapping programmes consequently became central in Denmark over the following 20 years.

Raakjær Nielsen's analysis can be supplemented by information from one of our interviews. This respondent (Interviewee 6) outlined a number of additional reasons for the build-up of overcapacity. Firstly, in the beginning of the capacity build-up period there were no restrictions on entering vessels into the fleet. Although the central administration began to demand that applications were submitted containing the GT of the vessel and a budget, standard practice until the end of 1984 was that most applications were accommodated. From around 1985 it became, however, very difficult to get a license to introduce a new vessel unless

[28] This discussion is necessarily based on a simplified description of events, and a number of potential factors could influence the extent to which clear conclusions can be drawn. One example could be that tonnage is not necessarily a good indicator of fishing capacity. Another problem is that overcapacity does not automatically turn into overfishing, as it is possible to keep capacity in the harbour by use of for instance days-at-sea restrictions. In general, however, it seems that overcapacity is often associated with a failure to keep fishing mortality rates at the required level. All this taken into consideration, we are convinced that our conclusions are correct at a general level, even though the picture might be more nuanced than described.

capacity was removed from the fleet at the same time. This was something that few or no fishermen could afford in a situation where the catches (particularly in the Baltic Sea) were declining. However, the licenses for building new vessels that had already been granted on the basis of applications sent in before 1985 were still valid and ran for two years, and on top of that came the building period (this delay in the impact of licenses was actually noted with concern in the BCF during 1985 (Fiskeriministeriet 1985b)). As a result, new vessels continued to be built with subsidies (see Chapter 5) on old licenses until around 1987.[29] There was, consequently, considerable inertia in the system, which prevented speedy adaptation even though the brakes were to some extent already activated in 1984/1985. From the minutes of the meetings in the BCF during 1984 and 1985, it can be observed that the administrative practice for granting licenses to increase fleet capacity and introduce new vessels changed significantly over a relatively short period (Fiskeriministeriet 1984a). In the beginning of 1984 licenses for new vessels were generally granted as a routine matter. During April 1984, the procedures for granting licenses to new capacity were tightened[30] and introduction of new capacity from then on required that capacity had to be withdrawn (Fiskeriministeriet 1984b). Initially vessels under 14 m were exempted from this and larger vessels were allowed to exceed the withdrawn capacity by 15%. However, the rules were progressively tightened over time [31] (Fiskeriministeriet 1985b).

Secondly, the respondent mentioned that even though there was an increasing awareness of the problematic situation of the resource base, this information did not penetrate down through the system as it does today. As an example of the lack of information behind decisions, the respondent described how budgets were based on participation in the open access fisheries in the White Zone[32] between Sweden and the Soviet Union in the Baltic Sea at a time where the open access fishery was about to end.

Finally, the respondent mentioned that "local patriotism" and a tendency to ignore what was going on outside one's own local community also contributed to the build-up of capacity beyond what was sustainable at a national level. The respondent indicated that many local banks gave loans for investments in vessels without taking into consideration that banks from other local communities were doing the same. The reasons for this were (1) a competition for market shares among local

[29] In the period from approximately 1985 to 1987, there was actually an "undersupply" of licenses to build new vessels. This meant that some vessels were actually sold immediately after having been built (Interviewee 6).

[30] The ministry had at this point of time received applications for new capacity amounting to 6000 GRT (Fiskeriministeriet 1984b).

[31] The increased focus on the capacity issue led in 1985 to the setting up of a board consisting primarily of the fisheries organisations to deal with this question (Fiskeriministeriet 1985a).

[32] This is known among fishermen as the Grey Zone. The conflict over jurisdiction in the White Zone/ Grey Zone between Russia and Sweden (north-east of Bornholm) lasted from 1978 to 1988 and resulted in massive overfishing of cod in the area since there was open access for all vessels.

banks, and (2) a wish to support local fishermen to the benefit of the harbour or the local community as such. On a national level, these loans turned out to be a bad strategy, especially in a period where the fishing opportunities were about to decline. On the island of Bornholm, a number of banks lost a substantial amount of money and at least one local bank actually went bankrupt because of fishermen being unable to pay back their loans.

As shown above, there are several explanations as to why capacity was allowed to build up beyond a sustainable level. This overcapacity not only steered the Danish structural policy onto a path of scrapping programmes, but also created serious problems in terms of the economy of the Danish fleet and the conservation of resources. These problems were, nevertheless, not sufficient to provoke the necessary capacity reductions, as illustrated in Fig. 6.3.

### *6.3.5 Control and Enforcement*

In the light of the overcapacity within the Danish fleet, control and enforcement becomes a crucial element to ensure compliance with regulations. As mentioned earlier, the responsibility for control and enforcement, both on land and at sea, is within the Directorate of Fisheries (DoF). Although the DoF has also other responsibilities, control and enforcement is by far the most important; approximately 75% of its budgeted resources in 2007 were allocated for this task (Fødevareministeriet and Fiskeridirektoratet 2006).

The fact that the Danish control and enforcement responsibilities are centralised in one institution, as compared to the more common systems where several actors are involved in control and enforcement, was considered a strength by our informants (Interviewee 5 and 11). According to the informants, the strength of centralising responsibilities in the DoF is that this provides short chains-of-command, enabling fast reactions in case of control problems. Thus, this way of organising the control and enforcement activities creates a relatively short distance between those actually carrying out the inspection and those making the regulations. The DoF maintains a close relation to the political system and is therefore able to provide inputs if control problems need to be addressed on a political level. However, the fact that they are not an integrated part of the ministry, but operate on the basis of a contractual arrangement, provides a necessary distance to the political system, meaning that the minister is less able to interfere with how control should be carried out. At least in one period in the past, a minister has sent signals to the enforcement agents, which have resulted in less stringent control and massive cheating among fishermen (see section on strong individual actors). The respondents considered something like this less likely to happen under the present institutional set-up, which has been in place since 1995 (Interviewees 5 and 11).

The respondents also mentioned that even though they considered the control authorities to be relatively well equipped in terms of access to administrative and

sanctions, equipment and qualified people,[33] successive cutbacks in the DoF's budget[34] (Interviewees 5 and 11) create a real challenge in terms of effective enforcement, forcing the DoF to continuously think in resource saving measures, often IT-solutions. This raises doubts about the extent to which it is possible to keep the efficiency of the control at the present level. Moreover the amount of "red tape" in the DoF has had a tendency to increase, partly due to the contractual arrangement with the ministry, which requires a substantial amount of *documentation* of the work undertaken. In spite of the above, the overall perception is that the control and enforcement system in Denmark is generally of a reasonable standard given the framework provided by the CFP and that overcapacity and small quotas create incentives for non-compliant behaviour (Interviewees 2, 4, 5, 6 and 11; Kommissionen for de Europæiske Fællesskaber 2001; European Court of Auditors 2007).

## 6.4 Danish Implementation Strategy – Domestic Driving Forces

### *6.4.1 National Room for Manoeuvre*

Although the CFP has predominantly influenced fisheries management in the EU by laying down the overall framework (primarily the TAC system and the underlying *relative stability*, see Chapter 5), member states and the national actors have room to manoeuvre, particularly in relation to the four areas mentioned above in Section 6.2. In these areas, national decisions and implementation practices can influence the ability of the CFP to ensure that preferred fishing mortality rates are met. Looking across the EU, it can also be observed that member states have pursued different approaches in their implementation practices. This section will address and examine the domestic driving forces that have had a major influence on the development of fisheries management in Denmark – and also to some extent have hindered formulation of a clear strategy for the future of the Danish fishing industry, including management models and desired structural development within the fishing fleet. This will be done by investigating following issues:[35] (a) cleavages

[33] In 1988, a formal education of fisheries inspectors was put in place, replacing a system where the inspectors were often retired fishermen. On the positive side, the respondents mentioned that this had led to more uniform control and that inspectors are now more professional than they were before. However, on the other hand, the respondents also recognised that in-depth knowledge about how fishing is carried out is maybe not as great as before (Interviewees 5 and 11).

[34] Delivering "efficiency gains" has been a constant demand in the public sector in Denmark in recent years, and it seems plausible that there is even more pressure for this on an organisation that is dealing with an economically shrinking industry (see Fig. 6.1). To indicate the magnitude of these budget cuts, the DoF needs to cut its costs for control by more than 15% from 2007 to 2010 (Fødevareministeriet and Fiskeridirektoratet 2006).

[35] These issues have also been mentioned in interviews as important domestic drivers.

and dilemmas within fisheries and management; (b) strong individual actors and the existence of windows-of-opportunity; and (c) differences in perspectives – individual versus collective.

### *6.4.2 Cleavages and Dilemmas Within Fisheries and Within Management*

The complexity within the Danish fishing industry is significant, with fleet composition ranging from small-scale, subsistence fisheries at one end of the spectrum to company-owned, large-scale vessels at the other end. In terms of ownership structure, the Danish fishing fleet consists primarily of owner-operated vessels, but the number of capital-intensive vessels, mostly trawlers, owned by fishing firms have increased their share in recent years, a trend which has intensified since the agreement on the FKA-system in the Danish parliament in November 2005.

Although Denmark is a small country, it is not without regional differences. This has indirectly influenced the allocation of catch quotas, as geographical concerns have often been an underlying factor in the allocations. In particular, the way catch quotas are differentiated according to vessel size or distributed over the year have been employed as indirect ways of favouring certain geographical interests. The Baltic cod fishery is a good example illustrating these geographical differences (Raakjær Nielsen 1997), which can be boiled down to a question about access rights. For decades, a large number of North Sea fishermen, as well as fishermen from other parts of Denmark, have fished cod in the Baltic Sea during the winter season (more than 1200 vessels participated in the Baltic Sea cod fisheries in 1986 (Sandbeck 2003)). Fishermen from Bornholm, an island in the Baltic Sea, have likewise fished outside the Baltic Sea in the summer period. However, fishermen from Bornholm have often argued that they should have privileged access to the cod stocks in the waters around Bornholm. In practical terms, the conflict has mainly concerned the proportion of the annual quota to be caught in the first quarter, which is dealt with by the Danish administration. Fishermen from Bornholm had an interest in spreading out the fisheries over the year to ensure a stable supply to the processing industry and obtain the largest share of the Baltic Sea cod quota. Vessels from outside the Baltic Sea region had an interest in obtaining large catch quotas in the first quarter, as the CPUE is usually at its highest in this period and because these vessels had other attractive fishing alternatives outside the Baltic Sea later in the year. In this situation, the management authorities have sought to solve the dilemma by balancing the interests of the two groups in order to obtain some form of stability in the Baltic Sea cod fishery and ensure an “equitable” allocation which would please both sides and avoid conflicts.

The fishermen have similar interests regarding other issues. This was for instance the case in relation to the decision on closed days in the cod fisheries in the Baltic Sea determined by the EU to be implemented in 2006. Some closed periods were pre-decided by the EU, but the member states were given the right to decide on where to place a fixed number of additional closed days. Here the fishermen from Bornholm[36] stood united with the fishermen in the DFA in arguing for placing these days in the periods where very little fishing was going on, particularly during Easter, Christmas and the autumn school holidays (Fiskeridirektoratet 2006). The administration followed the advice of the fisheries associations to a significant extent, and imposed most of the closed days as recommended. Consequently, the closures had little effect in terms of reducing fishing mortality. Although this is not a surprising observation, it is a good illustration of the fact that national implementation does not necessarily support the intentions of EU legislation and may operate without conservation as the dominant objective. It should be noted that the EU is aware of this response from the member states, and adapts the principle so that in the longer perspective there will be no "free" days. The regulation may thus eventually have the desired impact.

Until 2003/2004, the policy of the DFA was that no Danish fisherman should be administratively excluded from any fishery. The DFA has thus applied the slogan: *"Danish fishing waters for Danish fishermen"* (our translation) arguing for maximum *flexibility* within Danish fisheries management. This position has been challenged for a long time, however, and since the turn of the century with increasing strength from particularly pelagic fishermen employing large-scale capital-intensive vessels. This group has made the counterargument that there is a need for *segmentation* (in terms of management) of the Danish fleet by giving fishermen in the pelagic fleet exclusive rights to a large proportion of the herring and mackerel quotas. In return, these vessels would then accept exclusion from other fisheries.[37] The pelagic fishermen are represented within the DFA, but they have used the Danish Pelagic Producers Organisation (DPPO) as their political platform. Through the DPPO they have argued in favour of ITQs since the 1980s, hoping to gain a longer planning horizon, which they considered necessary in order to obtain capital for modernisation of the Danish pelagic fleet, which during the late 1980s was becoming technologically outdated compared to particularly Norwegian and Scottish vessels (see Christensen et al. 2007 for details).

Flexibility, of course, has its advantages, particularly if some stocks are in decline, as flexibility allows fishermen switch fisheries without problems. However,

[36] The fishermen's association from Bornholm and Christiansø, as well as the one from Grenå, left the DFA in 2005 for a variety of reasons, but particularly due to dissatisfaction with the position of the DFA regarding the principles for the new regulation of the demersal fisheries. The two associations formed the Union of Danish Fisheries Associations, which is now in the BCF alongside the DFA. The withdrawal from the DFA of these two associations is yet another indicator of the cleavages within the Danish catch industry.

[37] However, in reality this group had difficulties accepting exclusion from other fisheries, as it wanted to maintain its rights to participate in non-human consumption fisheries.

the flexibility has also created a domino effect at times, where a problem in one part of the fishing industry spread to other parts; e.g. in the years around 1986 (see Fig. 6.1) when the non-human consumption fishing had problems. Vessels traditionally employed in this fishery moved into other fisheries, pressuring vessels already operating there. As a result, these newly-crowded fisheries became economically unprofitable[38] for the vessels originally employed there. These vessels were then forced to move to yet another fishery, repeating the story there. This creates a vicious cycle where the lack of segmentation makes all fishermen worse off instead of isolating the problem within the fishery where the problems occurred. To indicate the magnitude of the problem, the operating profit of the Danish fleet could have been increased by about 10% – equivalent to DKK 350 million in 1988 (520 million in 2006 prices) – if the fishing fleet had been fishing differently and been able to avoid a situation with high shadow costs (externalities in terms of costs imposed by one fleet segment on another) (Løkkegaard 1990).[39]

Christensen and Raakjær (2006) demonstrate the wide variations in fishermen's perceptions of their occupation, which to a large degree coincide with vessel size, and present two extremes. On the one hand are the small-scale fishermen who combine ~~combining~~ fishing with a family life keep costs at a low level and do not expect a large turnover or profit, but rather consider fishing a lifestyle. On the other hand, the group of fishermen who own large vessels with a very high geographical mobility can be characterised as dynamic investors and typical frontrunners who consider fishing a business like any other.

The lifestyle- versus business-oriented approach to fishing came out clearly in the interviews as cleavages in Danish fishing; one respondent (Interviewee 10) articulated it this way:

> When Bent Rulle and his predecessor were chairmen of the DFA it was all about fishing as a lifestyle. This is all right…but it belongs in a sportfishing association.

In contrast, another key-informant (Interviewee 4) presented the following view of owners of large capital-intensive vessels and the way they conduct their business*:*

> Those Kings will in bad years modernise in order to obtain a loan that can be used for private consumption as well – and in good years they will modernise in order to avoid paying taxes.

This quotation clearly illustrates how lifestyle-oriented fishermen are critical of the approach taken by the business-oriented fishermen.

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[38] When larger vessels are entering these fisheries, they take a large share of the quota, imposing shadow costs. In addition, smaller vessels cannot maintain their CPUE because larger vessels with more powerful gear and engines stress the fish, which thus become more difficult to catch.

[39] The authors are not aware that such calculations have been made since 1988, but the large prices paid for quotas under the new regulations indicate that shadow costs are still high in Danish fisheries, and that the fishermen expect these shadow costs to disappear as the quotas under the FKA-system are increasingly allocated in an optimal way.

An unarticulated objective of Danish fisheries management has always been to strike a fair balance between the different views and interests, mainly in order to avoid conflicts. This policy has created dilemmas for the national administration when implementing the CFP. It is not easy to strike the right balance between flexibility and segmentation, which is linked to the lifestyle- versus business-oriented approach to fishing, and again to a large extent represent a conflict of interest between small and large vessels. Furthermore, implementation becomes even more complicated as regional and local political concerns also need to be taken into consideration.

### *6.4.3 Strong Individual Actors and the Existence of Windows-of-Opportunity*

In order to fully understand the dynamics of the Danish management system's evolution, it is important to recognise the importance of strong individual actors and windows-of-opportunity[40] for changing both implementation practises and the system in general. According to most interviewees fisheries policy generally attracts very little attention from the politicians. This enables strong individual actors to influence the fisheries management significantly in Denmark.[41] Some of the interviewees (Interviewee 1 and 4) actually suggested that fisheries policy in Denmark might be considered an extreme case in this respect.

How can this be so? The Danish fisheries administration is highly centralised and decisions concerning major or radical changes are taken by the national parliament (*Folketinget).* Therefore, only the politicians in the parliament have a direct say. Fisheries policy and fisheries issues, however, rarely[42] attract the interest of the 179 parliamentarians. This often results in a situation where politicians actually taking an interest in the subject find themselves in a strong position. As one interviewee put it (Interviewee 1):

[40] For a short introduction to windows-of-opportunity, see Chapter 5.

[41] It is important to remember that these strong individual actors still have to operate within the frames set at the EU level.

[42] It should, however, be noted that in a few cases fisheries issues have prompted broad interest and discussions in the parliament. An example of this is the discussions leading to the recently adopted ITQ-like vessel quota system, *the FKA-system*. The reason for the broader interest in this case seems related to the fact that the discussion over transferability and ownership of fishing rights fits well with the ideological differences between the left and right. The issue was therefore "lifted" from a discussion only relevant to fisheries to a discussion illustrating the difference between left and right. Unfortunately, according to one of our respondents (Interviewee 3), the general impression is that whenever the politicians engage more broadly the quality of the discussion is not improved. Rather, the discussions then suffer from the lack of in-depth knowledge, e.g. about the Danish competences *vis-à-vis* the EU competences in the area.

> It is characteristic of the fisheries area that if there are one, two or three active persons then they can control the rest of the parliament.

Similar statements were made by several of the other respondents and the opposite view was not presented at all.

The primary explanation for the general lack of interest from the politicians in fisheries policy and implementation practices is, according to several of the interviewees, the insignificance of capture fisheries in Denmark as compared to other policy-areas. This is relatively unsurprising but has nonetheless severe implications for the implementation of fisheries policy over time in Denmark. The importance of capture fisheries in economic terms is marginal and fisheries is constantly losing out relative to other sectors of the economy. As explained previously, the catch value is in 2006 only half of what it was in 1983 if inflation is included (see Fig. 6.1 above). Furthermore, the number of fishermen has never been high enough to constitute a critical mass able to really influence anything with the votes they could mobilise. As a consequence, most politicians choose to focus on alternative, high-profile issues that affect more people and therefore potentially can deliver more votes.

The relative lack of general political interest in fisheries policy has not only strengthened the power of the few politicians that have actually taken an interest in fisheries issues, but has also paved the way for industry representatives who have often been in a strong position to influence policy (Interviewee 1, 4 and 6). However, it is important to note that until 1994 the fishing industry itself was divided in two associations, and after 2000 when the two associations merged there were strong tensions within the resulting industry-wide representative body – the DFA – in terms of policy priorities, particularly over the issue of flexibility versus segmentation. The consequence has been that fishing industry representatives have not been able to fully benefit from their favourable position and have largely resorted to aiming towards maintaining status quo.

Within the political system, and particularly due to the situation explained above, the minister is in a strong position to influence the Danish fisheries policy and implementation practices if he or she has a wish to do so. However, it should be acknowledged that there might also be good reasons for not changing the system and practices. The need for major or radical changes are usually caused by a critical situation whereby strong individuals or networks of individuals are provided with a window-of-opportunity for changing the present system or practises – or even reforming the system, which has also been the case. In the following we will take a closer look at some of the ministers – names marked in bold in Box 6.1 – in office since 1983.[43]

[43] We have chosen to deal with the ministers that our respondents have referred to as strong influential individual actors, which is fully in line with our understanding from following the Danish fisheries policy process for a quarter of a century. Although it is not something that we will go into here, it is an interesting observation that the ministers responsible for fisheries throughout the period have been from the same party as the prime minister, even though there have been coalition governments in the entire period.

Kent Kirk was seen by most informants as a strong individual actor who managed to implement an agenda for fisheries policy that was very much to the benefit of the fishing port he came from, both before and during his time in office as Minister of Fisheries. Kent Kirk is a former fishing skipper from Esbjerg, where he was chairman of the local fishermen's association from 1975 and until he became minister in 1989.[44] He was a member of the European Parliament (EP) from 1979 to 1984[45] and elected to the Danish parliament in 1984–1998.

**Box 6.1.** Ministers responsible for fisheries in the period from 1983 to 2007

- Henning Grove, 1982–1986, The Conservative People's Party
- Lars P. Gammelgaard, 1986–1989, The Conservative People's Party
- **Kent Kirk**, 1989–1993, The Conservative People's Party
- Bjørn Westh, 1993–1994, The Danish Social Democrats
- **Henrik Dam Kristensen**, 1994–2000, The Danish Social Democrats
- **Ritt Bjerregaard**, 2000–2001, The Danish Social Democrats
- Mariann Fischer Boel, 2001–2004, Denmark's Liberal Party
- **Hans Christian Schmidt**, 2004–2007, Denmark's Liberal Party
- Eva Kjær Hansen, 2007- , Denmark's Liberal Party

Kent Kirk's interest in fisheries was self-evident. His personal commitment to the area is illustrated by the fact that he stands out as the only minister who participated in meetings of the BCF[46] himself (Interviewee 1 and various BCF minutes). However, according to several interviewees (Interviewees 4, 5 and 6) and Dansk Institut for Fiskeriteknologi og Akvakultur et al. (1991) Kent Kirk did not use his position and fisheries knowledge to forward the interests of the industry as a whole; he rather pursued the interests of the Esbjerg fleet at the expense of other regions. In the parliament, Kent Kirk formed a strong alliance with another parliamentarian, Laurits Tørnæs,[47] who also happened to be an influential former

[44] He was also member of the board of the Sea Fishermen's Association during the same period and in the latter part of the period also vice-chairman. The Sea Fishermen's Association had its main office in Esbjerg.

[45] In 1983, during his term in the EP, he claimed his place in history by carrying out one of the most publicised media stunts ever in the history of Danish and EU fisheries policy. During the final negotiations of the EU CFP in January 1983 (Chapter 5), he steered his fishing vessel into the UK 12 nm zone and began fishing. He argued that since the agreement on the new CFP had not been signed before the start of 1983, when the derogations providing for 12 nm zones ended, he was entitled to do so. He was stopped by a UK inspection vessel and severely fined; however, the Court of Justice of the European Communities later acquitted him.

[46] All of his predecessors and successors have been represented by their civil servants.

[47] Laurits Tørnæs was also long-time chairman of the Sea Fishermen's Association (1974–1987). From 1971 to 1974 he was chairman of the Fishermen's Association of Esbjerg. He was a member of Denmark's Liberal Party, the other strong party in the government coalition, and Minister of Agriculture from 1987 to 1993 (Member of Parliament from 1981). He was after this for a long-time mayor of the County of Ribe where Esbjerg is situated.

fishing skipper from Esbjerg and who supported the focus on helping the Esbjerg fishing fleet.

The Kirk-Tørnæs alliance, both members having vested interests in fisheries and strong positions in their respective parties in government, was able to obtain a strong influence on the Danish fisheries policy for around a decade (1983–1993). Their influence is exemplified by the introduction of a new generation of large trawlers in 1984/85. These trawler were introduced at a time when the overall policy was increasingly focused on reducing capacity and not issuing licenses for new vessels without the withdrawal of equivalent capacity, as described above. In 1984 permits were given to a number of Esbjerg fishermen to build new, larger trawlers.[48] The licenses were granted on the background of indicative vessel budgets that showed that the vessels would be economically viable based on fishing for species for non-human consumption outside the TAC-system in the North Atlantic. However, this fishery was not economically viable (an argument which several people had made in advance), and as a result, the new vessels made very few fishing trips to their intended fishing grounds in the North Atlantic before they were granted access to the North Sea (Interviewee 4 and 6). These vessels were first allowed in the non-human consumption fishery. However, they progressively expanded into the herring and mackerel fishery until 1990 when the management system was changed at short notice, and the vessels got equal rights to participate in the Danish North Sea herring fishery alongside the purse seiners that had until then dominated that fishery. This resulted in a *de facto* movement of fishing rights from Northern Jutland to Esbjerg, the homeport of the new trawlers. The decisions to issue licenses to build the vessels, although the budgets were not realistic, and later to grant them access to the North Sea were facilitated by Kent Kirk and Laurits Tørnæs, who *"twisted the arm of Grove* [the minister at the time]*"* (Interviewee 4, supported by Interviewee 6).[49] As it turned out, the way that Kent Kirk and Laurits Tørnæs advanced the interests of the Esbjerg fleet and region by allowing special treatment not only resulted in regional redistribution but also, equally importantly, increased the overall structural problem of overcapacity in the Danish fleet fishing in the North Sea and contributed to the *domino effect* described above.

Another aspect of Kent Kirk's time in office was that he did not make the necessary effort to ensure an appropriate balance between fishing possibilities and fishing capacity and thus maintained too high levels of fishing mortality, as well as overcapacity in the fleet. At the time, there was a window-of-opportunity for change accompanying the cod crisis in the beginning of the 1990s. Kent Kirk's predecessor, Lars P. Gammelgaard, had introduced a large analytical project aim-

[48] Popularly referred to as *super-trawlers*.

[49] It has to be mentioned that in our interviews, it was opponents of these decisions who argued that it was the Esbjerg lobby that stood behind them. In this context the interviewees were to some extent biased. However, that the Esbjerg lobby had a decisive impact on these decisions fits well with the general perception of this lobby as being very powerful at the time.

ing towards introducing ITQs in Danish fisheries, but this was disrupted during Kent Kirk's time in office. Apparently, Kent Kirk wanted to maintain *status quo* in terms of fleet capacity and designed regulations in such a way that fishermen always had a right to be at sea (e.g. weekly catch quotas of 50 kg). This left compliance with catch regulations to the conscience of the fishermen, since, at the same time, the Danish fisheries inspection was far from aggressive. It has also been argued that the minister indirectly encouraged fishermen to non-compliant behaviour[50] e.g. by obstructing civil servants from pursuing cases of non-compliant behaviour (Sandbeck 2003) and by downplaying the importance of sticking 100% to the regulations when he met with fishermen (Interviewee 4). Bjørn Westh, Kent Kirk's successor, initiated a strong law enforcement practice in order to avoid repercussions from the EU, and a large number of fishermen was caught in retrospective paper controls and penalised for behaviours they had at the time – understandably – thought were acceptable based on signals from Kent Kirk's ministry (Interviewee 4; Raakjær Nielsen and Mathiesen 2003; Sandbeck 2003).

The second minister, whose role we would like to emphasise, is Henrik Dam Kristensen, not due to his personal role in particular, but more due to his collaboration with Bent Rulle,[51] who was mentioned by most interviewees as the most powerful individual actor outside the circle of national politicians. Bent Rulle managed to become extremely influential in determining how the Danish fisheries policy was administered and implemented in the period from 1994 to 2002, which to a large extent coincided with the period that Henrik Dam Kristensen was in office. It is worth mentioning that Bent Rulle on several occasions announced that the Danish minister (Henrik Dam Kristensen) was the best person to protect the fishermen's interests during negotiations concerning the CFP in Brussels. We also believe that Henrik Dam Kristensen in particular took Bent Rulle seriously because Bent Rulle in 1994 became chairman of the newly established unified fishermen's association, which for the first time gave the industry a unified voice in general and in the BCF in particular. Henrik Dam Kristensen was also likely to take Bent Rulle seriously because he as a social democrat sympathised with many of the views that Bent Rulle presented. Bent Rulle focussed on the importance of the fisheries sector in fisheries-dependent communities and on fishing as a special lifestyle worth protecting in its own right (Interviewees 4 and 6) and argued that the fisheries industry was something more than an ordinary economic sector. He

[50] Among other things, renaming of fish became a common practise. At the time Denmark had a large quota for plaice, which was rarely utilised, and it became relatively common to rename cod into plaice when landing, or renaming quota species into non-quota species. It should be mentioned that taxes were paid on the income from illegal fishing as it was sold through the normal channels and for that reason labelled grey fish.

[51] Rulle is a fishing skipper from Læsø, a small, relatively fisheries-dependent island in Kattegat. In the 1980s chairman of the Fishermen's Association of Østerby. He became chairman of the Danish Fishing Association in 1991 and the first chairman of the DFA in 1994, a position he held until 2003.

was seen as a representative of the smaller and medium-sized vessels, but in the eyes of many, particularly among the larger vessels and outside the industry, also as an obstacle to progress and development in the industry. He was a very strong opponent of introducing ITQ or ITQ-like systems in Denmark, which he feared would lead to speculation and unhealthy regional displacements of capacity, among other things, and in general destroy the special, independent lifestyle of Danish fishermen.[52] Henrik Dam Kristensen teamed-up with Bent Rulle in arguing against ITQs (Fiskeritidende 1997).

In many respects, Henrik Dam Kristensen agreed with the views put forward by Bent Rulle, although he also tended towards agreement because he did not want to go against a unified fishing industry and hereby create a conflict. Neither Henrik Dam Kristensen and his administration nor the political establishment had an interest in opposing the DFA. This conflict aversion was not only because of the corporatist traditions of decision-making in Denmark, but likely also due to the more pragmatic issue that the Ministry of Fisheries was at the time busy being merged with the Ministry of Agriculture, which to some extent created an administrative vacuum. Furthermore, Kent Kirk had recently resigned and a scandal was unfolding arguing that his efforts to ensure compliance during his time in office had been less than dedicated (Sandbeck 2003), providing further incentive for the ministry to comply with industry demands and avoid further conflict. Finally, Bent Rulle was on a personal level a very charismatic person who to a large extent managed to control the board of the DFA (Interviewees 4, 6 and 10), placing him in a strong negotiation position when dealing with the minister. After Henrik Dam Kristensen resigned as minister, Bent Rulle faced a stronger opposition from the larger vessels in the DFA, and because of his opposition to ITQs, he withdrew as chairman in 2003 to make room for a compromise candidate (Interviewees 4, 6, 8 and 9). However, that did not occur until after the ITQ-system for herring had been introduced and the direction for the future of Danish fisheries policy to a significant degree had been set (see section on allocation of resources above).

Bent Rulle's fingerprint on Danish fisheries policy is that he for a decade managed to make Danish fishermen speak with largely one voice. This, however, also explains why he did not manage to fully capitalise on his position, as he was struggling to keep the new association together and was forced to maintain some sort of balance. Maybe this partly explains why his legacy among several interviewees was that of the chairman that said "no" to everything and wanted to maintain *status quo* (Interviewees 6, 8 and 9). Most likely he would not as a chairman of the organisation have survived saying "yes" (Interviewee 4), as there was not a window-of-opportunity at the time for reforming Danish fisheries policies, and no one was really interested in solving the fundamental issue of overcapacity that in the end led to the ITQ-like FKA-system.

[52] The first year of the FKA system has indeed resulted in large regional displacements of fishing capacity.

The third minister who particularly influenced the path of the Danish fisheries policy and its administration and implementation was Ritt Bjerregaard, also a social democrat like her predecessor, Henrik Dam Kristensen. It was during Ritt Bjerregaard's term in office that ITQs were decided on in the herring fishery for a 5-year trial period. This decision was a radical change of previous Danish practice, as it introduced direct ownership of fishing rights for the first time. It was directly in opposition to the views expressed by the former minister, Henrik Dam Kristensen, and DFA chairman, Bent Rulle. Several interviewees (particularly Interviewee 4) argued that this decision kick-started the development that culminated with the adoption of the FKA-system introduced in 2007 for the demersal fisheries.

Ritt Bjerregaard had a strong ally in the parliament in Lene Espersen,[53] who was elected in Northern Jutland. Lene Espersen, who had a family background in the pelagic fisheries, took a strong interest in the management of these fisheries (Interviewees 1 and 4). Interestingly enough, Lene Espersen represented a political party from the opposition, and this may have served to strengthen the alliance, as Danish governments, this one included, are almost always minority governments. The alliance between Ritt Bjerregaard and Lene Espersen was so strong that they were able to convince the parliament to introduce ITQs even though this was against the wishes of the majority of the Danish fishermen organised in the DFA (particularly those fishing for demersal species) even while strongly supported be the DPPO, the processing industry and the banks. What made it possible to force the decision through was probably a combination of: (1) the alliance of the two politicians from each side of the parliament, (2) the fact that the number of licenses issued for herring fisheries was high and increasingly recognised as an obstacle to modernisation and competitiveness of the Danish pelagic sector, and (3) the presence of a relatively active, powerful and homogenous group of vessel owners in the pelagic fisheries who were in favour of ITQs (Interviewees 1, 4 and 8; Christensen et al. 2007; Hegland and Sverdrup-Jensen 2007). In other words, the time was right, but it is likely that the decision could have been postponed by the opposition from the industry had it not been for the presence of the two politicians with a wish to make this change at the specific time.[54]

[53] Lene Espersen, the present Minister of Justice, is the daughter of an owner of pelagic fishing vessels in the fishing port of Hirtshals in Northern Jutland. Functioning as a representative of the fishermen that lost out during the Kirk/Tørnæs period, Lene Espersen had a significant influence on the fisheries policy together with Ritt Bjerregaard.

[54] On a theoretical level, the *garbage can model* (first outlined by Cohen et al. 1972) seems to be an appropriate model for at least in part understanding the decision processes and the decision-making system behind the evolution of Danish fisheries management and implementation practices over time. A fundamental message of the garbage can model is that the different elements of a decision process – problems, solutions, participants and choice opportunities – cannot always be put into a neat chain of events leading to a well thought-through decision, as a simple, conventional model of decision-making would have us think. Rather, these four elements of a decision function as independent streams (Cohen et al. 1976). An implication of this is that *"*[a] *major feature of the garbage can process is the partial decoupling of problems and choices. Al-*

Hans Chr. Schmidt of Denmark's Liberal Party was the minister in office when the most radical reform of the Danish fisheries management system since the introduction of the CFP was adopted by the Danish parliament in 2005. Hans Chr. Schmidt took particular interest in the fisheries issues, and in his resignation speech September 2007, he specifically mentioned that dealing with fisheries issues was what he had enjoyed the most during his term in office. Denmark's Liberal Party is a strong supporter of market solutions and pursuing ITQs and ITQ-like solutions was thus straightforward for Hans Chr. Schmidt. The first important step to introduce market-based approaches was taken already in 2002 with the adoption of ITQs in the herring fishery. Even though this was for a 5-year trial period, this first implementation of ITQs became a landmark decision in the evolution of fisheries management in Denmark and in reality set the direction for the future. This direction was reinforced first by the new pro-ITQ DFA chairman from 2005. Later it was also reinforced by the broad industry support gained by the minister. Thus the window-of-opportunity for change was there during his time in office, in contrast to what had been the case for his predecessors. He merely followed his political vision with strong support from the top of the DFA and carried through the reform,[55] changing Danish fishing rights from being common property by introducing private property rights to the Danish share of the TAC for most species, including all economically important ones.

What is the lesson learned? When fisheries issues are not considered important at the relevant political level, as is the case in Denmark, such issues will only attract sporadic political interest. This places people who have an interest in and knowledge about the issues in a favourable position. This goes for politicians as well as industry representatives. Although we have not investigated this directly, it seems plausible to conclude that individual actors would not have been able to exert the same degree of influence in more important sectors of the Danish economy

*though we normally think of decision making as a process for solving problems, that is often not what happens. Problems are worked upon in the context of some choice, but choices are made only when the shifting combinations of problems, solutions and decision makers happen to make action possible"* (Cohen et al. 1976, p. 36). We are grateful to Interviewee 8 for making us think in terms of the garbage can model when looking for good decision-making models to describe the Danish situation.

[55] It should be mentioned that the reform was adopted by a small majority within the parliament only supported by the government coalition and its supporting party, the Danish People's Party. It is interesting to observe that the Danish Social Democrats had changed positions towards ITQs since Ritt Bjerregaard's term in office, even if they had been instrumental in introducing ITQ in the herring fishery. There was also a strong opposition within the DFA, primarily from fishermen having small and medium sized vessels, recreating the traditional cleavages in Danish fisheries. It should also be mention that *de jure* property rights have not been granted, as the the Parliament introduced an eight-year termination clause, but it is very unlikely that this clause ever will be used as this will require at least two consecutive parliamentary elections to change the system – and the clause is more a type of window dressing from the Government to demonstrate that the Danish fish resources have not been privatised, which they *de facto* have been by adopting the new regulation in 2005.

or on issues that attract public debate or in other countries where the fisheries sector plays a more important role in the economy or public debate.

It is difficult to determine whether this feature of the system is necessarily good or bad. Any assessment of how these individuals have influenced the development of fisheries management and implementation practises will likely depend on who is looking at the development. Nevertheless, it seems reasonable to conclude that this feature makes the system more vulnerable and prone to *ad hoc* developments due to personal preferences than systems less dependent on individuals. Furthermore, there is also a risk that necessary compromises are not made, since individuals in some cases can get their ideas through without compromise and also are likely to make it extremely difficult to develop a commonly accepted strategy or vision for the development of the fisheries sector.

### *6.4.4 Differences in Perspectives – Individual versus Collective*

It came across in all interviews that there are different perspectives in the fishing industry towards management, and these are often driven by individual concerns rather than a wish to find collective long lasting solutions. Several of the interviewees mentioned that in Danish fisheries it is extremely difficult to agree on measures that will put some fishermen in a better position without harming other fishermen.[56] This concept was articulated by several of the interviewees as *enviousness*, explaining that a decision which put all fishermen worse off would actually stand a better chance of being accepted. These interviewees in general argued that it was a relatively simple expression of envious fishermen as one interviewee (Interviewee 6) put it:

> Enviousness has controlled a lot. A lot of effort has been put into figuring out how to prevent others from gaining anything.

What might be understood as enviousness is actually, we will argue, an extreme focus on individual interests, forgetting about finding collectively correct solutions that benefit the industry at large.

Several interviewees argued that this line of reasoning was definitely not something going on only among the average fishermen, but also in leadership circles. The interviewees argued that it was standard practice to argue exclusively from

[56] This sort of decision would be along the lines of what in economic theory is known as a *Pareto improvement*. *Pareto optimality* is reached when no more Pareto improvements can be made. Examples mentioned by the interviewees included situations where some vessels were in various ways prevented from catching fish in foreign waters even though no other Danish vessels could go there to fish them (Interviewee 6), as well as fishermen arguing that other fishermen should not be allowed to catch the cod when it was at its best – if they were themselves prevented from doing so; then it was preferred that nobody caught it when it was best (Interviewee 2).

the point of view of one's own vessel in representative boards within the fisheries association (Interviewees 6 and 10). One interviewee (Interviewee 10) described it in this way:

> If you are discussing whether something in the regulation should be changed it always ends up in: What does this mean to me? Will I benefit or not.

Interviewee 4 provided a more nuanced description of what goes on in the head of the fishermen:

> Fishermen have always been individualists. The fishing vessel was a small society with a crew of 3, and that was the unit that the fisherman was trying to develop and do the best for. […] So whenever a proposal was presented, the fisherman first and foremost considered: 'Hey, how will this affect my vessel, my world, my society'. And if there was anything whatsoever that could in any thinkable way conflict with his ideas, he would say 'No'.

This indicates that the driving factor is not so much about enviousness, but more likely a question of being insecure about the outcome of new measures or regulations. The philosophy seems to be along the lines of "You know what you have, but not what you will get". Many fishermen tend to evaluate a proposal on the background of their own vessel only. As most fishermen have been struggling to keep their business economically viable, it is only natural that fishermen take an individual perspective even if it would have been better in the long run, even for the individual, to take a more collective perspective. This tendency has been an important force in preventing implementation and administration practices from developing in a rational way (Interviewees 2, 6, 8 and 10). One interviewee did, however, mention that this attitude went hand in hand with the changes in society overall, which are generally moving in a liberal, market-oriented, individualistic direction (Interviewee 6).

Furthermore, several interviewees also mentioned that sector representatives (and to some extent also politicians) had a tendency to make decisions to accommodate very small groups of vessels or in extreme cases individual vessels (Interviewees 2, 8, 9 and 10). The interviewees explained this with the abovementioned preference for discussing things based on examples rather than in terms of general principles. This might also relate to the fact that in the fisheries sector the representatives are not "professional representatives" but often people active in the business. One can easily imagine that it is hard to support measures that might on a general level be the best way forward but will be difficult to explain to your fellow fisherman back home, who will immediately ask why you did not take his special situation into consideration. It is not unlikely that this could lead to a not-so-organized *"proliferation of rules and administrative practices"* (Interviewee 5), as one interviewee put it, rather than facilitate a well founded development strategy.

## 6.5 Evaluation and Implications

The issue of balancing fishing mortality rates with the carrying capacity of the fish stocks is important when analysing fisheries management performance. By identifying the main domestic drivers in the development of fisheries policy and implementation practices in Denmark, this chapter fits another piece into the puzzle of why the CFP has been struggling in vain to achieve preferred fishing mortality rates.

In the EU, the conservation policy component of the CFP deals with fishing mortality, with annual TACs as its major instrument. The conservation policy is supplemented by structural policy measures that aim to control the capacity and activities of the fishing fleet. As described above, there is no clear link between fishing mortality rates and the TACs because fishing mortality is never directly monitored. Only fish landings, rather than catches, are directly measured, and discards are thus not taken fully into account. Furthermore, enforcement practices in the EU have not been sufficiently restrictive to avoid illegal fishing, which has at least to some extent been provoked by massive overcapacity. Last but not least, the EU member states' ministers in the Council have for various reasons repeatedly set TACs higher than the levels advised by the scientists (see Chapter 5), These basic observations lead us to the conclusion that the CFP framework in which Danish administration and implementation operates cannot in itself ensure sustainable utilisation of fish resources in EU waters.

Furthermore, the CFP framework provides Denmark with substantial freedom to make decisions on how to *allocate fishing rights* and how to *adjust fleet capacity*. This obviously has an impact on the effectiveness of the CFP by influencing the degree to which the measures under the CFP will work as intended and will be useful to control fishing mortality. In this respect, rule compliance and enforcement practices[57] become equally important.

In order to understand the Danish policy process, it is important to recognise that fishing mortality rates and conservation measures *per se* have never been real issues in the Danish implementation. Across all stakeholders (apart from conservation NGOs), conservation concerns have been considered – at least in principle and theory – as having already been dealt with by the CFP and the TAC system. However, no stakeholder could have been unaware that such an assumption was not based on realities. Thus Danish fisheries management and implementation practices have focussed on allocating the Danish quotas and ensuring accepted management approaches. In this process, it has been considered legitimate to find ways to circumvent conservation measures when designing implementation strategies e.g. by

[57] It should be mentioned that enforcement largely remains with the member states. Raakjær Nielsen (1992a) argues that this creates a tragedy of the commons situation, as no member state wants to strictly enforce the regulations in relation to its own fishermen if there is no mechanism to ensure that other member states do so, too.

placing closed days when nobody is fishing or by setting unreasonably low catch quotas instead of closing fisheries.[58]

In this chapter, we have examined the policy process by undertaking an analysis combining an institutional perspective with an actor-oriented approach and have clearly found that the policy process has been driven by case-specific, intertwined interests, networks/alliances and discourses, which all affect each other and influence policy-making.

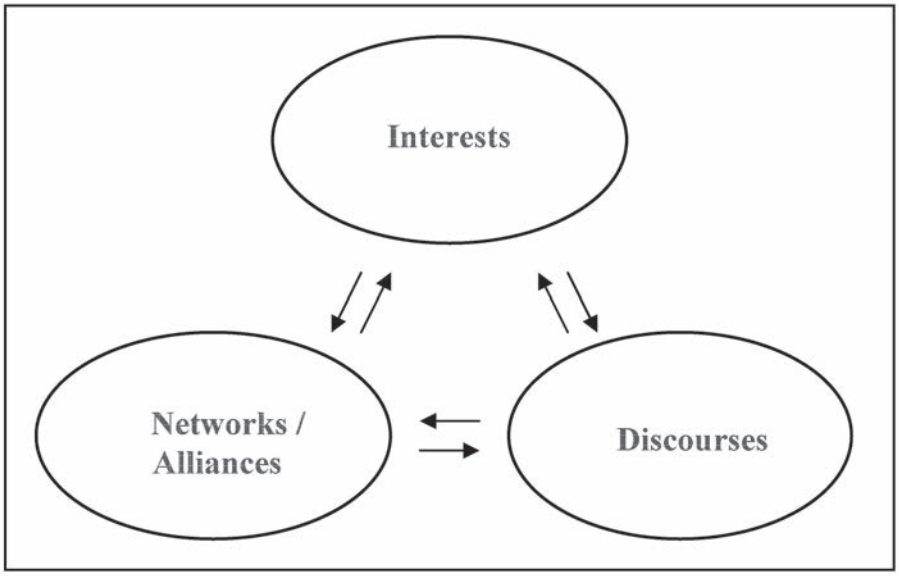


**Fig. 6.4.** Actor-level drivers influencing the policy process (Raakjær forthcoming)

Figure 6.4 illustrates the various actor-level drivers (working within a specific institutional setting) that influence the policy process and its logic. We will refer to the figure as we synthesize why and how the implementation of fisheries policies in Denmark has changed over time the way it has. Policy changes occur as a result of a combination of multiple interrelated elements that are shaping the process and its outcome. In this chapter, we have clearly found that the Danish fisheries policy process has been driven by *interests* – or more specifically, that different actors/groups have been pursuing different interests and there have been clashes of interests among user-groups, stakeholders, interest groups and the administration or some combination hereof. The policy process has also been driven by *networks/alliances,* by which we mean clusters of different kinds of actors with similar or compatible interests that join forces to collectively influence the outcome of the policy process. Networks/alliances can vary from tight alliances to loosely

[58] This is not unique for Denmark, and is probably the rule rather than the exception among all the EU member states.

affiliated networks mobilised for specific issues and are by nature very dynamic and change over time. The last element we include is *discourses*, which define dominant lines of reasoning. As discussed by Hajer (2002), one needs to understand the overall position as much as the actual wording of arguments to fully understand the meaning of a discourse, as arguments are used to pursue a specific purpose. When these three elements: interests, network/alliances, and discourses work together, major policy changes are possible.

Based on our analysis, we can conclude that domestic factors and concerns, rather than concern about the state of the fish stocks, have been driving the evolution and changes in Danish fisheries management and sector development. It has been particularly important to balance the various interests within a sector dominated by internal differences, including a fundamental disagreement within the fishing industry on what fishing is all about: business or lifestyle. The *discourses* articulated in the debates on various issues have to a large extent been embedded in these two different perceptions of fisheries, which themselves can be understood as fundamental underlying discourses.

The different *interests* articulated can also clearly be linked to two fundamentally different perceptions of fishing. One side aims to maintain status quo and flexibility and is generally reluctant to make major changes. In contrast, the other side aims for market-based solutions that will lead to a radical structural adjustment of the Danish catch industry probably with strong and uneven negative socio-economic impacts at the local level.

Particularly *networks and alliances* have shifted over time. As Fig. 6.4 suggests, the dynamics of the process are sensitive to changes relating to any of the drivers, which we in our analysis also observed to be the case, and furthermore we found that these drivers affected each other. However, the situation has been relatively stable when looking at the interests and discourses – of course with incremental changes over time. This suggests that the major driver in terms of creating the change is the changing networks and alliances. This can be explained by the significant power held by a few persons (primarily) in the parliament. The power of these few people is brought about by the relatively low importance of the sector in the national economy. Consequently, various discourses and interests have competed against each other, but what has really changed the balance and the system has been changes in powerful networks and alliances. However, it should be kept in mind that although conservation and the state of fish stocks have never been of specific concern in the Danish context, they have nonetheless been underlying issues that have occasionally opened a window-of-opportunity in the wake of conservation failures – and it is not unlikely that the increasing force of the environmental discourse might add to this picture in the future.

An underlying theme of the analysis has been the institutionalised involvement of the sector itself, particularly the fishing industry, in decision-making. As described in the section on legal and institutional set-up, the fisheries decision-making process is embedded in an overall corporative governance system with a long – but increasingly questioned – tradition of consulting relatively narrow

groups of stakeholders or users. What seems clear from our analysis is that the corporatist structures have worked best under weak, or perhaps more correctly, less determined ministers, and to a minor degree – compared to the ideal model of corporative governance – under strong/determined ministers who have to some extent been able to bypass the corporatist structures by utilising networks and alliances. However, even when the corporatist set-up has worked on a technical level, it is questionable whether it has worked as intended in the sense of delivering stakeholder buy-in for decisions in the best interest of society. There are several examples where the corporatist structures have delivered decisions that have been at least questionable from the point of view of the society at large, as the sector has managed to get policies adopted that have been beneficial for itself (e.g. publicly funded scrapping programmes, allocation of fishing rights in the shape of free vessel quota shares) without these policies efficiently solving the problems they were supposed to address. Therefore, it seems fair to question whether corporatist structures in the area of fisheries policy, where a relatively narrow group of stakeholders enjoy a privileged position, continue to serve the common good or rather serves to maintain structures that might prioritise a small group of stakeholders at the costs of the society as a whole, especially as societal priorities change over time and to some extent move away from those of the narrow group of stakeholders. In the context of the Danish fisheries policy-making system, the represented interests and occasionally a subset of those have – either by using the corporatist system in the traditional way or by means of strong alliances and networks able to bypass the corporatist process – managed to shape the implementation policies in ways that in several instances can be characterised as questionable from the point-of-view of society at large. This is an interesting observation in a corporatist system, where policy decisions ideally should be shaped by thorough consultations among those affected by the measures and a subsequent balancing of the various represented interests, taking into consideration the interests of society at large.

That the system has in several instances served special interests rather than society at large is to some extent related to the narrow conception of legitimate stakeholders, which we have dealt with indirectly in our analysis. The interests formally represented in the Danish fisheries policy-making system are mainly the traditional stakeholders: fishermen, fish processors / traders, and employers' and employees' organisations. The system has not to any significant extent responded to the fact that other types of interests have increasingly legitimate claims to representation in the system.[59] As the resource crisis has over time become accepted as a fact, the set of legitimate interest groups in fisheries has moved beyond that of the traditional actors to a situation where the interests of consumers, environmental interests, local communities and future generations, as notable examples, are increasingly relevant (Mikaelsen and Jentoft 2001). These interests are in gen-

[59] The recent inclusion of WWF in the BCF on a semi-permanent basis, however, gives evidence that the system is not completely static.

eral only sporadically included in the decision-making system for commercial fisheries in Denmark, and to a large extent they do not have the power to force their way into it. Nevertheless, these are, as Mikaelsen and Jentoft (2001, p. 284) put it, *"groups with 'legitimate' interests in management decisions and outcomes to whom managers – for the sake of democracy – should be responsible and responsive."* Based on our analysis, a primary objective of the Danish administration has been to keep the peace within the sector. Therefore, one could be sceptical about the extent to which the state/administration can sufficiently be expected to protect the interests of these groups. Including new stakeholders would likely not gain support from current stakeholders, as it will undermine their influence.

Finally, our analysis of the policy process points to the importance of understanding the dynamics that enable change, emphasizing the necessity of synergistic interaction between the three elements illustrated in Fig. 6.4. Over time there will be windows-of-opportunity for implementing larger reforms, but whether these opportunities are taken advantage of depends on the situation – particularly in terms of the dominant interests and alliances/networks at the time, the scale of the problems and to what degree solutions exist that can guide a reform process. Although strong individual actors have influenced the implementation process on and off during the whole period, we argue that it was not until the problems facing the fishing industry became evident to most people involved in the decision-making process that the window-of-opportunity for fundamental change was created. The solution eventually chosen – the market-based approach – had actually been floating around for almost two decades with continuous minority support, but until 2004/5 this solution was rejected by the majority of the Danish fishermen. In 2005, however, the reform became political reality because a dominant interest in market-based solutions and a strong political alliance in favour of an ITQ-system coincided with the on-going discourse on the need for changes and thus created the window-of-opportunity to introduce the largest reform in Danish fisheries since the introduction of the CFP in 1983.

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## Personal Communication

Interviewee 1: Industry (3rd round of interviews)
Interviewee 2: Industry (3rd round of interviews)
Interviewee 3: Administration/Research (1st round of interviews)
Interviewee 4: Industry (3rd round of interviews)
Interviewee 5: Administration/Research (2nd round of interviews)
Interviewee 6: Industry (1st round of interviews)
Interviewee 7: Administration/Research (1st round of interviews)
Interviewee 8: Administration/Research (2nd round of interviews)
Interviewee 9: Administration/Research (2nd round of interviews)
Interviewee 10: Industry (1st round of interviews)
Interviewee 11: Administration/Research (2nd round of interviews)

# 7 The Politics of Implementation in Resource Conservation: Comparing the EU/Denmark and Norway

**Stig S. Gezelius, Troels Jacob Hegland, Hilary Palevsky, and Jesper Raakjær**

**Abstract** This chapter discusses implementation as a policy instrument in terms of fishery resource conservation. Implementation is primarily a means of pursuing established political goals. However, it is also a potential means of deliberate subversion or change of political goals. The chapter describes the development of multiple goals in fisheries management and addresses mechanisms through which conservation goals are subverted or changed at the implementation stage. Through comparison between The EU/Denmark and Norway, the chapter identifies factors that promote and prevent subversion of conservation goals during implementation.

## 7.1 Introduction

In the introduction to this volume, we illustrated the idealized model that presents fisheries management as a simple causal chain of independent processes. According to this model, political decisions are based on scientific knowledge; state administrative agencies design their tangible management strategies to directly implement political objectives; and the fishing industry is expected to comply by following the rules implemented. In the introduction, we outlined some of the potential flaws in each of these steps that have been identified in the academic literature of recent years: science does not always produce accurate estimates of fish stocks; political decisions sometimes prioritize short-term gains over long-term sustainable harvesting; and the fishing industry does not automatically comply with all regulations. Based on the causal chain model, each of these flaws can propagate itself throughout the management process as each link in the chain depends on the previous processes, ultimately undermining management goals and producing a poorly-managed resource.

Even this critique, however, often implies the perspective that fisheries management operates as a series of independent processes. An alternative, and often more fruitful approach, is to regard the components in the model as interactive, constituting a web of interdependences rather than a simple causal chain. Consequently,

recent literature has begun to question the independence of some of these processes. Here are a few examples:

- The political independence of scientific stock estimates cannot always be taken for granted (Rozwadowski 2002: 188, 193).
- Administrative implementation strategies and the level of industry compliance can affect the accuracy of data collected about the fisheries and thus affect the accuracy of scientific knowledge, as many of the standard scientific models rely on implementation procedures to enable data collection, and it is difficult to account for illegal/unreported fishing in these models. Political decisions can also affect data collection. For example, the EU's system of only measuring fish landings and requiring mandatory discards makes it difficult to monitor fishing mortality.
- Industry compliance can be much more complex than suggested by the widespread idea that industry action is a non-political response to utilitarian incentives, a view which has been thoroughly questioned (Gezelius 2003; Hauck 2008). The industry's compliance with regulations may be influenced by its role in the political decision-making process and in the design of implementation strategies.
- Describing implementation as the administration's loyal pursuit of predefined political goals may sometimes be appropriate on a national level (Christensen et al. 2007). However, some of the cases outlined in this volume show that it is difficult to draw a clear line between policy-making and implementation. This is particularly notable in relation to the implementation of EU policies where supranational political goals are renegotiated in the process of national implementation.

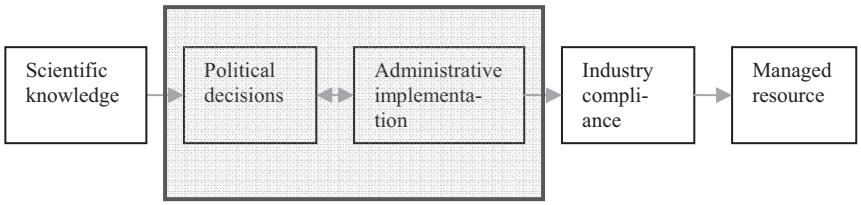


**Fig. 7.1.** Delimitation of the subject of this chapter

The shaded box in Fig. 7.1 marks the chapter's topic. This chapter focuses on a specific type of relationship between processes in the fisheries management chain: mechanisms through which competition between conflicting political agendas may redefine political goals in the implementation process. Our focus is on implementation of resource conservation policies. We are consequently concerned with the ability of non-conservation agendas to subvert conservation when politics enters implementation. Implementation may thus fail to achieve conservation goals not

only by not meeting the intended targets but also by attempting to realize other targets than conservation.

The cases presented in this volume illustrate that the separation of implementation from politics cannot be taken for granted, but the cases also represent significant variety regarding the extent and mechanism of politicised implementation. The cases represent various forms of corporatist arrangements, all of which give industry organisations a significant say in matters of resource conservation and implementation. However, the presence of heterogeneous interests has apparently had quite different consequences in terms of watering down conservation goals in the process of implementing conservation policies. The analysis in this chapter suggests explanations for this observed difference, emphasising the roles of national autonomy in political decision-making, the framing of national implementation discourses, and the (in)ability of supranational entities to ensure national compliance.

Before considering the differences in politicized implementation between the cases, however, it is necessary to consider how politics found its way into implementation practices. The departure from politically-determined conservation aims in the implementation process is ultimately rooted in the multiplicity of agendas in fisheries management. The historical move towards multiple fisheries management agendas is common to the cases studied, but has had different effects on the implementation of conservation policies. Before we proceed to the analysis of these different developments, it is useful to have a basic understanding of the shared process that led to multiple agendas in fisheries management.

## 7.2 The Development of Multiple Agendas in Fisheries Management

The effectiveness of conservation policy implementation depends on the extent to which conservation remains the primary goal pursued at the implementation stage. Several chapters in this volume illustrate that conservation does not always remain the dominant goal, especially when supranational policies are subject to national implementation.

The concepts of “political goal” and “political agenda” are crucial but ambiguous in terms of fisheries management. The cases in this volume describe the pursuit of different important goals such as industry modernisation and resource conservation. While they can justly be described as different and potentially competing goals, they do not represent conflicting basic values as states ultimately protect fish stocks because they are concerned about people. The state’s primary task in relation to fishing has always been to regulate and develop the industry for the purpose of securing and increasing people’s welfare. However, over the years the attempt to realize this general goal has developed into a pursuit of an increasing number of potentially conflicting sub-goals.

In the early years of fisheries governance, the primary focus of the national states regarding fish harvesting was on promoting efficient fishing. Two types of policies were dominant in promoting efficiency. First, as described in Chapter 3, were the regulatory efforts to reduce inefficiency resulting from gear damage and conflicts between fishermen. These efforts mainly consisted of detailed regulations regarding e.g. fishing space and fishing gear, and aimed to ensure orderly fishing. Second, as described in Chapters 2–5, were policies to promote modernisation of the fishing fleets. Significant financial resources were spent developing the fishing sector across the North Atlantic. Technological advances, the utilisation of which was sponsored by the states, led to overcapacity within the fishing fleets. Consequently, the policies regarding effective fishing had an unintended by-effect which forced the states to address a new problem: overfishing. By the 1960s, the goal of industry modernisation was accompanied by growing concerns about resource conservation.

It was believed that the emergence of overfishing called for increased control of fishing activity, but national politics were not initially the main arena for this effort. The contemporary law of the sea made conservation of fish stocks mainly a matter of international politics. The international fisheries commissions were thus the main arena for the emergence and growth of a resource conservation agenda. However, the establishment of 200-nm EEZs in the late 1970s, which brought offshore fisheries under national jurisdiction, forced the coastal states to assume national responsibility for the conservation of fish stocks. Resource conservation thus became a second major task for the coastal states, alongside industry development. As illustrated in Chapters 3 and 5, the dual task of industry development and resource conservation also became manifest in the administrative divisions of labour.

The dual task of modernisation and conservation has resulted in policies that pursue somewhat conflicting long-term goals: efficient harvesting and resource conservation. This duality has represented an enduring tension in the governance of the fishing industry. In addition, the entry of resource conservation into politics also brought about a potential conflict between the goals of short-term benefits for the parties involved in fishing activities and long-term sustainable fishing. Striking a sensible balance between short-term benefits and long-term sustainability is essential because long-term success for the industry requires, at the very least, that it survives in the short-term. The importance of short-term survival has often given industry actors who oppose conservation policies a legitimate voice in the political debate. The entry of resource conservation onto the political agenda has thus greatly increased the complexity of fishing industry governance.

The increasing complexity did not end with the establishment of conservation institutions. Chapters 2 and 3 describe the concerns about problems of inefficiency that arise when fishermen compete to catch the greatest possible share of the Total Allowable Catch (TAC). These concerns have led fisheries managers to divide the TAC between fleet sectors and vessels in order to increase predictability for fishermen, allowing them to adjust their fishing effort more profitably. Resource

conservation policies consequently presented the state with a third task: distribution of fishing rights. This is arguably the most politically difficult task among the three because, unlike industry development and resource conservation, it is inextricably linked with deep conflicts of interest among industry actors. While resource conservation benefits all, and industry development often can be similarly legitimised, distribution of fishing rights is inevitably a zero-sum game. Distribution consequently makes fisheries management a politically sensitive issue, and presents managers with constant problems of legitimation.

Both national and international resource conservation regimes often rest on distributional compromises, meaning that biological sustainability sometimes has to be weighed against the need for political agreement. Increasing TACs beyond biologically desirable levels has often been necessary in order to establish or maintain a conservation regime, the management of the blue whiting of the Northeast Atlantic being perhaps the most conspicuous recent example (Gezelius 2007a), although the history of the EU's Common Fisheries Policy (CFP) is also rich with examples (see Chapter 5 or Holden 1994). The significance of distributional conflicts of interest to conservation is not only related to the ability of political actors to construct conservation institutions but also to their political self-interest. Long-term survival presupposing short-term survival is not only true of fishing enterprises but also of elected leadership. One fundamental conservation problem is that unsustainable management mainly generates a long-term political cost while distributional conflicts arising from strict conservation policies tend to create very noticeable short-term costs. Consequently, elected leaders may often feel tempted or forced to make long-term sacrifices in terms of conservation, in order to solve short-term distributional conflicts.

Fisheries management offers several examples of how this problem can be addressed. For example, following the collapse of the Canadian East coast cod fisheries, critical TAC advice for these stocks has been provided by an agency that is strictly detached from the distribution processes (Gezelius 2002). Another solution has been applied in the management of the Northeast Arctic cod stock for which Norway and Russia since 2004 tied TACs to scientific advice (Government of Norway 2003). Such institutional arrangements are not always established, and when they are, they do not reduce the costs of distribution and are not always robust. Consequently, concerns about short-term political survival remain a potential challenge to conservation aims among political decision-makers and industry organisations involved in distribution.

Figure 7.2 illustrates the dynamics of agenda expansion in fisheries management. The boxes illustrate tasks undertaken by the state, and the arrows represent causal relationships. The figure only focuses on governmental factors. While the need to allocate fishing rights results entirely from the task of resource conservation, the need for resource conservation can only be partly ascribed to governmental factors. There is no doubt that state policies regarding industry modernisation and welfare contributed to overcapacity in the fishing fleets, but technological advances have been a major underlying factor. Similarly, developments within

fisheries science have been a necessary condition for the emergence of modern resource management. Nonetheless, Fig. 7.2 illustrates the tendency of political agendas to lead to new agendas, resulting in an increasingly complex set of potentially conflicting goals.

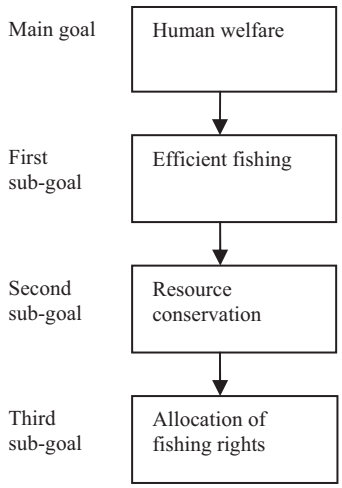


**Fig. 7.2**. The development of multiple agendas in fisheries management

Successful conservation of fisheries resources not only requires that the conservation agenda dominates conservation policies, but also that it keeps its dominant position in the implementation process. It can be argued that the multiplicity of agendas is especially significant in resource management when politics enter implementation, because this may lead to a vicious circle of declining dedication to conservation. The first step in this circle is the reduced effectiveness of conservation policies that follows from the interference of other agendas in the implementation process. The second step is the subversion of faith in the effectiveness of conservation policies, reducing the willingness to even try to implement them according to their original purposes. In the following, we will outline the dynamics of the policy process through which non-conservation agendas feed into the implementation of conservation policies. For that purpose, we will focus specifically on the Danish case, which has some similarities with the "garbage can" model introduced by Cohen et al. (1972) to describe the role of multiple agendas in processes of organisational choice. Comparing Denmark and Norway will serve to increase the understanding of these dynamics.

## 7.3 Mechanisms Allowing Implementation Drift

As mentioned previously in this chapter it is important to understand that often no clear division can be made between *political decisions* and *administrative implementation*. It was clear in some of the case studies that these two elements of the fisheries management process are intimately interlinked. The Danish study in particular (Chapter 6) demonstrated how political decisions are redefined and alternative political aims are pursued at the level of what should in principle be "neutral" administrative implementation.[1] As argued in Chapter 6, the Danish case is regarded as a modest example of member states departing from EU goals in CFP implementation. It is thus reasonable to hypothesise that the findings regarding politicised implementation in Denmark can also be made in many other EU member states, especially as the tendency of politics to penetrate implementation can largely be explained in terms of general EU structures. We may therefore use the findings in the Danish case as a basis for a more general analysis of the obstacles to effective CFP implementation in the EU.

Our analyses suggest that it is highly complicated to foresee in detail how policy decisions will be reinterpreted or circumvented during their implementation and how this could be avoided. Inspired by the principal-agent approach which will be thoroughly discussed below, we apply the term "implementation drift" to describe the process of redefining political goals and pursuing alternative political goals during implementation. The difficulties in taking implementation drift into account are in some cases added to by elements of path-dependence, which limits the potential alternative strategies available to the policy-maker (see Chapter 5). Moreover, our analysis suggests that the scope for manoeuvring and pursuing alternative political aims during implementation is highly dependent on the overall institutional setup of the fisheries management system and in particular with regard to the national autonomy of the state. We found some indications that the higher the autonomy of the state in fisheries management, the less likely it is that policy decisions will be reinterpreted or circumvented during their implementation.

The *principal-agent approach* is helpful in order to understand the mechanisms that allow implementation drift. This (arguably somewhat rationalist) approach deals with how a *principal*, who delegates tasks to other actors, can ensure that these *agents* remain loyal and perform the delegated tasks according to the wishes of the principal. Within this approach, disloyalty on behalf of the agent is termed "agency drift", which refers to the process of agents drifting towards carrying out the delegated tasks in a way that pursues their own goals and priorities rather than those intended by the principal. In the context of this section "agency drift" refers to the same process as "implementation drift". The principal-agent approach has

[1] Zetterholm (1980) describes how implementation politics must be understood as a type of political participation.

been applied to the EU in various ways and, inspired by Blom-Hansen (2005),[2] we will apply this perspective to the implementation of EU fisheries regulations based on Chapters 5 and 6. The principal-agent perspective provides us with tools to at least partly understand why Denmark differs from the Faeroe Islands and Norway in terms of implementation drift.

Following Blom-Hansen (2005), two types of *ex-ante* mechanisms and two types of *ex-post* mechanisms[3] can theoretically be used by a principal to control the agent to which it delegates a task. The first *ex-ante* control mechanism is to choose the agent with care so that the incentives for agency drift remain as limited as possible. The EU is the principal in relation to the CFP, while the member states are the agents that decide on the specific implementation of conservation and structural policies.[4] The TAC system is the fundamental component of the conservation policy, but it is as much an allocation as a conservation instrument. The EU allocates TAC shares based on the firmly rooted principle of relative stability between member states, which may be the most path-dependence creating element of the CFP (see Chapter 5). Unfortunately, the EU member states, the units to which TACs are allocated, are caught in a prisoner's dilemma situation in relation to conservation, control and enforcement, meaning that member states are inclined not to implement measures with conservation loyally in mind because they cannot be sure to reap the benefits of these implementation efforts themselves.[5] Consequently, the EU is left with agents who have strong incentives for drifting toward domestic priorities at the expense of common conservation concerns, and, as a result, the member states cannot *a priori* be expected to act as loyal agents. However, a few developments in the EU's implementation strategy seek to limit the scope of this problem. For example, the increasing emphasis in EU fisheries management on regionalisation and involvement of cross-national stakeholder groups expressed in the creation of the Regional Advisory Councils (RACs) may reduce the prisoner's dilemma in implementation by reducing the dominant role played by the member states. Likewise the attempt by the Commission of the European Communities (the Commission) to take over some of the control and enforcement tasks from the member states can be seen as an effort to get out of the prisoner's dilemma situation. Nonetheless, it appears unlikely that the member states will lose their position as the central agent for implementation anytime in the near future.

The second *ex-ante* control mechanism is the design of the framework and mandate that the agent works under. The likelihood of the agent drifting is reduced

[2] Blom-Hansen applied it to the implementation of the EU Cohesion Policy.

[3] As indicated by their name, *ex-ante* control mechanisms are mechanisms that the principal can employ prior to or in the process of delegating the tasks. *Ex-post* control mechanisms can be employed after the agency relationship has been established.

[4] As outlined in Chapter 5 these are the two elements of the CFP that most directly impinge on the issue of target fishing mortality rates.

[5] See Chapter 1 for an introduction to the prisoner's dilemma.

if the principal can create an incentive structure that makes it more profitable or opportune for the agent to remain loyal to the principal's objectives than to ignore or subvert these objectives. Understanding the mechanisms at play in relation to the incentive structure in the CFP is crucial in order to understand why the EU has struggled to implement target fishing mortality rates. There are arguably several examples where the EU has provided incentives through benefits or costs to drive the member states in the direction of loyal implementation. One example mentioned in Chapter 5 is the Commission's decision from 1987 to refuse EU grants for construction of new vessels to member states that fail to reach their targets in the EU fleet reduction programmes. This decision made non-conservationist behaviour costly under the structural policy. Another example is the design of the days-at-sea system adopted as part of the conservation policy to reduce fishing mortality rates by allowing each vessel only a limited number of days to spend at sea fishing. The system has been designed so that certain vessels can obtain extra days-at-sea if they use selective gear of a specified nature, which provides incentives at the national level to promote the use of such gear. In these two examples, the EU provides an incentive structure that drives the member states towards conservationist behaviour.

The problem, however, is that for the most fundamental measure influencing fishing mortality rates, the TACs, there are no strong incentives for fishing the quotas in a conservationist manner. As explained in Chapters 5 and 6, the quotas allocated to the EU member states are related to landings rather than catches. The fishing mortality associated with discards is thus not directly recorded or deducted from the fishermen's quotas. The incentives for the individual member state to reduce discards are weak because the negative impact of the non-conservationist behaviour is shared among *all* the member states, who will receive lower quotas in the following year. This is a typical example of the "tragedy of the commons" dynamic (Hardin 1968). Although the EU acknowledges the problem, it has so far been unsuccessful at creating an incentive structure to eliminate the problem.

There are many obstacles to eliminating the problem of discards in terms of legislation, administration and enforcement (Gezelius 2008). It can further be argued that the principle of relative stability represents a significant political obstacle to solving this problem. Most member states are reluctant to open the debate on the long-negotiated relative stability,[6] confirmed during the reform negotiations of 2002 (see Hegland 2004). This reluctance is an obstacle against replacing TAC-based management with, as one option, an effort regulation scheme in response to the problem of discards. The problem is that TACs are as much allocation instruments as conservation instruments, and recalculating TACs into national effort quotas would open many questions about the relative stability of quota allocation among member states. Another option would be to introduce a ban on discarding, which would change the incentive structure and make catches equal landings – at

[6] It should be remembered that the relative stability was the most sensitive part of the negotiations leading to adoption of the conservation policy in 1983.

least in theory. Such a change would nevertheless also impinge on the relative stability since discarding rates likely vary significantly across member states. There would moreover be a real risk that such a rule would only exist on paper, since a ban on discarding creates a number of implementation challenges, especially in relation to administration and enforcement (see Chapters 1 and 3). It should, however, be mentioned that at the time of writing the EU is actively exploring how to ban discarding, partly based on positive experiences from Norway (see Chapter 3), as well as from Iceland, New Zealand and Canada (Commission of the European Communities 2007). Nevertheless, the conclusion on this *ex-ante* control mechanism must be that the EU has so far been unable to create the right incentive structure when it comes to the issues that are most important in relation to fishing mortality rates, and it is not obvious how this could be done in practice. The practical problems are not only related to administration, legislation and enforcement but also to politics because it only takes a few member states to block a proposal under the current voting arrangement in the Council of the European Union (the Council). As will be addressed beneath, blocking minorities represent significant inertia in the CFP.

Above, we have described how the EU has problems related to the *ex-ante* control mechanisms. The same is to some extent true of *ex-post* control mechanisms. We will go quickly over the first of these mechanisms, *monitoring of the agent*, as we believe that the second *ex-post* control mechanism, *sanctioning of agency drift*, is more interesting in terms of the CFP. The EU has various ways of monitoring agency drift. One brief example worth mentioning is the so-called *CFP Compliance Scoreboard*, which has been presented annually since 2003. The Compliance Scoreboard claims to outline the extent to which the different member states have complied with their obligations under the CFP. It is, however, noteworthy that information on a crucial issue such as discarding is not systematically accessible. This practice is notoriously difficult to monitor and discarding is furthermore not illegal *per se* under the framework of the CFP and is therefore outside the scope of the Scoreboard. Moreover, the Compliance Scoreboard is to a large extent based on information provided by the member states themselves. This means that the information in the Scoreboard is only reliable insofar as the member states provide credible information, which is not always the case. For example, statistics on quota overruns are only reliable to the extent that the member states register all landings, meaning that there are no unrecorded landings, which is hardly true in all member states.

As to the second ex-post control mechanism, *sanctioning of agency drift*, information on agency drift is only useful if sanctions can be imposed (or other actions taken) to ensure compliance with the requirements of the principal. Two kinds of drift – *criminal agency drift* and *non-criminal agency drift* – are thus relevant for further exploration. In our context, criminal drift can be defined as drift that is directly against the rules, while non-criminal drift can be defined as drift that is not directly against the rules but either conflicts with the intention of the rules or the overall political objectives. When criminal agency drift is identified,

e.g. based on the information in the Compliance Scoreboard or other sources, the Commission, as a representative of the EU, is able to bring the drifting member state in front of the Court of Justice of the European Communities or – as will more often be the case – threaten to do so. The court may punish the drifting member state e.g. by imposing fines, which is sometimes an effective and straightforward sanctioning mechanism. However, as explained above, the most important agency drift under the CFP is of a non-criminal kind, such as discards or the use of EU subsidies to expand fishing capacity. In contrast to criminal agency drift, the Commission cannot sanction non-criminal agency drift by itself because non-criminal drift can usually only be "sanctioned" by amending the regulatory framework that the agents operate under (e.g. draw up more clearly defined objectives) or by applying peer pressure from other member states. Consequently, the EU usually has to act through the Council to sanction non-criminal agency drift. However, the ability of the Council to sanction non-criminal drift is severely restricted by the fact that the EU is a principal that consists of *multiple* actors whose powers vary depending on the context. The Council decision-making rules in relation to the CFP (see Chapter 5) enables blocking minorities of member states to prevent the EU from sanctioning non-criminal agency drift. This enforcement inefficiency arguably reinforces the prisoner's dilemma dynamic at the national level because member states that in principle would like to sanction non-criminal drift will easily be swayed by their national interests, knowing that other states face few costs when drifting towards their national interests at the expense of conservation. The implementation of the structural policy's Financial Instrument for Fisheries Guidance (FIFG) is an example of these dynamics, as subsidies for modernizing or building new vessels contribute to overcapacity in the EU fleet. However, a blocking minority was against removing this type of subsidy because of the benefits it brought to the individual member states (until very recently, see Chapter 5). While the subsidies remained in place, it was difficult for individual member states who opposed the subsidy to decide not to use them, as they would lose out compared with drifting member states that continued to use them. Consequently, member states that have worked in the Council to abolish this type of subsidy have also used it to a significant extent.

In conclusion, it is hard to escape the fact that what seems to characterise the CFP from a principal-agent perspective seems to be strong incentives for the agents to drift away from conservation and weak powers on behalf of the principal to prevent this. The CFP is caught in path-dependence to a great extent, which has resulted in a deadlock. In practice this means that political goals set at the EU level are reinterpreted and circumvented at the national level, and domestic aims are pursued to the extent possible within the framework provided by the CFP.

The focus of the principal-agent approach on incentive structures has proven useful in order to understand the institutional dynamics of fisheries policy implementation in the EU. The solutions that the principal-agent approach can prescribe largely assume that states act rationally to pursue national interests. This rationalist analysis has thus demonstrated that the implementation of conservation policies

in the CFP has significant similarities with the prisoner's dilemma game. In the EU and Denmark we have found that political goals have been redefined and alternative political goals have been introduced making fisheries management *de facto* politics in implementation. However, the principal–agent approach provides little assistance in terms of understanding the networks and alliances that have caused the deadlock in CFP implementation through blocking minorities. It is therefore necessary to supplement the principal-agent approach with network analysis in order to fully understand the dynamics of implementation of fisheries policies.

We find that the concept of a blocking minority is useful in order to understand the political dynamics of political decisions and implementation of the CFP. We have been inspired by Nedergaard (2007), who undertook a policy network analysis of the opposition against the proposal for a directive on temporary work by the EU Council of Ministers. Applying this concept, we consider the political decision-making process in relation to the CFP to be driven by actors with divergent interests, therefore forming different networks and alliances to pursue their specific interests. At the EU level, three different political positions could be observed in the Council in connection with the 2002 reform (see Chapter 5), but these networks are in fact relatively stable and have influenced CFP decision-making also on other occasions. The question of stable political positions is not only relevant with regard to the various member states, but also the EU administration. Even though the Commission has no voting rights, it plays an important role in Council negotiations. According to Burns (2004), the Commission is a central and influential actor in the Council's decision-making process, and in terms of the CFP the Commission has generally focused on conservation. A network of member states, which informally referred to itself as the "Friends of Fish" (FoF),[7] composed of Germany, the UK, Sweden, the Netherlands, and Belgium – and to a lesser extent Finland – generally favours a comprehensive reform and is supportive of conservation concerns, but is less radical than the Commission in terms of conservation focus. The opposing network, composed of member states that referred to itself as "Amis de la Pêche" (AdlP),[8] France, Spain, Ireland, Portugal, Italy and Greece, opposes what it argues is an overly-conservationist approach by the Commission, and is a strong defender of the short-term livelihood of fishermen and fishing communities even at the expense of conservation concerns (see Hegland 2004 for details). Both networks represent a blocking minority and, consequently, the Council finds itself in a position where it is the lowest common denominator that determines what can be decided in the Council. This causes a deadlock at the policy-making level, leaving the Council unable to elaborate comprehensive strategies and rational changes.

[7] Denmark generally belongs to this group, but in relation to the 2002 reform, Denmark chaired the Council meetings in the second half of 2002. In the role of President it took the relatively neutral approach, which is traditionally required from the Presidency to facilitate compromises (Hegland 2004).

[8] In English: Friends of Fishing.

It can be argued that the fragmented nature of both the business structure and the political focus (Raakjær forthcoming) in the member states directly undermines the ideal principal-agent setup. From the outset, most actors in the policy process have different goals than the principal, which makes it difficult to create incentives that will ensure rational implementation. The Danish case is a good, but in no way an extreme, example of how different actors and interests aim to influence the implementation process and in reality bypass the EU's policy objectives. In Chapter 6, we showed that the Danish policy process was dynamic in the sense that changes were generated through synergistic interaction between interests, networks/alliances and discourses, where particularly strong individual actors have influenced the implementation process. The Danish corporatist system has generally contributed to implementation drift by pursuing short-term solutions, which has to some extent undermined conservation aims. It was concluded that in the area of Danish fisheries policy-making and implementation it is fair to question whether corporatist structures have managed to promote the policies that serve society at large, as it appears that decisions have in several cases been predominantly beneficial to a relatively narrow group of stakeholders.

Recent contributions on CFP change (Sissenwine and Symes 2007 and Symes 2005) at least indirectly argue for institutional reform to influence policy-making and implementation in the CFP so that some of the present problems of overfishing in EU waters can be overcome. Symes (2005: 265) argues that the dilemma of economic versus social objectives must be resolved. One solution would be to adopt a market-based approach for allocation of fishing rights. However, the prospect of an EU transfer market is heavily debated among actors and would lead to a fundamental institutional change of the CFP, likely undermining the relative stability. Further, following Sissenwine and Symes (2007, part 2:70), it is important to decide on an appropriate geographical scale and choose the most appropriate institutional arrangement for management intervention and following implementation strategies. In this respect, regional seas and RACs are good examples of the introduction of such institutional changes at the EU level, but the Danish experiences indicate that a large degree of stakeholder involvement, as is the case with the RACs, might create another set of problems and does not necessarily reduce implementation drift.

We find that Sissenwine and Symes provide a very precise diagnosis of the situation and future challenges for the CFP, and their conclusions are largely supported by our observations. However, it can be argued that the problems do not result from a lack of adequate solutions but from a lack of political will to adopt adequate solutions. Nearly 25 years of experience with the CFP, as shown in Chapter 5, demonstrates that institutional and technological solutions to the problem of overfishing are only feasible to the extent that they are accepted by actors in the political arena. Consequently, it will often be too simplistic to only focus on institutional and technological solutions because such solutions can either be blocked politically at the EU level or circumvented through national implementation whenever they lack sufficient political support. Even when recognising the

administrative desire to ensure a rational setting for policy-making and implementation, it is important to understand the underlying political rationality of member states, because member states often act in a way that undermines the intentions of the CFP, as was indeed found by the European Court of Auditors in a recent evaluation (2007). This problem has been described particularly in Chapters 5 and 6, which illustrate that implementation of the CFP is an extreme example of politicised implementation at the national level. Consequently, a prerequisite for improving the performance of the CFP is that the political process is understood and taken into account. Consequently, we will argue that unless the power relations influencing policy-setting and policy-shaping (following Peterson's classification (1995)) are taken into consideration, it seems questionable that conservation concerns will be dominating under the CFP in the near future.

It appears that the Commission at times has a tendency to make proposals that invite or largely force in particular the AdlP network into the blocking minority corner (see Chapter 5 for details). It is important in drafting proposals that the Commission acknowledges that no policy or management intervention is better than what can be agreed to in the Council and subsequently implemented by the member states. It is in other words important to consider how proposals can be made more robust in the face of shifting political agendas and more resilient to implementation drift. One possible way out of the present political deadlock could be that the Commission increasingly moves from the tactical level – improving the system within the present path – to act strategically and propose long-term aims and to work towards adoption of adequate conservation principles that in a longer perspective could be used to strengthen the management performance. This strategy is likely to cause less tension in a short-term perspective and is consequently less likely to provoke blocking minority votes. It would allow politicians to support a more restrictive CFP as the consequences hereof would not be immediately felt by their constituencies. In all fairness, it appears that the Commission in recent years has chosen such a strategy to some extent (see for instance on the days-at-sea system in the Baltic Sea in Chapter 6).

## 7.4 Mechanisms Preventing Implementation Drift

In Chapters 3 and 4 describing the management systems of Norway and the Faeroe Islands, we found little evidence to support the claim that the conservation agenda was challenged to any great extent at the implementation level. In the case of the Faeroe Islands, this finding is unsurprising given that Faeroese demersal fish stocks are exclusively national and, consequently, managed entirely by one government. The national exclusivity of fish stocks removes the state-level prisoner's dilemma logic facing EU members. Consequently, the Faeroese Home Government has no obvious incentives for subverting its own conservation policies. Norway is a far more interesting case for comparison with Denmark, because it shares

two significant characteristics with Denmark, despite not being a member of the EU. First is the fact that Norway, like Denmark, manages most major fish stocks jointly with other states, which entails potential prisoner's dilemma situations in national implementation. Norway manages several fish stocks jointly with the EU, among others, and is highly aware of the insufficiencies of EU implementation of TACs. This could, in principle, lead to Norwegian disillusionment regarding the point in making a wholehearted implementation effort, although this potential problem is reduced by the fact that Norway has significant shares of the TACs that are most important to the Norwegian fishing industry. Second is the fact that Norway, like Denmark, has a strong tradition of stakeholder influence in fisheries management. Norwegian industry organisations have played a significant role in the construction of the implementation system, and are also responsible for several specific implementation tasks. In theory, such corporatist management implies a potential risk of implementation drift, because stakeholders representing multiple political agendas are influential in matters of state administration. Given the similarities between Norwegian and Danish fisheries management, the relative robustness of conservation aims in Norwegian implementation[9] calls for an explanation.

As argued in Chapter 3, the multiplicity of agendas is clearly visible in the Norwegian political decision-making processes. For example, concerns about the industry's short-term survival and distributional problems have occasionally challenged resource conservation as the dominant political value in discussions on the size of TACs (Gezelius 2002; Jentoft 1991:11–16; Sagdahl 1992). However, the data presented in Chapter 3, as well as previous research (Christensen et al. 2007; Gezelius 2003) gives very little support to the hypothesis that conservation aims are frequently challenged during the implementation process once these aims have been set at the political level. Compared to the EU as represented by the moderate case of Denmark (see Chapter 6), the extent to which Norwegian implementation of TACs has been treated as a question of administrative realisation of predefined political aims is notable. This is especially striking with regard to the role of industry organisations, which appear to have displayed a relatively high level of acceptance of basic conservation goals in the implementation discourse. For example, the loyalty of the sales organisations in fulfilling their implementation tasks is undisputed and the Norwegian Fishermen's Association is generally perceived by the government as a "responsible" actor in the conservation discourse (Gezelius 2003).

[9] While our data does not indicate significant Norwegian implementation drift in relation to basic resource conservation aims, Chapter 3 describes Norwegian implementation drift in relation to another aspect of a fisheries agreement between Norway and the EU: the spatial separation between herring quotas in the North Sea and Skagerak, which has been adopted despite Norway's wish to remove it. Norway has deliberately chosen not to enforce this spatial division, and non-compliance is consequently widespread among Norwegian fishermen (Gezelius 2007b). The example illustrates that also Norway occasionally resorts to implementation drift when faced with controversial supra-national decisions, and it shows the significance of national autonomy and consensus in relation to implementation drift.

In Chapter 3, it was argued that the continuity of the Norwegian management system was rooted, among other things, in persistent faith in the system's ability to ensure sustainable fishing. This faith has resulted from an absence of enduring[10] fisheries crises in the post-EEZ period, which has been viewed as a sign of the functionality of the implementation system. The apparent robustness of the conservation agenda in the implementation of TACs is arguably an essential aspect of this functionality.

Several factors contribute to the relative robustness of the conservation agenda in implementation, compared to Denmark. The fact that Norway has large shares of the TACs for its most important fish stocks,[11] which gives Norwegian implementation a direct impact on the long-term welfare of Norway's fishing industry, is probably a significant factor. However, this can arguably not provide a full explanation because Denmark also has significant shares of several important TACs, although they are generally well below Norway's shares for its major fish stocks.[12] It can be argued that an important factor explaining the relative robustness of the conservation agenda in Norwegian implementation is related to national autonomy in fisheries management. Despite the fact that both Norway and EU member states manage fish stocks jointly with other nations, their levels of national autonomy vary significantly. As described in Chapters 5 and 6, the CFP covers a wide range of policy areas and establishes strictly defined frames within which member states can act. Consequently, there is an extensive transfer of politics from the EU to the national level. Moreover, these politics are outcomes of various forms of majority decisions, implying that governments may find themselves tied by decisions they have opposed. This extensive transfer of majority-made politics tends to trigger extensive political debate not only prior to EU decision-making, but also when politics are transferred back to the member states. The CFP thus emerges as a two-level political system: basic fisheries regulations are negotiated at the EU level

[10] The Norwegian cod fisheries faced a crisis in 1989/90, but this crisis was short-lived and the situation returned to normal within a few years.

[11] Norway has 50% of the TAC for the Northeast Arctic cod and haddock stocks, approximately 60% of the TAC for Norwegian spring-spawning herring (also commonly referred to as Atlanto-Scandian herring), approximately 30% of the TAC for North Sea herring, almost 65% of the TAC for the North Sea mackerel, and full national control over the TAC for saithe (Government of Norway 2007).

[12] Looking at the main quotas for Denmark's most economically-important species, Denmark has 44% of the cod TAC (the EU has the entire TAC) for the western Baltic Sea, 23% of the EU's cod quota for the eastern Baltic Sea, 25% of the cod TACs (29% of the EU quota) in the North Sea and Skagerak combined, 27% of the herring TACs (35% of the EU quotas) in the North Sea and Skagerak combined, 28% of the plaice TACs (the EU has 98% of the TACs) in the North Sea and Skagerak combined, and 95% of the EU sandeel quota in the North Sea. With regard to Norway lobster, which is second only to cod in terms of economic importance to Denmark, it holds 16,5% of the TACs in the North Sea (EU waters) and Skagerak combined, and 95% of the EU quota in the North Sea (Norwegian waters) (Government of Denmark 2007, quota figures for 2007). These figures mainly concern the North Sea and Skagerak, as they contain Denmark's most important fishing grounds, except for the Baltic Sea cod fisheries.

and are often subject to a second round of domestic political discourse when transferred back to the member states, before entering a phase of purely administrative implementation. This entails that there is no clear, institutionalised division between the politics and implementation stages.

In Chapter 3, it was argued that Foucault's (1999) concept of "discourse" could be fruitful in understanding the demarcation of agendas. Briefly repeated, the concept of "discourse" refers to the often implicit normative boundaries of a given field of human interaction. These normative boundaries define legitimate participants, legitimate perspectives, legitimate values etc. in a given interactive setting. If we regard fisheries management as a discourse, the blurred distinction between the phases of politics and implementation can be regarded as a blurred distinction in terms of the legitimate agendas that can be expressed in the implementation phase. The implementation discourse is thus framed so that it opens up the "garbage can" of political agendas (Cohen et al. 1972). The open garbage can potentially threaten the pursuit of original conservation goals and leaves room for a prisoner's dilemma logic in implementation. It thus becomes essential for the EU as principal to control its agents – the member states. The need for centralised control of EU members might have been less prominent if the national implementation discourses had been framed as matters of pure administration. It can be argued that a key difference between Norway and Denmark is related to the framing of the implementation discourse, and that this framing partly results from the level of political autonomy in fisheries management.

As is the case for EU members, the TACs restricting Norwegian fisheries are set through international negotiations. However, the similarities regarding national autonomy largely end there. In contrast to EU regulations, the TACs regulating Norwegian fisheries are based on consensus, meaning that the Norwegian government has an effective veto. Moreover, and unlike EU members, Norway is generally free to establish its own regulations once a TAC has been set and allocated between contracting parties.[13] This means that although TACs are set at the international level, the transfer of politics from the international to the national level is minimal: it only consists of strictly-limited, routine, consensus-based decisions. The Norwegian enabling legislation leaves the responsibility for setting and implementing TACs to the Ministry of Fisheries and Coastal Affairs. As described in Chapter 3, the Ministry of Fisheries and Coastal Affairs consults the main industry organisations when preparing the Norwegian position on the international quota negotiations. The major industry organisations are also included as active members in the Norwegian delegation in these negotiations. The consensus nature of conservation decisions and the crucial roles played by the Ministry of Fisheries and Coastal Affairs and major industry stakeholders entail that the main actors in implementation are also responsible for the conservation policy. This strongly dis-

[13] Like other Atlantic coastal states, Norway is party to several bilateral and multilateral agreements regarding control and enforcement, among others, but they do not notably restrict Norway's autonomy to regulate its fisheries.

courages reopening political discussions at the implementation stage, as that would imply that implementing agencies question the legitimacy of their own decisions. This is a major difference from the EU, where national governments and industry stakeholders especially are often subject to conservation policies over which they have had little say and for which they carry little responsibility. The Norwegian management system thus has a mechanism that prevents implementation drift, with no equivalent in the CFP.

As pointed out in Chapter 3, the Norwegian system of enabling legislation and consensus-based TAC decisions entails that implementation is by and large classified as an administrative issue. The perception of TAC implementation as an administrative task is also partly a result of its routine, long-term, complex, and technical nature. TAC implementation has developed incrementally through shifting political leaderships and its complexity tends to exceed the competence of politicians. The Foucauldian perspective implies that framing implementation as an administrative discourse means that it is shaped and restricted according to the norms of civil service. The administrative discursive frame limits the room for discussing which political aims to pursue in implementation. The focus on conservation goals in the implementation of conservation policies has largely been tacit and taken for granted within this discursive frame. It is consequently typical of the development of the Norwegian implementation system that the implementation agenda has largely been shaped by the administration's perceived need for improved implementation tools rather than the shifting priorities of shifting political leaderships.[14] The system has thus largely emerged as a long-term, incremental bottom-up process driven by experienced insufficiencies in the ability of present implementation to realise the original policy goals.

It is likely that the co-responsibility of major industry organisations in conservation decisions encourages a certain discipline in terms of accepting conservation goals at the implementation stage. However, this does not exclude stakeholder influence from also representing a latent challenge to these goals, especially when conservation has severe consequences in terms of distributional conflicts or the welfare of specific groups. In that regard, it is important to keep in mind the asymmetrical nature of Norwegian corporatism. As pointed out in Chapter 3, the interaction between the industry and the state administration is not an equal power relationship. The continued influence of the industry organisations rests on the extent to which they are included and taken seriously by the state administration. Consequently the industry organisations must keep to the state administration's frame of discourse in order to remain influential.

The institutionalisation of the strictly-framed implementation discourse has arguably been facilitated by the absence of enduring resource crises in Norwegian fisheries since 1977. This absence has meant that conservation measures have not seriously threatened the short-term welfare of large groups and have not triggered destructive distributional conflicts, although distribution has often been extremely

[14] Chapter 3 points to some deviations from this general pattern.

challenging. Consequently, the agendas of short-term welfare and political peace have by and large not been pressing enough to alter the frame of the discourse on implementation of conservation aims and cause implementation drift. The absence of enduring crises has arguably also increased the faith in the ability of the implementation system to prevent stock collapse, despite perceived insufficiencies in the implementation by other states exploiting the same fish stocks. Faith in the system has at least been strong enough to maintain the frames of the implementation discourse and thereby prevent frustration with the implementation of other states from triggering any extensive prisoner's dilemma behaviour in Norwegian implementation.

## 7.5 Conclusion

Table 7.1 summarises the comparison between Denmark and Norway with regard to factors influencing the chances of implementation drift. In the Danish case, the combination of low national autonomy and extensive transfer of politics from the international to the national level invites political debate at the national level regarding the political goals to be implemented. This tendency is arguably reinforced by the limited responsibility carried by industry stakeholders for the political decisions to be implemented. In Denmark's case, these factors have defined implementation as a discourse that is partly political and partly administrative. The blurred distinction between politics and administration in the implementation discourse has opened up the "garbage can" of multiple, partly conflicting agendas in fisheries management and legitimised strategic adaptation by actors who disagree with the goals to be implemented or do not wish to carry the costs of goal achievement. Consequently, the implementation discourse has been framed in a manner that invites prisoner's dilemma-like behaviour in national implementation, especially as each CFP member knows that the implementation discourse is likely to be similarly framed in other EU states. The prisoner's dilemma dynamic in CFP implementation has triggered problems that are typical of principal-agent relationships: effective control and the provision of proper incentives for agent compliance.

Denmark and Norway are interesting cases for comparison because they seem to differ in terms of implementation drift despite having significant characteristics in common. They are both states with strong fisheries sectors, a tradition of corporatist fisheries management, and are tasked with implementing conservation decisions made at the international level. Both consequently face conditions that promote implementation drift. In explaining different levels of implementation drift, we have emphasised the importance of power structures in decision-making. While the Danish Ministry of Food, Agriculture and Fisheries is to a great extent tasked with implementing various forms of international majority decisions, the Norwegian Ministry of Fisheries and Coastal Affairs is always a consenting

partner to international conservation decisions. The main Norwegian industry stakeholders have also been included in the decision-making process to the extent that they emerge as co-responsible for conservation policies. In contrast to Denmark, the politics transferred from the international to the national level are strictly limited and routine-based. All of these factors discourage a highly-politicised implementation discourse in Norway. We have argued that, in Norway's case, the combination of large national shares of important TACs, national autonomy, enabling legislation and asymmetrical corporatism has shaped and restricted the implementation discourse in a manner that leaves little room for implementation drift. It can be hypothesised that the absence of enduring fisheries crises has enhanced basic trust in the system's functionality, hence allowing these frames of the implementation discourse to become institutionalised and tacitly accepted.

**Table 7.1**. Factors influencing chances of implementation drift

| | *National fisheries management autonomy* | *Shares of TACs for important stocks* | *Transfer of politics from international to national level* | *Stakeholders' responsibility for conservation decisions* | *Framing of implementation discourse* |
|---|---|---|---|---|---|
| **Denmark** | Low<br>International majority decisions | Variable | Extensive<br>Covers all major policy areas | Low | Blurred distinction between politics and implementation |
| **Norway** | High<br>International consensus decisions | High | Highly limited<br>Only TACs and national allocations | High | Implementation framed as a civil service issue |

The study upon which this volume is based chose a comparative case approach for its ability to sensitise us to issues that might have been taken for granted in a single-case study. A comparative approach also inevitably raises the question of which general lessons can be learned, if any. In Chapter 1, it was argued that the generalising ambition of a study dealing with a matter as complex and context-dependent as fisheries management must necessarily be modest. That said, our comparison of implementation drift and its causes points to explanatory mechanisms that may have significant relevance beyond our selection of cases (Glaser & Strauss 1967; Ragin 1994). These mechanisms mainly consist of interplay between a series of power forms and power relations in fisheries management. One such power relation concerns the autonomy of the state in fisheries management, i.e. the extent to which supranational actors are authorised to impose politics on the state. The actual effects of this authority depend, among other things, on control and sanctions executed by supranational principals. The necessity of control and sanctions by supranational principals partly depends on the tacit, implicit power of discourse frames in national implementation. These discursive structures

in turn depend on power relations between the state administration and political actors. The extent to which a given management regime entails a risk of implementation drift depends on the interplay between these power structures. For example, a high degree of national autonomy and enabling legislation facilitate the framing of the implementation discourse as a matter of civil service. When the implementation discourse is so framed, a high level of stakeholder influence in implementation may not generate a high risk of implementation drift, provided that the state administration maintains the power to discipline, ignore or exclude stakeholders who attempt to challenge this discourse frame. The risk of implementation drift in a corporatist system further decreases if stakeholders share responsibility for the political decisions to be implemented.

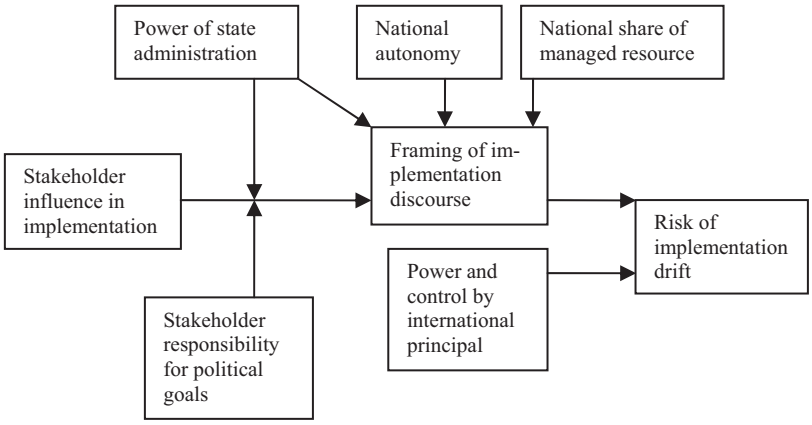


**Fig. 7.3.** Factors influencing implementation drift

We have argued that our comparative analysis of implementation drift and its causes focuses on a series of power relations and power forms. Figure 7.3 illustrates how these aspects of power work in a causal mechanism affecting implementation drift. We have emphasised two main factors influencing the risk of implementation drift. First, the framing of the national implementation discourse is a crucial factor in producing risks of implementation drift. In cases where the national implementation discourse is open to deliberation over basic political goals, the second factor – power and control by the international principal – becomes important to prevent implementation drift. We have ascribed the high risk of implementation drift in the Danish case to the combination of vague boundaries between political and implementation discourses and the EU's limited capacity to ensure that its members adhere to the goals of EU policy.

We have emphasised several factors that influence the shaping of the implementation discourse. First is stakeholder influence in the implementation process,

which potentially brings multiple agendas into the discourse. Second and third are the degree of national autonomy and national shares of the managed resource, both of which influences the receptiveness of state agencies to reopening the political debate at the implementation level. We have argued that the potential of stakeholder influence to bring multiple agendas into the implementation discourse depends on the relative power relationship between industry organisations and the state administration, as well as the extent to which industry organisations emerge as responsible for the decisions to be implemented.

It would be naive to assert that these mechanisms are bound to work in similar ways under all conceivable conditions. Our selection of cases only covers a limited range of all the relevant conditions for implementation that can be found. Consequently, the applicability of this knowledge has to be critically assessed on a case-to-case basis. That said, it is reasonable to hypothesise that the mechanisms for implementation drift explored here are relevant far beyond our limited selection of cases. Even in cases where the causal mechanisms may work differently, influenced by factors that we have not addressed here, the elements of the causal model outlined in Fig. 7.3 should be relevant for consideration.

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# WHY AND HOW TO REGIONALISE THE COMMON FISHERIES POLICY
## A Theoretical Framework

*Troels Jacob Hegland*
Innovative Fisheries Management – an Aalborg University Research Centre, Denmark
tjh@ifm.aau.dk

*Kristen Ounanian*
Innovative Fisheries Management – an Aalborg University Research Centre, Denmark
kristen@ifm.aau.dk

*Jesper Raakjær*
Innovative Fisheries Management – an Aalborg University Research Centre, Denmark
jr@ifm.aau.dk

*Abstract* The concept of regionalisation, as it has been employed in connection with the Common Fisheries Policy, is both ambiguous and multidimensional in the sense that it can have different meanings to different people and subsumes several discussions under one heading. This fact further complicates an already delicate discussion. Similarly, the perceived benefits of regionalisation can vary. In this article we are concerned with developing a theoretical and conceptual framework, which allows structuring of different perceived benefits of regionalisation, as well as disentangles the different sub-discussions that the discussion of regionalisation subsumes. Eventually, we present a suite of five different models of regionalisation—'archetypes'—that we believe are relevant representations of important perspectives on what regionalisation means in practice and might facilitate further discussion of where the European Union should be heading in relation to fisheries governance.

## Introduction

The discussion of regionalisation, as it has in later years unfolded in relation to the Common Fisheries Policy (CFP) of the European Union (EU), is both complex and politically sensitive, as are the decisions potentially to be taken. Nevertheless, having observed and to some extent taken part in the discussions of recent, we feel that the lack of a clear (and perhaps common) conceptual framework for discussing regionalisation further complicates the matter. Consequently, this article offers a framework of concepts and possible regionalisation models, which we believe resonate in the ongoing discussion of regionalisation as a way forward for the CFP.

To us regionalisation is, as it is also the case for Symes earlier in this issue (Symes 2012), strongly associated with decentralisation of CFP governance. A main point in this regard is that the discussion of regionalisation must—due to the present highly centralised structure of the CFP—basically evolve around the need to make the management regime less centralised, rather than, which regionalisation could in principle also refer to, about making a management regime more centralised by strengthening a regional structure above for instance the level of individual countries. Interestingly, it can be argued that the initial establishment of the CFP is an example of the latter version of regionalisation: centralisation of fisheries management

authorities. Thus, as pointed out by Symes (2012), the CFP was originally basically designed and set up with the North Sea in mind. However, with numerous enlargements of the EU the CFP expanded from a policy for one regional sea to the continental wide policy, which it was never designed to be. However, decentralisation and regionalisation is not the same. Regionalisation includes a territorial component that decentralisation does not necessarily and, in that sense, regionalisation is a very particular instance of decentralisation. For a more thorough discussion of decentralisation, regions, regionalism and regionalisation please refer to Symes (2012).

This article consists of three parts before concluding in a brief discussion: Immediately following this introduction is a systematic overview of different theoretical reasons for why the CFP should be regionalised. The assertion is that regionalisation to be perceived as preferable must be seen as able to contribute to what can be perceived as basic objectives of CFP governance. The second part outlines and discusses the three main problem dimensions to address when designing a regionalised governance system for the CFP. In the third section, we outline a handful of what we refer to as 'archetypes' of regionalisation to flesh out possible ways that regionalisation of the CFP can be designed *vis-à-vis* the different problem dimensions. The article concludes in a brief, integrated discussion of the archetypes *vis-à-vis* the objectives of CFP governance.

The current article is kept on a relatively abstract level. However, to draw more specific implications for policy, the following article of this issue (Hegland, Ounanian and Raakjær 2012) applies the framework from this article to the discussion of regionalisation and reform of the CFP as it has played out in recent years, as well as reports on how the archetypes were received by stakeholders confronted with them by means of a survey.

## Why Regionalise? Outlining the Objectives of CFP Governance

Discussing regionalisation of the CFP is only relevant insofar that CFP governance could potentially in some way gain from being regionalised. Consequently, in this section, we develop and outline a relatively simple typology of theoretical objectives (or qualities) of CFP governance that regionalisation could in principle be perceived as contributing to. The specific benefits from regionalisation that people invoke can thus be expected to relate to one or more of the objectives in our typology and will, furthermore, affect how they imagine regionalisation should be put into practice, which is the topic of the subsequent sections.

### *The Three Basic Objectives of CFP Governance*

Our starting point is an understanding of 'governance' as consisting of, on one hand, a 'governance system'—defined as the system or network of public and private bodies having an impact on the content, implementation, enforcement, or interpretation, *et cetera*, of policies and measures adopted—and, on the other hand, the 'policies and measures' themselves—defined as the actual rules and regulations, *et cetera*, that citizens are subjected to.

Accordingly, in the context of the CFP, we argue that any perception of regionalisation as a favourable option will be motivated by a belief that either the governance system of the CFP or the policies and measures of the CFP—or both simultaneously—will benefit in one way or another from regionalisation.

Such distinction between the system itself and its products in the shape of policies and measures is related to Scharpf's (1997:19) notion of democracy having to be 'understood as a two-dimensional concept, relating to the inputs and to the outputs of the political system at the same time.' Scharpf's distinction highlights that a well-functioning democracy, which means one that is able to deliver 'collective self-determination', is contingent on both the system's ability to take up the preferences of citizens and balance the differences of interests through the decision-making system (which Scharpf refers to as 'input-oriented authenticity') along with the ability to transform preferences into actual outcomes that are effective in achieving stated goals (which Scharpf refers to as 'output-oriented effectiveness'). In our typology, we operate with these qualities of a democracy as two of the basic objectives of CFP governance and hence also major categories of reasons for wanting to move towards regionalisation.

However, to these two we add a third objective that also relate to the governance system, namely efficiency. In other words: how efficient the system is in the process of taking up preferences and transforming those into effective policies and measures. Where effectiveness is about getting the actual product (in this case a policy or a measure) in the best possible shape *vis-à-vis* the needs, efficiency is about optimising the production process, so to speak.

Consequently, our typology includes three basic theoretical objectives of CFP governance, which regionalisation can potentially contribute to: 1) ability to take up and balance preferences, 2) efficiency of the system, and 3) effectiveness of the policies and measures.[1]

In the following sections we take a closer look at these basic objectives and sub-divide each in more specific objectives by drawing more directly from literature specifically on fisheries management.

*Subdividing Objective 1: Increasing the Ability to Take Up and Balance Preferences*

The objective of being able to take up and balance preferences relates broadly to the legitimacy of the governance system. Arguments for regionalisation that invoke this objective are consequently concerned with how regionalisation can assist in bringing about a system where the dispersal of authority, power, responsibility or related measures of influence[2] across actors and institutions is (perceived as) more legitimate / fair or just than an alternative distribution. Where Scharpf label this 'input legitimacy', the more common term in the fisheries management literature is 'process (or procedural) legitimacy', which has traditionally been employed to refer to the legitimacy that fisheries management derives from being the product of a process or system perceived as fair and just (Jentoft 1989, 1993, Jentoft and McCay 1995, Raakjær Nielsen and Mathiesen 2003)

Literature on fisheries management has argued that participation of user groups positively influences the perception of the legitimacy of fisheries management

[1] It should be emphasised that the typology outlined here is relatively simple; particularly in terms of operating with only three basic objectives. The primary reason being that the first objective of our typology with its focus on take-up and balancing of preferences effectively collapses and includes a range of what could be seen as more detailed 'good governance' criteria, such as for instance of governance being transparent, inclusive, participatory, and so on.

[2] It should be acknowledged that authority, power, *et cetera*, can be both formal and informal. This distinction is of significant importance in the context of the EU, as recent years has evidenced an increase in the use of more informal ways of moving towards increasingly ambitious objectives—often referred to as soft law or new modes of governance—compared to the community method, which the traditional operating mode of the CFP is an example of.

and that this in turn will improve the level of compliance (Jentoft 1993), which is widely considered a *sine qua non* of successful fisheries management.[3] In relation to this, however, Jentoft introduces an important distinction by emphasising the need:

> To distinguish between *internal* and *external* legitimacy, and to recognize that these two types of legitimacy may be in conflict. For those directly involved, user-participation in decision making may improve legitimacy, but for the general public and other groups that are outside the process, user-participation may well be seen as a step in the wrong direction (Jentoft 2000:145).

On a general level Jentoft's observation highlights that there is no universal yardstick on how good a system is at taking up and balancing preferences. For some one specific way of organising the system might be perceived as the most legitimate, to others that specific way may be viewed as illegitimate. At the same time Jentoft points us in the direction of what might be one of the defining cleavages on our particular issue, namely the different perspectives of users as opposed to a wider set of stakeholders or citizens.

Consequently, arguments for regionalisation that invoke the objective of improving the take-up and balancing of preferences, which in turn 'produces' process legitimacy, can be sub-divided on the basis of whether they are driven by a concern for internal or external legitimacy. And these two perspectives will likely often translate into different perceptions of how regionalisation should look in practice.

*Subdividing Objective 2: Making the System More Efficient*

As mentioned, this objective is concerned with whether the policy process can be organised more efficiently—preferably, of course, without reducing its ability to take up or balance preferences or the effectiveness of its outputs. Arguments invoking this objective will advocate that regionalisation contribute to creating a situation where the same (or higher) level of goal realisation can be achieved with the use of less resources by reorganising the system and putting the resources in play in a more efficient way.

In our understanding this covers two interrelated but nonetheless distinct sub-objectives: efficient use of financial resources and efficient use of human resources. The two are interrelated insofar as financial resources are to some extent a means by which human resources can be acquired.

In relation to the efficient use of financial resources a main issue is the balance between the public costs of managing the fisheries sector *vis-à-vis* the public benefit of having a fisheries sector. It has been noted that in several member states the value of landings is now lower than the costs on the public budget related to carrying out fishing activities (Commission 2009). Although the public benefit of having a fisheries sector can be difficult to make up and that the value of landing is not a definitive measure for the public benefit[4], this discrepancy clearly puts the issue of the efficient use of financial resources at the centre of attention for the reform of the CFP.

In principle financial resources are a means by which human resources can be acquired. However, when we talk about the efficient use of human resources in the

[3] However, it has also been argued that many other factors influence compliance and that the degree of user participation might not be the most important (Raakjær Nielsen and Mathiesen 2003).

[4] As an example, in several member states fishing activities are considered part of a cultural heritage and something that attract tourists; likewise there might be regional concerns that are not easy to calculate.

context of the governance system of the CFP, we primarily think of human resources that cannot in a simple way be acquired merely by spending financial resources. It is more than 'just' a financial issue. Examples of this could be highly qualified scientific expertise or elected decision-makers. Consequently, when using scarce human resources, it is vital that these resources are put to work in the most efficient way.

*Subdividing Objective 3: Providing for More Effective Policies and Measures*

Whereas the first two objectives of our typology highlight respectively the legitimacy of the governance system and its efficiency, the third objective—more effective policies and measures—focuses attention on the outputs from the system. Scharpf uses the concept of 'output-legitimacy' to refer to the legitimacy that a policy or a measure can derive from being perceived as effective in reaching its goals. Output-legitimacy is thus not the same as effective policies or measures but rather a result of them.

Jentoft (1989), focussing on the legitimacy of management measures among fishermen, argues that there are primarily two elements at play in relation to this kind of legitimacy, which he labels 'content legitimacy': 1) that a measure—to be perceived as legitimate—has to 'coincide with the way the fishermen themselves define their problems' (Jentoft 1989:139) and 2) that the measure needs to be equitable. Content legitimacy is 'in the eye of the beholder', so to speak.

So fishermen prefer policies and measures that coincide with how they perceive the problems, but so will other stakeholder groups; they will also have different perceptions of what the problems and thereby appropriate solutions are—and equity among fishermen may not necessarily be one of them.

Currently, the stated objective of the CFP is to 'Ensure exploitation of living aquatic resources that provides sustainable economic, environmental and social conditions' (Council 2002:Article 2.1). Of course, the perception of whether CFP measures are appropriate to achieve the goals will to a significant degree depend on how the individual weighs these different, specific fisheries management objectives in relation to each other.

The three objectives of the CFP reflect what Charles (1992) presents as the three conflicting fisheries management world views or paradigms: 1) the 'conservation paradigm', focussing on conservation and resource maintenance; 2) the 'rationalisation paradigm', focussing on economic performance and productivity; and 3) the 'social/community paradigm', focussing on community welfare and equity. It should be noted, though, that the paradigms are theoretical constructs, which will usually not be found as pure orthodoxies in real life but rather as blended preferences.

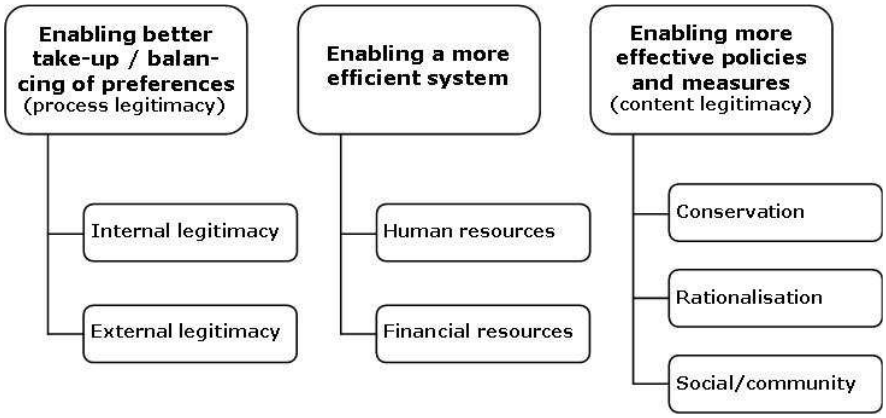
Anyhow, in relation to our conceptual framework the implication of the co-existence of conflicting fisheries management worldviews has the implication that arguments for regionalisation that depart from the objective of more effective policies and measures might very well depart in conflicting ideas of what fisheries management is all about and therefore be fundamentally different in their implications for regionalisation in practice.

*Putting the Typology of CFP Governance Objectives Together*

Based on the above sections we can now 'assemble' our typology. As evident from Figure 1 beneath, the typology is based on the notion that there are three basic objectives of CFP governance and a range of more specific sub-objectives. Our assertion is that any specific argument for of how the CFP would benefit from moving towards regionalisation will relate to one or more of these objectives or sub-

objectives, Thus, our typology of objectives is effectively also a typology of the different benefits that regionalisation can be perceived as having.

*Figure 1. A Typology of CFP Governance Objectives*




Having now identified the different objectives that regionalization can in theory contribute to; we turn our attention to the different dimensions of the regionalisation discussion.

## Problem Dimensions of Regionalisation

As mentioned in the introduction, we believe that part of the complexity of the regionalisation discussion stems from the fact that the discussion subsumes three intertwined sub-discussions or problem dimensions. These discussions pertain to the questions of 'what', 'where' and 'whom'—issues which can only be separated analytically. Consequently, this section disentangles the discussion into the three important problem dimensions of regionalisation of the CFP: 1) what kind of authority should be regionalised, 2) where on the politico-administrative scale should regionalisation take place, and 3) who should be the recipients of authority at any given level of the scale.

Anyway, before turning our attention to the problem dimensions, it seems appropriate briefly to introduce the current set-up of the CFP, which will be the point of departure of regionalisation, as well as introduce the different shortcomings that the current CFP is suffering from (see also Raakjær and Hegland, 2012, as well as Symes, 2012, for more details).

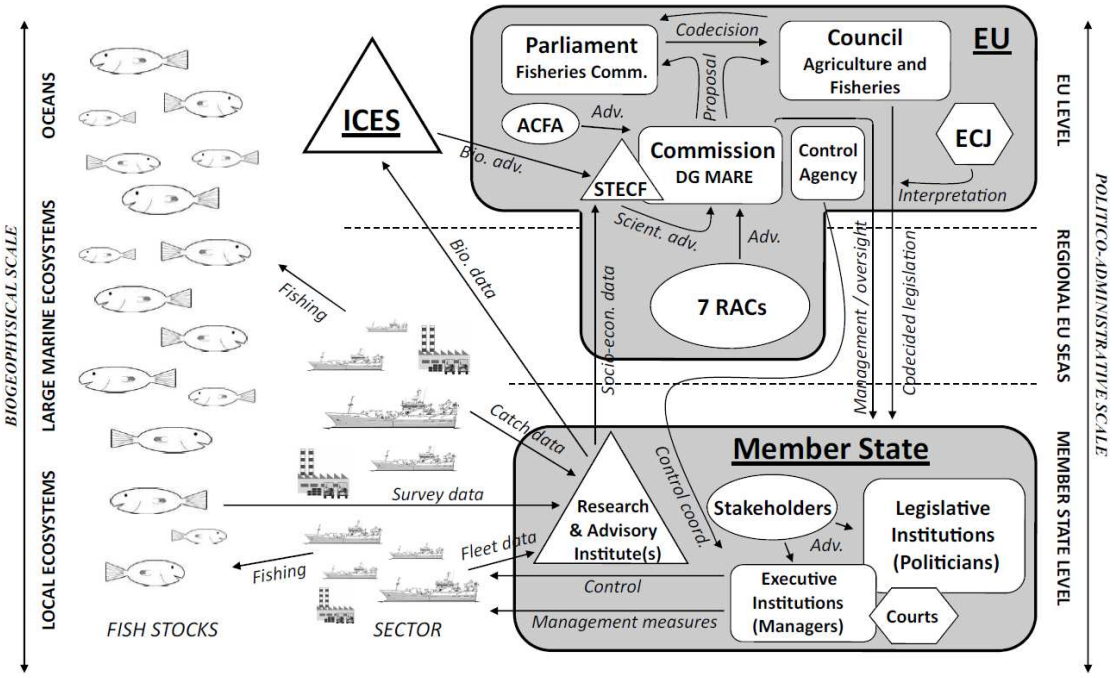
### *Current CFP Governance*

What Figure 2 beneath depicts appears to be a centralised, top-down policy-making and implementation system, which only to a relatively limited extent involves stakeholders. And indeed we would argue that this is in general terms a fair description of the CFP.

Nevertheless, it should be emphasised that Figure 2 is a crude simplification of what is in reality the situation, namely the existence of a considerably more complex multi-level governance setting, where networks of both formal and informal interactions transgress the different institutions at the different level of the system as well as across, where various stakeholder groups works to exert influence on the various EU institutions also outside the remit of the official advisory structure, where

national civil servants and politicians meet in formal and informal working groups organised under the Council or the Commission, *et cetera*.

*Figure 2. A Simple Model of Current CFP Governance*




(Scientific bodies are depicted as triangles, judiciary bodies as hexagons, stakeholder bodies as elipses, and policy/management bodies as 'soft' rectangles. Abbreviations used: ICES (International Council for the Exploration of the Sea); Commission (Commission of the European Communities), DG MARE (Directorate-General for Maritime Affairs and Fisheries), Parliament (European Parliament); Council (Council of the European Union); ECJ (Court of Justice of the European Communities), Control Agency (Community Fisheries Control Agency), STECF (Scientific, Technical and Economic Committee for Fisheries), ACFA (Advisory Committee on Fisheries and Aquaculture), RAC (Regional Advisory Council), and Adv. (advice))

Anyway, though recognising that the picture is in reality much more complex than what is illustrated, the situation of the CFP remains one charachterised by a top-down, command-and-control approach to management, which—although being the process of increasingly complex formal and informal processes—is generally being shaped in a continous process of the Commission drafting, the Council and Parliament adopting together through the codecision procedure, and the member states implementing.

Figure 2 indicates that the governance system of the CFP operates across three politico-administrative levels: the member state level, the (embryonic) intermediary level of regional EU seas (or the RAC areas), and the EU level. Due to the fact that the protection of living aquatic resources is recognised as one of only a handful of issues under the exclusive compentence of the EU, the central EU level is in a position to take a very wide range of decisions relating to fisheries manageement. Moreover, the policy system is embedded in the binding principle of non-discrimination, equating to a standard set of regulations or 'harmonisation' for its 'common pond'—the combined waters of the member states (Symes 1997). Furthermore, the EU allocates fishing opportunities based on a firmly rooted principle of 'relative stability', which may be the most path dependent element of the CFP (Hegland and Raakjær 2008). The

implication hereof is that the CFP governance system is predisposed to exerting a high degree of micro-management from the central EU level.

Thus, Council Regulation No 2371/2002, known as the basic regulation, provides the Council with the necessary authority to govern access to fishing zones and resources and the sustainable pursuit of fishing activities, including limiting catches; limiting fishing effort; adopting technical measures; adopting multiannual recovery plans; and adopting multiannual management plans. Unfortunately, as discussed in the introduction to this issue (Raakjær and Hegland 2012), the set-up may have provided a stable and strong institutional basis for EU-wide fisheries management but has not to the same extent provided sustainable fisheries.

In a recent analysis of the situation, Raakjær (2009:147-48) outlines the current state of affairs in terms of problems in the CFP and its surrounding environment:

- For many years overfishing has been evident resulting in a critical resource situation.
- A fragmented fishing industry, leading to a fragmented interest structure in the EU fishing industry.
- Lack of commitment within the Council to ensure sustainable fishing.
- Persistent lack of political will in the Council and the member states to reform the CFP.
- Member states emphasise domestic interests.
- A strong tendency to apply off-the-peg approaches (one size fits all).
- Inconsistency between structural policy elements and conservation elements within the CFP.
- The management regime building on total allowable catches (TAC) set for single species is not effective in multispecies demersal fisheries.
- Problems of "implementation drift" and lack of enforcement exist in the member states.
- A clash between the ways administrators and fishermen view the goals and means of the management regime.
- Attempts to introduce elements of "New modes of governance" have not been successful in the fisheries domain.
- The type of co-management introduced has not led to responsible behaviour.

Within the area of fisheries management, there has been a growing recognition that effective fisheries management relies on allowing rules to differ between different fisheries, as pointed out by Symes (2007). However, the monolithic structure of the CFP complicates this in Europe, where even matters of details are decided at the central EU level. Following from its status as an exclusive competence area of the EU, the protection of living aquatic resources is excused from the principle of subsidiarity, which otherwise entails that decisions in the EU should be taken at the lowest level appropriate. However, that it is not mandatory to follow the principle does not mean that it is not allowed or preferable.

Thus, understanding the present structural failures of the CFP closely relates to the mismatch in scale levels, particularly the lack of ability to find the 'right fit' of scales levels for governance intervention. As illustrated in Figure 1 above, the 'levels' of the natural system are not necessarily reflected by corresponding levels on the politico-administrative scale.

The problem of scale and governance has been addressed by several influential scholars. For example, Ostrom (1990) invokes the concept of 'nested enterprises', Kooiman et al. (2008) refer to 'orders of governance', and Symes (2007) uses the term 'scales of governance'. They all introduce different levels of rules or orders of governance that can be thought of as different spheres of influence encased in one another. However, matching the political boundaries to manageable areas or ecologically appropriate scale levels poses particular challenges in relation to fisheries and other marine management concerns. Specifically *vis-à-vi*s the CFP, the EU's Marine Strategy Framework Directive (MSFD) and the Integrated Maritime Policy (IMP) both present new considerations in this regard (van Hoof, van Leeuwen and van Tatenhove 2012).

*Regionalising What?*

The first problem dimension of the discussion relates to the question of determining which authorities that should be placed at the various politico-administrative levels. Although all kinds of authority are in play in this regard, the power to take decisions is of special importance.

Generally, developed fisheries management systems include a hierarchy of decisions ranging from the most general to the most specific. In the terminology of Ostrom (1990) 'constitutional rules' represent the outermost sphere, as they dictate the structure of governance and the overall political organisation of the system, 'collective-choice rules' are nested within the constitutional rules and concern policy-making and management decisions, and, lastly, 'operational rules' involve the daily decisions of managing fisheries, as they involve monitoring, enforcement, and other actions on the ground level. Operational rules are the innermost sphere and, thus, are nested in both collective-choice and constitutional rules. Other scholars employ different terminologies. However, a main message that we draw from this is that for each of the 'nested enterprises', 'orders of governance' or 'scales of governance' it is in principle possible to determine, which decisions are most appropriately taken there. However, in practice this is a highly complex and politicised discussion, not least in the context of an organisation such as the EU where there are marked differences between the member states when it comes to both the national fisheries systems as well as the culture of public administration.

Without going into the actual discussion of what specific decisions under the CFP that are most appropriately taken at what politico-administrative level, it might be useful in brief to outline the current hierarchy of the regulatory framework of the CFP. Ignoring that the EU is part of a system of international agreements, the top level of the CFP regulatory hierarchy is the Lisbon Treaty, which outlines the basics of the mode of cooperation in the EU as such and the area of fisheries in specific ('constitutional rules'). It is for instance the Lisbon Treaty that stipulates that the area of fisheries is a co-decision area, where the Parliament and the Council decides in cooperation. The second layer of the hierarchy is the so-called Basic Regulation, which generally deals with a mixture of 'constitutional' and 'collective choice' rules and is reviewed every ten years. It is for instance in the Basic Regulation that the system of total allowable catches is outlined as well as rules on access to waters and so on. Likewise, overall strategies for fisheries management such as 'maximum sustainable yield' (MSY) as a target for stock exploitation and the application of the ecosystem approach to fisheries as a management philosophy are contained in the Basic Regulation. The third regulatory layer consists of more specific regulations or decisions for different components of the CFP, in relation to conservation the most

important being the Technical Measures Regulation, which is negotiated yearly and outlines detailed provisions on how to fish in practice in the EU by stipulating days-at-sea, mesh sizes, allowed gear types, and so on, for various fisheries and fleet segments ('operational rules'). Finally, the member states have the authority to decide on for instance how to allocate fishing rights ('collective choice') as well as on how to in practice implement the decisions taken at EU level ('operational rules').

So regionalisation is, we would argue, about allocating the right to take particular decisions (and other authorities) to the right levels. Recalling the notion of 'nested systems', there is nothing that says that elements of for instance 'constitutional rules' (e.g. how to include stakeholders) cannot be decided at lower levels, as long as they respect the 'constitutional rules' decided at higher levels (e.g. democracy and sustainable fishing). In fact, this may in the light of the principle of subsidiarity be preferable.

Finally, it should be recalled that *vis-à-vis* the above discussion, there is a separate discussion to be taken in relation to the extent to which fisheries management decisions should be dealt with in separation from broader marine management or not.

*Regionalising to Where?*

As illustrated earlier by Figure 1, the governance system of the CFP operates over several politico-administrative levels, most prominently the member state level, the intermediary level of regional EU seas (or the RAC areas), and the EU level. Moreover, the EU is embedded in a global international level as signatory to a number of treaties, conventions, and declarations dealing with fisheries policy and management. Likewise, at the other end of the scale, a number of member states embed within them subnational politico-administrative levels with relevance for fisheries management.

In any effort to regionalise it must be decided to which level or component of the organisation or system that a particular authority could most appropriately be allocated. In relation to the CFP, it is important to bear in mind that the politico-administrative scale has its counterpart in a bio-geophysical scale reflecting the biological system of the sea, as also illustrated in Figure 1. One scale level of the natural system could be a fjord or a bay, and on the other end of the spectrum would be the oceans or ultimately the global marine ecosystem. In between we have the regional seas, of which the North Sea and the Baltic Sea are examples. The scale levels of the natural system are not, however, neatly reflected by corresponding levels of policy-making/management on the politico-administrative scale, which is one of the challenges of operating the current governance system of the CFP. Thus, creating a better match between scale levels of the governance system and the scale levels of the natural system may call for regionalisation.

A particular challenge in relation to this problem dimension relates to the fact that the EU legal framework does not allow politico-administrative structures with decision-making powers between the EU level and the member states—in effect these powers can be held be either by the EU or by the member states. Of course, however, this does not rule out regionalisation. In principle, we would argue, there are at least three ways to get around this problem. The least ambitious is the one already applied. Establishing the RACs did represent some sort of regionalisation of the CFP, and since the RACs are exclusively advisory bodies that did not constitute a problem in a legal sense. However, insofar that regionalisation presupposes more authority at the regional level than merely that of a right to be consulted, a possibility would be to create an informal structure that is in a legal sense not decision-making but might be so *de facto*. Finally, the most advanced solution but also legally most tricky is to

resort to indirect regionalisation, where authority is awarded to the EU member states on the condition that they exercise that authority jointly with the other relevant member states in the region. This resembles to a wide degree one of the visions presented in the Commission's Green Paper:

> Another option to be carefully considered would be to rely wherever possible on specific regional management solutions implemented by Member States, subject to Community standards and control. […] In most cases this delegation would need to be organised at the level of marine regions […]. Member States would therefore have to work together to develop the setups required. (Commission 2009:10f)

*Regionalising to Whom?*

Even if a clear vision might exist as to what authorities are best placed at what politico-administrative level, as discussed in the sections above, the issue remains to decide to whom management authority should be awarded. A key issue in this regard is the question of how private interests—as opposed to public bodies that are traditionally in one way or the other linked up to representative democracy—should be involved in the process at any given politico-administrative level.

According to democratic theory, those affected by a decision should be given the opportunity to participate in the decision-making process related to it (Dahl 1989), and today most fisheries management systems worldwide include elements of involvement of users and stakeholders in the development of management measures (beyond the involvement coming from representative democracy in which users and stakeholders are of course also voters). Often these arrangements are of a sort that is generally known under the label 'co-management', which Jenfoft (2003:3) defines as 'a collaborative and participatory process of regulatory decision-making between representatives of user-groups, government agencies, research institutions, and other stakeholders'.

Sen and Raakjær Nielsen (1996) have provided empirical evidence on a variety of different co-management arrangements based on user and stakeholder involvement in fisheries management. Not surprisingly, they observed a large degree of variation across fisheries and regions and even within specific countries. Their conclusion is that the proper design principles depend upon the context and conditions under which the co-management arrangement must operate. Sen and Raakjær Nielsen (1996) observed moreover that the development of co-management arrangements often evolves gradually through a process of muddling through, noting that the process is always dynamic; a finding also supported by Jentoft and McCay (1995).

In order to facilitate the discussion of different options for user and stakeholder involvement in fisheries management in the EU, we have outlined a revised and modified version of the typology of fisheries co-management regimes originally presented by Sen and Raakjær Nielsen (1996). Inspired also by Raakjær (2009), we suggest the existence of five levels of stakeholder-involvement[5], which form a continuum range from little or no involvement over various visions of co-management to ultimately self-management:

[5] We acknowledge that this typology is a simplification of a very complex situation. There is a multitude of tasks that can be managed under different types of institutional arrangements and at different stages in the management process. Moreover, we have decided to refer to the typology as one of 'stakeholder involvement', as the two outliers are hardly co-management variations.

1) 'Top-down hierarchical management by the state'; where mechanisms for dialogue with users and stakeholders might exist, but only minimal exchange of information takes place and EU/national governments decide what information to share.
2) 'Co-management by consultation'; where extensive formal mechanisms for consultation (and feedback on use of recommendations) with users and stakeholders exist, but all decisions are taken by EU/national governments.
3) 'Co-management by partnership'; where EU/national governments, users, and stakeholders cooperate as decision-making partners in various aspects of management.
4) 'Co-management by delegation'; where EU/national governments have devolved *de facto* decision-making power to users and stakeholders in relation to various aspects of fisheries management.
5) 'Industry self-management with reversal of the burden of proof'; where the government has devolved wide-ranging management authority to users and stakeholders, who must demonstrate to EU/national governments that management decisions are in accordance with the given mandate.

Traditionally, stakeholder involvement within the CFP has primarily been variations of the two top categories, in other words the least ambitious. Even the 2002 CFP reform, which introduced the Regional Advisory Councils (RAC), only consolidated the 'co-management by consultation' approach in the CFP as the means to obtain inputs from the regional and local level into the CFP decision-making.

However, the question of who are the specific stakeholders that should be involved is also contentious. In the EU it is commonly accepted that those dependent on fishing for their livelihood ought to be well-represented in the management process. Nevertheless, as part of a broader trend worldwide, the EU is encouraging broader stakeholder representation. Even though industry upholds a dominating position, conservationists and consumers are today represented in EU consultative bodies. There are many interests related to fisheries issues and this might, at least in principle, call for representation of a broad set of stakeholder organisations. However, in a system such as the EU where it is already a challenge to balance industry interests from different countries with each other this serves to further complicate matters and constitutes yet another choice to be made when designing regionalisation.

## Merging What, Where and Who: A Selection of Archetypes of Regionalised Governance of the Common Fisheries Policy

The following section outlines five qualitatively different models of regionalisation of the CFP on the basis of our discussion so far. In other words, each of the following models reflects an integrated perception of how the questions of who, where, and what could be answered 'in practice' and they also contribute to the objectives of CFP governance in varying ways. By referring to these models as 'archetypes' we emphasise that they are—rather than detailed ready-to-apply systems—rough skeletons drafted primarily with the intention to create an illustrative suite of potential models, which could form a point-of-departure for discussions.

We do not claim that this is a complete list of possible models—far from it. A full list of theoretical models based on our three problem dimensions including sub-dimensions would be almost unimaginably long. Simply consider that the variation of

stakeholder involvement (five options) multiplied by the issue of whether regionalisation should be about fisheries management or marine management (two options) results in ten different models.

Consequently, in deciding on our selection of archetypes we have not resorted to any such automatism but rather included five models that we based on our pre-knowledge of the CFP believe capture important perceptions of ways to go forward. It should be mentioned, however, that we have prioritised presenting and discussing models that represent a significant and qualitative change from the current system as opposed to models that represent variations of the current system.

*Archetype 1: Nationalisation*

The first alternative to the current governance system in our selection of regionalisation archetypes is the Nationalisation model. The Nationalisation model represents a qualitatively different configuration to the current system and also stands in contrast to the subsequent models outlined, where an intermediary level of governance between the EU and the member states is actively sought strengthened. This is not the case under the Nationalisation model, which puts the member states at the centre. In that way it represents a perspective on regionalisation that responds to the question of 'where' in a fundamentally different way than any of the other models in the selection—and this is its trademark.

**Nationalisation**
The member states are awarded the responsibility for the conservation of resources in their own Exclusive Economic Zones. Issues relating to shared stocks would be sorted out through a system of bilateral agreements between member states or any other arrangements that the member states themselves deem necessary. The level of involvement of stakeholders would be an issue for the individual member state to decide.

In its pure form the Nationalisation model entails arguably the most radical change from the current system among the presented selection of regionalisation models. In fact Long (2010) argues that nationalisation, in the sense that we outline it above, would require an amendment of the Lisbon Treaty. This model turns EU fisheries management upside down by awarding the authority for resource conservation measures to the member states within their own Exclusive Economic Zones (EEZ)—as opposed to the current system where this is one of only a few exclusive competences of the EU. Management of stocks shared by different states would then, likely, be a matter of setting up bilateral or multilateral agreements among the countries (EU as well as non-EU) in whose EEZs the stock in question inhabits, much like the agreements that are negotiated yearly between for instance Norway and the EU.

The Nationalisation model would per definition eliminate the problem of excessive micromanagement or one-size-fits-all solutions from the EU level, as in principle the EU would not even be in a position to coordinate approaches. Because it will in general be up to the individual member states to decide their national approach, it is difficult to say much more about how such a system would operate in practice at the level of fisheries. For instance, at member state level micromanagement may continue under such a system depending on the national style of management. Nonetheless, stakeholders exclusively concerned with stocks present in the EEZ of only their own member state will likely feel that decisions are being made closer to them and they could, depending on the national style of management, have more direct say in the management of such stocks. In opposition, those concerned with stocks shared with other member states or stocks in other member

states' EEZs will have less say, and their interests will have to be defended by their government in negotiations with other states. This would be the situation in many fisheries, as the geopolitical characteristics of EU waters results in a high number of shared stocks.

*Archetype 2: Regional Fisheries Management Organisations*

The heart and soul of the Regional Fisheries Management Organisation (RFMO) model is the establishment of formalised structures with 'institutional personalities' at the regional level. The RFMOs are—via delegation of authority to the member states on condition that they exercise their power jointly—given authorities to be exercised without interference from the central EU level within a specified mandate.

**Regional Fisheries Management Organisations**

Under this model the member states would be given wide authority for fisheries conservation on the condition that the member states with fishing interests in a regional sea area establish a regional fisheries management organisation (RFMO) to deal with fisheries management issues specific to that area. A general framework for regional approaches will be provided by the central EU institutions. The stakeholders' input will continue to be channelled through the RAC. However, the RAC would in most cases advice the RFMO rather than the central EU institutions. The exact extent to which stakeholders' input is given weight in the decision-making process of the RFMO is up to that organisation on a case-by-case basis.

Generally, only member states with fishing interests in the specific sea area covered by the individual regional management organisation would participate in the RFMO—or alternatively, in a stricter interpretation than the one reflected in our text above, only member states with coastlines to the region. The geographical coverage of the individual regional management organisation would be the 'regional sea area', which may have different meanings to different sets of interests. However, generally the term 'regional sea area' when discussed in the context of EU fisheries management would refer to areas such as the North Sea or the Baltic Sea, or marine regions such as those covered by the RACs or alternatively the regions and sub-regions outlined in the MSFD (European Parliament and Council 2008).

The RFMO model presupposes considerable authority placed with the regional organisation—referred to as 'wide authority' above. Although not specifying how much authority this entails, the text above indicates that their authority should at least allow the different regional organisations to develop different approaches to management.

Under this model the RACs would continue to provide stakeholder input to the decision-making process. Basically they would continue operating as they do under the current system with the modification that instead of the Commission being the primary recipient of advice, the RFMOs or the member states in their capacities as part of the RFMO would become the main recipients.

This model potentially relieves the central level of the burden of micro-managing; at the same time, the EU would, as opposed to under the Nationalisation model, maintain a coordinating role as well the ability to set the overarching goals and the frame for the regional approaches. This would potentially increase the system's ability to tailor-make management as the EU would not have to apply off-the-peg, one-size-fits-all management solutions to the same extent as today. Furthermore, the feeling of distance between the decision-making body and the place where impacts of management or mis-management are felt would be reduced. Delegation of some authorities to a lower level would potentially facilitate more timely management measures as only the most principal decisions would have to go through the lengthy

process of joint decision-making between the Council and Parliament. Ideally, therefore, this model offers a more efficient and legitimate governance system as well as policies and measuress more closely corresponding to the needs of the specific region.

However, what this model offers in particular compared to most of the models in our selection of archetypes is first and foremost that the model builds to a relatively wide extent on the current structures. The RAC can, as an example, be allowed to continue operating in a relatively unchanged format as an advisory body. As a consequence, this model also offers a governance system where there is a clear differentiation between those governing and those being governed. Based on advisory input from stakeholders, the EU and the member states would decide on how to do management. Coordination with other policy areas would need to be taken care of through the general framework decided upon by the central EU institutions or possibly in cooperation with other regional management organisations charged with other elements of marine management.

In terms of the level of stakeholder involvement, however, this model does not move beyond the weakest form of co-management, namely 'co-management by consultation'. However, the feeling of being heard (and maybe also in reality being listened to) might be increased by getting a closer match between the RACs as advisory bodies and the RFMOs as decision-making bodies. Moreover, it should be noted that there is nothing in the model that hinders that a decision could be taken at regional level to involve stakeholders more in the decision-making process, which would then potentially move the regional system towards more evolved co-management.

However, these advantages are not guaranteed. In contrast, it could also be argued that the governance system will lose efficiency by including yet another decision-making level and that the system loses legitimacy because of even more complex procedures. Moreover, establishing mechanisms for ensuring delivery of the targets/the frame agreed at central level remains a challenge in this regional management organisation model as well as the next two variations, see beneath.

*Regional Fisheries Co-Management Organisations*

Our second variation on the regional management model theme in our selection of archetypes, the Regional Fisheries Co-Management Organisations (RFCOMO) model, distinguishes itself from the RFMO model described above by specifying stronger direct involvement of stakeholders in the regional decision-making process.

**Regional Fisheries Co-Management Organisations**

Under this model the member states would be given wide authority for fisheries conservation on the condition that the member states with fishing interests in a regional sea area establish a regional fisheries co-management organisation (RFCOMO) to deal with fisheries management issues specific for that area. A general framework for regional approaches will be provided by the central EU institutions. The RACs would cease to exist; instead stakeholders, scientists, and member states' administrators would work together within the RFCOMO to determine the best strategies for their regional area.

This model delivers stronger ownership of regulations by those subjected to them. Where the RFMO model allowed regional decisions to be made by the member states' representatives alone acting on advice from stakeholders in the RAC, this model presupposes joint decision-making between member states' representatives and stakeholders. Consequently, not only does this model decentralise authority to the

regional level with the potential benefits that this entails, it also moves the system from 'co-management by consultation' to 'co-management by partnership' in relation to the specific authorities given to the RFCOMO.

Enlarged with government representatives and possibly scientists, in principle the RACs could be reorganised into RFCOMOs since the stakeholder expertise needed is already present there. In any case, the RAC, as the type of organisation it is presently, would likely cease to exist. As compared with the RFMO model, the RFCOMO model represents a more drastic change from the current system. Not only does the RFCOMO require delegation of authority from the central level to the regional level—as in the case of the RFMO via delegation of authority to the member states on condition that they exercise their power jointly—it also blurs the line between those being governed and those elected to govern. A lack of distinction such as this could pose particular challenges in terms of traditional good governance criteria such as accountability and transparency, as it might become less apparent who is actually doing the governing and in relation to some of those involved it will be difficult to hold them democratically accountable. Moreover, there is also a discussion to be taken in relation to how different stakeholder groups should be balanced. This discussion becomes much more delicate in the RFCOMO than in relation to the other models, where stakeholders are not awarded direct decision-making capabilities.

In terms of the geographical coverage and the interpretation of 'wide authority' the RFCOMO resembles the RFMO. Likewise, besides the potentially stronger buy-in of stakeholders to management measures than what can be expected by the RFMO, the RFCOMO potentially delivers the same benefits and suffers from the same weaknesses, as further expanded above.

*Regional Marine Management Organisations*

Compared to the RFMO and the RFCOMO, the distinctive feature of the Regional Marine Management Organisation (RMMO) model, which also suggests the setting up of a regional organisation, is that it broadens the perspective of the possible regional organisation from dealing exclusively with management of fisheries to managing several or all activities of a specific regional marine area. Establishing this kind of organisation attempts in particular to tackle one of the coming years' major challenges, namely that of implementing a more holistic approach to environmental management.

**Regional Marine Management Organisations**

Under this model the member states would set up regional marine management organisations (RMMO) with responsibility for coordinating all matters relating to the regional sea areas. Stakeholders from all sectors would be involved in some form—either as advisors or in a more co-management-like structure. The RACs could continue to operate, but would only be providing advice as one of the affected sectors of the RMMO. Alternatively, the current RACs could be opened for a wider group of stakeholders. A general framework for regional approaches will be provided by the central EU institutions.

The advantage of this model is its holistic approach, which goes hand in hand with the ecosystem approach to management. Potentially, the RMMO would be a forum for coordination of all the interests that claim their right to the marine space in a particular region. Having an integrated organisation for this would be an advantage insofar that integration of policies would be much more manageable since it would only involve one organisation and not several organisations having to interact.

In terms of the actual authority of the RMMOs, the regional organisation would be tasked with 'coordinating' all matters relating to a particular marine region, which might be interpreted as somewhat weaker than the 'wide authority' of the previous two regional management organisation models. Moreover, when discussing the issue of stakeholder involvement this archetype leaves that an open question.

A particular challenge of this model is that it only to a very limited extent builds on the current system. As suggested by van Hoof, van Leeuwen and van Tatenhove (2012) elsewhere in this issue, a way forward could be to establish regional bodies by merging the RACs with the Regional Sea Conventions, e.g. HELCOM (the Helsinki convention for the Baltic Sea) and OSPAR (Convention for the North Sea). These organisations are presently not part of the EU system but play nonetheless and active role in relation to implementation of the MSFD.

*Cooperative Member State Councils*

The last model in our selection of regionalisation archetypes, the Cooperative Member State Council (CMSC) model, is the one that necessitates the least change to the current CFP governance structures. In fact the CMSC model can in principle be set up without having to formally reallocate authority in the governance system at all.

**Cooperative Member State Councils**
The institutional structure and formal distribution of powers remains largely unchanged. However, the member states with fishing interests in a regional sea area establish mini-councils to deal with fisheries management issues specific to that area. These mini-councils forward their recommendations for formal approval to the overall EU Fisheries Council. The RAC would in most cases advice the mini-council rather than the central EU institutions. The exact extent to which stakeholders' input is given weight in the recommendations of the mini-council is up to that mini-council on a case-by-case basis.

As described, the formal distribution of authority and the institutional structure stays largely as it is in the current system. Consequently, the central EU institutions remain formally in charge of deciding on most fisheries management issues in EU waters. However, for each regional sea the member states with fishing interests there (or in a stricter interpretation: coastlines) set up on a more or less formalised basis mini-councils to provide the central EU Fisheries Council with recommendations on fisheries management issues specific to that area. The RACs would provide the regional mini-councils with stakeholder input and thus the RACs would continue to operate more or less in the current form, now with the member states of the regional mini-council and the Commission as the primary recipients of advice.

To provide significant advantages as compared to the current system, it is a precondition that the recommendations from the mini-councils are, as a general rule, not challenged by or renegotiated in the central EU Fisheries Council, but rather adopted as the position of the Council in the decision-making process. Consequently, this model is highly dependent on the presence of political will in the EU Fisheries Council and the Commission—as well as in the European Parliament—to allow for different approaches and accept that one region might favour a different path than another region.

The primary advantage of this model is the relative ease with which it could be installed. Under this model the EU central level would still apply management from the centre, but the exact nature of that management would *de facto* (but notably not *de jure*) be decided at the regional level. This would in practice allow member states sharing an interest in a specific region to develop their own strategies without having

to worry about how the adopted approach will be received by all the other EU member states, which by default would opt out of having a say in management in the areas where they do not have a direct interest.

Although empowerment of stakeholders is not a specific aim of this model, it is nevertheless likely that a relationship could develop between the mini-council and the relevant RAC. Potentially this could reduce the feeling of distance between those making the decisions and those subjected to them, perhaps enabling stakeholders to propose measures that better fit the actual situation of the region in question.

In contrast to the various regional management organisation models, as an example, this model does not have the same potential in terms of delivering more timely management by excluding the central level from a number of more technical decisions.

## Discussion

In the present article we have outlined a theoretical and conceptual framework for aspects that need to be taken into consideration when discussing regionalisation of the CFP. The article unfolded in three parts, respectively concerned with: 1) developing a typology of CFP governance objectives, which regionalisation can be seen as contributing to; 2) outlining and discussing the three main problem dimensions to address when designing a regionalised governance system; and 3) the presentation of a representative suite of archetypes of regionalisation.

Our article takes outset in an understanding of three basic objectives of CFP governance, namely 1) the ability to take up and balance preferences in a way that is perceived as legitimate, 2) the ability to do this in an efficient way, and 3) the ability to deliver policies and measures that are effective. We subsequently divided each of these objectives into more—in some cases partly conflicting—sub-objectives.

Further, we argued that overall challenge in relation to designing regionalisation of the CFP can be related to three problem dimensions: the kind of authority that should be decentralised; the politico-administrative scale to where decentralisation should take place; and who should be the recipients of authority at any given scale and these dimensions have been unfolded in details in the framework.

In particular, in relation to the problem of who should be the recipients of authority at any given scale, the article offers a typology of how stakeholders can be involved in CFP governance, ranging from little to no involvement, over what is referred to as variations of co-management, to self-management. The CFP has traditionally been heavily top-down driven, as illustrated in Figure 2, and even the latest CFP reform, which introduced RACs, did not move governance beyond a weak version of co-management—what we refer to as ‘co-management by consultation’ in our typology. A major opportunity related to future regionalisation is, consequently, to let regionalisation be not only about moving authorities between different politico-administrative levels but also moving authority outwards, towards users and stakeholders.

As an example, one could argue for a package solution with an inbuilt hierarchy—a funnel approach to representation, in which the EU level sets clear principles and long-term objectives, standards and frameworks, but where extensive formal mechanisms for consultation (and feedback on use of recommendations) with users and stakeholders exist, although all decisions are taken by EU/member states. The regional level could then develop implementation plans and guidelines tailored to

regional conditions, and here stakeholder involvement could be through consultation as for the EU level or through the more ambitious 'co-management by partnership', where regional member states, stakeholders and users cooperate in developing the implementation plans.

In the last part of the article, we explored more way of going about regionalisation in practice and presented a suite of so-called archetypes of regionalisation: five models that we based on our knowledge of the CFP believe capture important perceptions of ways to go forward towards regionalisation of the CFP's governance system. The five archetypes provide different ways of decentralising management authorities and vary in terms of stakeholder involvement or the type of co-management to become in place. In other words, each of the archetypes reflects integrated perceptions of how the questions of who, where, and what could be answered 'in practice'. As in many other situations, it is fair to say that the devil lies in the detail when it comes to designing regionalisation in practice. Consequently, it is very difficult with any degree of certainty to say how the different archetypes would contribute to the objectives of CFP governance.

On a general level, however, each of the models represents qualitatively different ways forward. The Nationalisation model represents an end to the attempt to coordinate fisheries management in the EU in an integrated way. The CMSC model, on its side, may represent a quick, pragmatic fix to the current system but does not constitute any great overhaul of the current system. The RFMO model is more ambitious in the sense of actually providing significant change of the current structures, but this approach also presents significant challenges in terms of how to set it up. The same can be said about the RFCOMO, which takes a step further in moving management closer to those affected. Finally, the RMMO may prove to be the most forward looking of our models as it as the only model puts the integrated marine management at the centre of the reform towards regionalisation. But, as discussed, the RMMO model is also a far step from what are the current structures.

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# WHAT DOES 'REGIONALISATION' MEAN?
# An Exploratory Mapping of Opinions on Reform of the Common Fisheries Policy

*Troels Jacob Hegland*
Innovative Fisheries Management – an Aalborg University Research Centre, Denmark
tjh@ifm.aau.dk

*Kristen Ounanian*
Innovative Fisheries Management – an Aalborg University Research Centre, Denmark
kristen@ifm.aau.dk

*Jesper Raakjær*
Innovative Fisheries Management – an Aalborg University Research Centre, Denmark
jr@ifm.aau.dk

*Abstract* Regionalisation has in recent years been intensely discussed as a possible future path for the Common Fisheries Policy of the European Union. The motivations for wanting to move in this direction are, however, as varied as the perceptions of what regionalisation as a mode governance would entail in practice. To draw implications for policy, we explore these perceptions and seek, by means of material from primarily interviews and a survey of participants in the Regional Advisory Councils who have hands-on experience with regional cooperation in European fisheries management, to put flesh on both the question of whether and why regionalisation is seen as potentially a good idea, as well as how people perceive different models of regionalisation when confronted with them. The article documents and substantiates the widespread interest in regionalisation but it also highlights the need to develop common understandings of what options for regionalisation are available and what they offer in terms of future benefits and challenges.

## Introduction

The release of the Commission of the European Communities' (Commission) Green Paper in April 2009 (Commission, 2009) placed regionalisation firmly on the agenda for the coming reform of the European Union's (EU) Common Fisheries Policy (CFP), intended to be ready for progressive implementation from the beginning of 2013. By examining with a critical eye the current style of governance, where almost all decisions are taken at the highest political level in Brussels, the Green Paper illustrated significant problems facing the CFP in this regard. Although the Commission did suggest that the regional dimension of the CFP governance system could be enhanced by relying 'wherever possible on specific regional management solutions implemented by member states' through means of delegation that 'would need to be organised at the level of marine regions' (Commission, 2009:10), the document remained weak in terms of giving specific directions or suggestions on how in practice regionalisation could be achieved.

The present article reports on an exploratory investigation of opinions and arguments about regionalisation as a policy element in the coming CFP reform

process. The key informants were participants or potential participants in debates on regionalisation, representing different interests in the CFP: managers, policy-makers, fisheries sector or representatives of environmental interests, and so on. In particular we carried out a survey of individuals who due to their participation in the Regional Advisory Councils (RAC) have obtained hands-on experience of doing regional cooperation in EU fisheries management. This experience places them in a unique position in terms of proving insights on how regionalisation could most appropriately be further developed.

The aim of our research has been to look for different patterns of ideas and opinions to get an impression of where they converge and diverge, and thus point in the direction of potential political agreement or conflict.

## Background and Analytical Framework

As described in detail by Symes (2012) earlier in this issue, the debate over regionalisation of the CFP is not new. Rather, the issue has been more or less on the agenda since the beginning of the 1990s. However, in terms of reorganising the governance system of the CFP towards regionalisation, interest and activity in this regard peaked in connection with the previous reform of the CFP, which was implemented from the beginning of 2003. At that time, the simultaneous concern of the CFP not being sufficiently responsive to stakeholders' perspectives nor to regional particularities led to the setting up of a structure of regional advisory bodies; the RACs, consisting of stakeholders, predominantly from the catch industry and the wider fisheries sector but also including other interests such as recreational fishing and environmental groups, *et cetera*.

While focus in the years immediately following 2003 seems to have been most on institutionalising the RAC system, which is primarily intended to provide a regional stakeholder perspective to the Commission's deliberations rather than providing stakeholders with real decision-making authorities, interest in further regionalisation seems to be on the rise, in the most recent years with the publication of the Commission's Green Paper as a milestone in this regard. For more information on the background of CFP regionalisation, please consult the article by Symes earlier in this issue.

The current article applies an analytical framework developed and described earlier in this issue (Hegland, Ounanian and Raakjær, 2012). As we argue there, practical motivations for wanting to move towards regionalisation can basically be structured by reference to three basic objectives of CFP governance: 1) the ability of the governance system to take up and balance preferences (process legitimacy), 2) the efficient use of resources in system, and 3) the effectiveness of policies and measures coming out of the system (content legitimacy). These objectives can then again be divided into more detailed sub-objectives that take into account the dominating cleavages in discussions on fisheries management. The second part of the framework breaks down the complex discussion of how to move forward towards regionalisation into three interrelated problem dimensions: the question of where (being the discussion of actual politico-administrative level that regionalisation should be about), the question of who (being the discussion of roles of different public authorities and/or the involvement of private actors), and the question of what (being the discussion of various types of decisions and which of those should be considered

apt for decentralisation). In the final part of our previous article, we outlined furthermore a number of archetypes of regionalisation.

The present article is divided in three main parts and concludes with a brief discussion of the results of our research and the way forward in relation to regionalisation in the context of the coming reform of the CFP. The first main section reports on the dominant perspectives on why regionalisation might be an interesting way to go within the governance system of the CFP. Then, the second part presents selected perceptions of how regionalisation could or should in general materialise in practice. Subsequently, the third part presents data on how people perceive the different archetypes of regionalisation of the CFP, when presented with those.

## Research Methods

In the last half of 2009 and first half of 2010, we employed several research techniques in order to collect and solicit opinions on regionalisation from stakeholders and others with an interest in European fisheries management.

The techniques ranged from observation of meetings of RACs (four in total) and various conferences (five in total), over key informant interviews (nineteen in total) and a focus group interview (six participants from the Commission)[1], to study of selected documents (predominantly some of the position documents submitted to the Commission in relation with the Green Paper consultation process) and a survey of participants in meetings of different RACs. The survey drew its participants from general assemblies and selected meetings of executive committees and working groups of the North Sea, the North Western Waters (NWW), the South Western Waters (SWW) and the Pelagic RACs in 2009. The survey employed both an online questionnaire with e-mail invitations, as well as a traditional, mailed questionnaire to those not completing the online version. The response rate for the survey was 41.9 per cent: 138 responses out of 329 invitations to participate in the survey. The breakdown of participants in the survey reflects the individuals who participate in meetings of the four RACs. Roughly half of the participants in the survey are fisheries sector representatives, a quarter are representatives of various other interest groups and constellations, and the last quarter are made up of scientists, managers and others.[2]

Whereas the interviews and other qualitative sources of material provided us with rich, in-depth information on the various perspectives on regionalisation, our survey was designed to provide quantitative measures of perceptions of regionalisation as well as to uncover relations between preferences *vis-à-vis* regionalisation and particular participant attributes such as primary RAC affiliation, geographical affiliation, and stakeholder type. In particular, the survey was employed to solicit opinions about the different archetypes of regionalisation.

Although this article draws on all the above sources of material, most prominently figures data obtained through interviews and the survey. In relation to all

[1] The interviews (incl. the focus group interview) involved two researchers, ten managers, three policy-makers, eight fisheries sector representatives and two representatives from non-governmental organisations.

[2] In terms of geographical affiliation, the participants come from 10 EU member states; in addition a few comes from states outside the EU or categorise themselves as 'European' or 'International'. Not surprisingly, in terms of numbers, the four largest fishing nations of the EU, namely Denmark, United Kingdom, France, and Spain, dominate the group of participants with 84 responses in total.

the techniques, standard scientific practice was employed. For details on the methodology of the different techniques, please consult Raakjær et al. (2010).

## Why should the CFP Move towards Regionalisation?

As expected, our research presented us with a rich variety of perspectives on why regionalisation of the CFP is an option worth considering and the following sections present some of the main perceptions based upon the values or dimensions invoked in the reasoning.

*Regionalisation Makes the Governance System more Legitimate*

The first category of motivations for regionalisation that we direct our attention to is the value of a governance system that is perceived as legitimate due to its ability to take up and balance preferences of different actors in a fair and just way. Process legitimacy, as this kind of legitimacy is termed, has two sides to it: internal legitimacy, relating to the legitimacy of the process among the user groups subjected to the policy (most importantly fishermen and vessel owners), and external legitimacy, related to the legitimacy of the process among other interests groups, who to some extent reflect the broader societal interest (Jentoft 2000).

When investigating the empirical material, the concern for internal process legitimacy figures as a very important motivation for regionalisation. It is widely perceived that fishermen themselves need to be more involved in the management process to avoid non-compliance, and that one way of accomplishing this is through regionalisation. Several of our interviewees indicate that the current system of RACs has not sufficiently solved the issue of providing a feeling of ownership over the adopted fisheries management measures.

The value of regionalisation in relation to process legitimacy is also emphasised in a broader, more general sense, however. Here the focus is less on internal legitimacy and the compliance issue and more on the fact that decentralising authority to a regional level could, in general, increase the feeling of legitimacy by reducing the perceived distance between those taking decisions (at EU level) and those implementing them (at member state level) and being subjected to them—be it fishermen or other stakeholder groups who also have to live with the results of fisheries management. In relation to this, some argue that a regionalised CFP governance system would better facilitate holding those responsible for decisions accountable—which might in fact in itself also impact the nature of the decisions taken. An example of the contrary in the current system is that decisions with direct relevance for only a particular regional sea, such as the Baltic Sea or the North Sea, can be modified or blocked by EU member states without any stake in that sea area. The member states can be tempted to do so because of the perception that the decision(s) in question can in time create a precedent that might be contrary to the blocking member states' interests in the seas where they do have a stake. A regionalised CFP governance system is perceived able to tackle this problem by reducing or altogether removing the need to take decisions pertaining only to specific regional seas at the most central level.

The link between process legitimacy and regionalisation was something we briefly touched upon in our survey of RAC meeting participants, as well. In a series of questions on possible outcomes of regionalisation, survey participants were asked to indicate the importance of different outcomes by for each suggested outcome

marking 'Not important at all' (score 1) to 'Very important' (score 5). In the series, one potential outcome related directly to process legitimacy, as the participants were asked to indicate the importance of the outcome of 'Increasing compliance by giving stakeholders a larger say in fisheries management'. Notably, this measure scored second-highest mean (4.15) within the full set of six sub-questions[3] indicating that this is indeed a very important concern—at least when asking a group made up of to a large extent of fisheries sector representatives.

*Regionalisation makes the Governance System more Efficient*

The second category of motivations for regionalisation relates to the objective of efficient use of resources in the governance system. In relation to this a distinction can be made between financial concerns and concerns about limited human resources.

In relation to the use of human resources and general efficiency of the system, several of our interviewees considered it inefficient that the central EU institutions engage in and spend time on discussions of miniscule issues applicable only to specific regions or fisheries, described to us by a manager as 'such things as twine thickness and ridiculously small things like that', instead of spending the effort on deciding and developing the overall principles and taking specific decisions that due to their nature must be taken at a central level. This way of operating is widely perceived as a misuse of resources and a distraction from what should really be in focus at the central level, namely the long-term perspective and overall strategic decisions. Several interviewees pointed to the fact that this type of inefficiency was only going to be even more prominent after the entry into force of the Lisbon Treaty (European Union, 2007) in December 2009, which requires more involvement of the European Parliament and thereby also a lengthier decision-making process at central level. The Lisbon Treaty was also raised as a turning point by a fisheries sector representative explaining why previously highly hesitant—predominantly Southern European—member states' fishing sector interests were beginning to support regionalisation, 'the truth is that now with the entry of the Lisbon Treaty and the […] long period of time that it supposedly will take to make decisions, the concept of regionalisation starts to soak through in the different countries'.

Although the above interviewee argues that interests from Southern European member states have not been left unaffected by the discussion of decreasing efficiency following the entry into force of the Lisbon Treaty, there appears still to be a cleavage on this issue. In our survey—in the series of questions on possible outcomes of regionalisation previously introduced—we asked our participants to indicate to us the importance of 'Relieving the EU central level of tasks (Council, Commission, Parliament)'. Upon examination, the results divided by participants from respectively Northern and Southern Europe[4] indicate a significant discrepancy on the importance placed on this particular outcome. Participants from Northern Europe rank the measure as 3.53 while participants from Southern Europe score a statistically lower average at 2.61.[5] Notably, the difference between the two groups on the outcome measure of relieving the central EU level of tasks produces the greatest difference of all six potential outcomes measured. Roughly 48 per cent from Southern Europe believe this outcome is not important (score 1 or 2), while about 18 per cent from Northern Europe feel that way. Oppositely, about half of the participants from

[3] For the series of six outcome questions the total number of responses ranged from 125 to 126.

[4] Southern Europe comprises in this context France, Portugal, and Spain. Northern Europe comprises Belgium, Denmark, Germany, Ireland, the Netherlands, and the United Kingdom.

[5] T-test reveals statistical difference between means of 3.53 and 2.61 (t=4.15, p-value of 0.001).

Northern Europe feel that this is an important outcome (score 4 or 5) in comparison to only roughly a quarter of those from Southern Europe. The low emphasis by participants from Southern Europe contributes to this outcome scoring the lowest average for all participants (3.10) of all measured potential outcomes. Consequently, it seems that there is a notable geographical divide on what RAC participants are looking for in regionalisation in relation to the efficiency dimension.

Another kind of system efficiency value of regionalisation emphasised is efficient integration of policies; a main point being that the Marine Strategy Framework Directive[6] (MSFD) (European Parliament and Council, 2008), an important environmental policy initiative, presupposes member states working together at regional level and it would therefore be beneficial that the CFP employed a compatible strategy as fisheries is a major anthropogenic pressure on the marine environment. This perception of the potential value of regionalisation is clearly also closely linked to the value of being able to deliver better (integrated) management outputs (see section on effectiveness beneath). Emphasising a preference for more integrated structures to create efficiency (in a broad sense), a manager gave us this description of his perception of the current state-of-affairs when trying to unite an environmental policy initiative (though in this case not the MSFD but Natura 2000[7]) with the CFP:

> The experience from my current main occupation, which is the protection of the Natura 2000 sites, is that it is very difficult and cumbersome and takes very long time to try to unite the frameworks of Natura 2000 and the CFP. I use this metaphor that I want to put up this poster on the wall. I know what I need. I need a drill and I need a screwdriver. So I go to the toolbox of the CFP to take a drill and a screwdriver. But then the CFP says: no no no, not that easy. You can open my toolbox, but I want you to put in order everything in my toolbox, from big to small, including a hammer and all sorts of instruments that I know I will not use. You have to somehow structure them in line, from big to small, colour by colour, and have everybody who also wants to maybe use that toolbox to have a look at it. Is it ok that I take just these two? And then, after a process of a couple of years, I can finally take my screwdriver and my drill.

Another distinct perspective associates regionalisation closely to a shift towards a management approach where the fisheries sector itself carries a larger share of the costs of management by introducing 'results-based management' and 'reversal of the burden of proof'. In general this approach entails that the fisheries sector, rather than being managed in detail, would be subjected to certain targets or limits to comply with, and—as long as respecting those limits, which the sector itself would cover the costs of documenting—it may decide for itself on how to stay within the limits. This way of perceiving regionalisation links it closely to the issue of financial efficiency but it is likewise closely linked to the general issue of legitimacy by suggesting that both the system and its outputs will be perceived as more legitimate, at least among

[6] The MSFD requires the member states to achieve 'good environmental status' (GES) of their seas by 2020.

[7] Natura 2000 is a network of protected areas designated as a requirement of the Habitats Directive (Council, 1992), 'special areas of conservation', and the Birds Directive (European Parliament and Council, 2009), 'special protection areas'.

fisheries sector interests, if they have themselves been involved in developing the measures.

The importance of this variation of a financial efficiency outcome of regionalisation was to some extent also measured in our survey in the series of questions on possible outcomes. In this case the survey gauged the importance of 'Making fisheries management less costly by giving the industry more responsibility'. Although the question related to relieving the EU of tasks (see above) scored the lowest average for all participants (3.10), as explained before this is due to the low importance from Southern Europe pulling down the overall average; for the financial efficiency measure, the overall average is universally low. The overall importance placed on reducing costs is significantly lower than the other regionalisation outcomes sub-questions. Apart from the measure regarding the importance of relieving the central EU level of tasks, averages of other measures dwarf this measure's 3.34 overall mean. Currently, EU fisheries stakeholders are not accountable for the costs of oversight, scientific assessments, and other operational expenses, which may explain the relatively lower priority ascribed on reducing costs by the survey participants.

*Making the Policies and Measures more Effective and thereby Legitimate*

The third category of motivations is those related to the objective of effectiveness (and subsequently directly associated content legitimacy) of measures and policies. This category of motivations centres on the extent to which a regionalised CFP governance system would better enable the delivery of policies and management measures that realise the policy goals, which are perceived as important—be it conservation, rationalisation, or social/community benefits (Charles 1992).

On a very general level, the main issue in relation to this objective is the perception that the centralised nature of the current system makes the CFP incapable of responding sufficiently to the diversity of needs in different regions—be it the needs of the regional fishing sectors or the regional ecosystems. Responding in the most suitable way to the needs and interests of, in particular, different segments of the European fishing fleet would, the perception is, be more possible in a system where detailed knowledge of the specifics of the local or regional setting could be put more directly to use in decisions on management. Notably it is not only fisheries sector representatives arguing this, as evidenced by this quote from an NGO representative, who suggets experimenting with taking decisions at 'a more regional or local level where fishermen basically can be more involved in coming up with the solutions that would result in the objectives that have been agreed—because most often you have a number of different choices, different ways to do things'.

The need to make better use of local knowledge was another of the possible regionalisation outcomes that we measured the importance of in the survey. The participants were asked to indicate the importance of 'Providing better management by taking into consideration local/fishermen's knowledge of the system' on the earlier described five-point scale and the mean of this proposed outcome proves to be the highest of all outcome means, namely X; indicating the perceived high importance of this outcome.

A slightly different aspect of the quality of fisheries legislation and management relates to the increased time it will take to reach decisions in the area of fisheries at the EU level after the entry into force of the Lisbon Treaty. Several interviewees argued that this in itself requires regionalisation to make sure that the decision-making framework can still respond to emerging needs in a timely manner. This value is strongly associated with the point made during the previous discussion

of the efficiency of the system; however, in the present context the concern is about the actual ability to apply timely—and thereby effective—management measures rather than the efficient use of resources but arguably the two are intimately linked.

Another perspective, which is also closely linked to the discussion of efficiency, is the challenge of integrating policies, the perception being that regionalisation can facilitate not only efficient but also better and more correct integration of policies because both environmental policy (represented by the MSFD) and fisheries policy (represented by the CFP) would then have regional set-ups. This perspective was also something we investigated in our question on potential outcomes of regionalisation in the survey. We measured the importance of 'Integrating fisheries into general maritime policy' and the importance of 'Paving the way for ecosystem-based fisheries management'. Both relate to the priority of well-functioning policy integration. Overall, these two measures of integration average close to one another in terms of importance with the maritime question averaging slightly lower than the ecosystem-based management question, 3.74 versus 3.89 respectively. Stakeholder type reveals the most interesting comparisons on these measures. Comparing the overall group of fisheries sector representatives to other stakeholder interests reveals a marked difference in the level of importance placed on these potential outcomes. In the case of representatives of environmental interests, they exclusively selected somewhat (score 4) to 'very important' (score 5) for the ecosystem-based management measure, whereas fisheries sector responses distributed more evenly throughout the answer options with 31 per cent choosing below neutral, 24 per cent selecting neutral, and 45 per cent choosing above neutral. The difference in importance on this outcome represents one of the major cleavages between the EU fisheries stakeholder groups. Perhaps not so surprising that those working for organisations promoting the environment value ecosystem-based management highly as an outcome; nevertheless, the neutrality of the sector uncovers a discrepancy in the motivations for regionalisation as it does not equate to ecosystem-oriented planning to the same extent for all stakeholder groups.

## Towards a Vision of a Regionalised CFP

The following sections contain perspectives on selected issues, which seem to be among the most important in the discussion when trying to settle on how to put regionalisation into practice. These perspectives are organised under three headings, each referring to a particular problem dimension; the dimensions of 'where', 'who', and 'what' (Hegland, Ounanian and Raakjær, 2012). Clearly, to some extent the question of how to regionalise is linked to the perceptions of what regionalisation is intended to deliver, which we discussed in the previous section. Likewise, in practice perceptions related to one problem dimension was often closely attached to particular perceptions of the appropriate 'solutions' in relation to the other problem dimensions.

### *Putting the Regional Seas at the Centre of the CFP*

The CFP governance system stretches over three, core politico-administrative levels: the central EU level, the intermediary level of regional EU seas (where the embryonic institutional structure is basically represented by the RACs), and the member state level. These politico-administrative levels poorly match the biogeophysical scale levels of the marine ecosystem or the way that the fisheries fleets of the member states

operates—often across the waters of several member states and fishing on stocks shared by multiple member states.

Consequently, a problem dimension to address when trying to carve out how regionalisation could be put into practice is the 'where' dimension, in the sense of addressing what scale level(s) that regionalisation should be concerned with and how to organise the politico-administrative level(s), for instance in terms of dividing it up in regional units. Although we found diverging perceptions on these questions, this proved to be the problem dimension where there was most agreement on what regionalisation ought to entail.

Most of our interviewees were of the perception that regionalisation should be about strengthening the intermediary regional seas level, the same was reflected as a general tendency in our other empirical material. Nevertheless, several of our interviewees also pointed to the need for getting management even closer to those affected, meaning regionalisation as a subnational process or by collaboration of fewer member states than those associated with a regional sea area, which would be relevant in cases where only a few member states have interests in a certain sea area. However, it does not seem that there is any great tension between these perceptions; rather, those arguing for a more 'local' regionalisation also generally saw the need for strengthening the intermediary regional seas level and even to some extent were of the opinion that this in itself could facilitate the move towards more 'local' regionalisation by fostering a transition from a centralised management system to a management system built more solidly on the principle of subsidiarity.

The most significant cleavage, within the general agreement that the intermediary regional seas level is what regionalisation should be about, is found between those basically favouring regionalisation as something related to the current RAC regions (determined by fisheries policy) and those of the opinion that the geographical units of regionalisation should basically come out of other policy areas (generally environmental policy and the MSFD). From a narrow fisheries perspective building as much as possible on the current system appears preferable and the RACs have been set up to best reflect functional regions within fisheries management. At the same time, others argue that the integration of policies requires that an effort is made to reconcile varying spatial divisions of different policy areas and that the RAC regions are not necessarily the most appropriate for this.

*Using Regionalisation to Involve Stakeholders more in the Governance System*

The second problem dimension highlights the question of whom to regionalise to. In other words—based on the perception that regionalisation must involve at least some reshuffling of / or generation of new authorities (broadly conceived) among the actors operating in the governance system—an important discussion relates to who should 'benefit' from this and in what way. Based on our research two main issues are associated to this problem dimension: 1) authority of stakeholders compared to public authorities / governments; 2) role of fisheries sector interests compared to wider societal interests, as well as compared to other economic sectors with a stake in the regional seas.

In relation to the first, the point-of-departure of the CFP is a situation where the stakeholders' role at least at the central EU level[8] is restricted to that of providing advice through the RACs and the Advisory Committee on Fisheries and Aquaculture (ACFA), which following an understanding of different levels of

[8] Generally mechanisms for involving stakeholders do exist at member state level.

stakeholder involvement, see Figure 1, represents a low level of stakeholder influence—only being a single notch above 'top-down hierarchical management by the state'.

*Figure 1. A Typology of Stakeholder Involvement in EU Fisheries Management*

**Top-down hierarchical management by the state**
Mechanisms for dialogue with users and stakeholders might exist, but only minimal exchange of information takes place and EU/national governments decide what information to share.

**Co-management by consultation**
Extensive formal mechanisms for consultation (and feedback on use of recommendations) with users and stakeholders exist, but all decisions are taken by EU/national governments.

**Co-management by partnership**
EU/national governments, users, and stakeholders cooperate as decision-making partners in various aspects of management.

**Co-management by delegation**
EU/national governments have devolved de facto decision-making power to users and stakeholders in relation to various aspects of fisheries management.

**Industry self-management with reversal of the burden of proof**
The government has devolved wide-ranging management authority to users and stakeholders, who must demonstrate to EU/national governments that management decisions are in accordance with the given mandate.

(Hegland, Ounanian and Raakjær, 2012)

As documented in the previous section, there is widespread agreement that getting the decision-making process closer to the stakeholders is a necessary precondition to deliver on the legitimacy-dimension. To many, moving the decision-making process closer to stakeholders equates to moving from a system where stakeholders are exclusively giving advice and thereby being at arm's length from actual decision-making to a system where stakeholders are involved in taking decisions in one way or the other, either as partners in the process or through self-management. However, although a popular perspective, there are also many concerns voiced in this regard, including the capacity of various stakeholders, democratic accountability, as well as legal problems.

In addition, an important issue remains the role of fisheries sector stakeholders compared to other stakeholders. Here some perceive that industry stakeholders should be at the centre while others perceive that regionalisation should constitute a break with the current practice of giving industry stakeholders a preferential position in the advisory bodies. From the industry perspective, one of our interviewees emphasised that the industry (as opposed to other interest groups) should remain the key player by suggesting to, 'bring closer the debates, the consultations, even the decision process, to those who would be affected, and the main affected are us as fishing organisations, as ship owners'.

*Deciding What Authorities to Regionalise*

Probably the most contentious problem dimension in the debate over regionalisation proved to be the question of what to regionalise. This includes perspectives on

whether regionalisation should merely involve strengthening the advisory role of the intermediary regional level or if decision-making capabilities should be moved to the regional level. And obviously, in case of the latter, the question remains as to determine what decisions should be placed at regional level. It seems clear that under the CFP a hierarchy of decisions exists, and some decisions are more suited to keep at central level and others are better suited for regionalising; however, how people perceive that hierarchy varies and is in many cases unclear or unarticulated.[9]

In relation to the question of authorities to be given to the regional level, the first issue concerns the magnitude of authority to be vested with the regional level. Here perspectives spread over a scale ranging from the regional level being purely advisory towards the EU central level (generally taking policy-decisions) and / or the member states (generally taking implementation decisions), over variations of 'binding advice', to the regional level being awarded specific, limited decision-making powers on regional matters, which are then expanded as we get further towards the end of the scale. In the most pronounced visions of regionalisation only authority over the most essential decisions are to be maintained at the central EU level.

A purely advisory version of regionalisation without any decision-making competence being delegated is by many considered a weak instance of regionalisation; however, this is a relatively uncomplicated type of regionalisation to put into practice, as it does not pose legal problems—as one manager put it in an interview, 'it is just a policy recommendation, even as an NGO you can recommend something, that is easy, and that has not serious requirements on structure, mandate, legal status, and things like that.' This is a pragmatic argument but is does carry weight in the context of policy-reform—not least in circles of managers and policy-makers. On the other hand, others perceive that there is a great risk that this does not create significantly more feeling of regional ownership over management among stakeholders than the current RAC system has done, which is exactly a system where the regional level provides advice to the central level. Consequently, where this approach may provide for regionally more tailor-made management, which will enjoy content legitimacy, the benefits in terms of process legitimacy might be limited.

When considering regionalising some degree of real decision-making authority, which is by many perceived as preferable, as it would potentially provide for both legitimacy and efficiency benefits, one cited concern relates to the potential risk of regionalising too much—in the sense of regionalising authority that rightfully should be kept at the central level; e.g. in order to ensure that the industry, which is part of a common market, operates on a level playing field. Although room for competition between regions should be allowed so that best practice can be developed, it is perceived as important that regionalisation does not lead to varying degree of fulfilment of the overall objectives and principles across regions. Other concerns relate to the legal problems involved in delegating decision-making authority as well as the lack of democratic oversight at regional level, where no traditional, democratic representative structures exist.

[9] We will not go here go into the discussion of whether regionalisation should be about fisheries or marine management at large, although this discussion is clearly also related to the question of what to regionalise. Although important, this debate did not come out as strongly in our interviews nor the position documents, as the discussion over the level of authority to be vested with the regional level. Granted, a few of our interviewees argued that regionalisation should really also be about integrating fisheries in more general maritime management; however, the predominant perspective seems to be that at this point concentration should be on reforming the CFP and insofar that the reform could facilitate integrated management then that may be alright but it should not be at the foreground of the discussion. In particular, this seems to be the perspective of industry stakeholders.

## Variations in Perceptions of Regionalisation Models

As some of the final questions in our survey we asked our population of RAC meeting participants to score their level of approval or disapproval for five possible models of regionalisation, 'archetypes', plus the option of retaining the present system (referred to as 'Present Structure'), as well as pick their top choice and least desirable model.

The five regionalisation models, which were intended to help us explore aspects of the preferences in relation to the different underlying problem dimensions in designing regionalisation, included 1) a 'Nationalisation model', a model of decentralisation rather than regionalisation, under which the member state level would be the new centre for fisheries management decisions; 2 a 'Cooperative Member State Council' (CMSC) model, under which member states' authorities would work increasingly together at regional level but without formally changing the present structures or allocation of authorities; 3) a 'Regional Fisheries Management Organisation' (RFMO) model, under which member states' authorities working jointly in a regional organisation would be awarded wide-ranging decision-making powers in relation to regional fisheries management but where stakeholders would be kept at arm's length as advisors to the process only, 4) a 'Regional Fisheries Co-management Organisation' (RFCOMO) model, that resembles the RFMO but instead of keeping stakeholders as advisors they are invited into the decision-making process as partners; and, finally, 5) a 'Regional Marine Management Organisation' (RMMO) model, under which fisheries management would be taken care of as one of more issues by a regional organisation awarded wide authorities for regional marine management at large. The three last models can be viewed as variations of a theme, namely regional management organisations.

The full descriptions of the models, as they appeared in the survey, can be found in Figure 2. A more thorough discussion of the models and their selection can be found earlier in this issue (Hegland, Ounanian and Raakjær, 2012).

*Figure 2. Archetypes of Regionalisation*

**Nationalisation**
The member states are awarded the responsibility for the conservation of resources in their own Exclusive Economic Zones. Issues relating to shared stocks would be sorted out through a system of bilateral agreements between member states or any other arrangements that the member states themselves deem necessary. The level of involvement of stakeholders would be an issue for the individual member state to decide.

**Regional Fisheries Management Organisations**
Under this model the member states would be given wide authority for fisheries conservation on the condition that the member states with fishing interests in a regional sea area establish a regional fisheries management organisation (RFMO) to deal with fisheries management issues specific to that area. A general framework for regional approaches will be provided by the central EU institutions. The stakeholders' input will continue to be channelled through the RAC. However, the RAC would in most cases advice the RFMO rather than the central EU institutions. The exact extent to which stakeholders' input is given weight in the decision-making process of the RFMO is up to that organisation on a case-by-case basis.

**Regional Fisheries Co-Management Organisations**
Under this model the member states would be given wide authority for fisheries conservation on the condition that the member states with fishing interests in a regional sea area establish a regional fisheries co-management organisation (RFCOMO) to deal with fisheries management issues specific for that area. A general framework for regional approaches will be provided by the central EU

institutions. The RACs would cease to exist; instead stakeholders, scientists, and member states' administrators would work together within the RFCOMO to determine the best strategies for their regional area.

**Regional Marine Management Organisations**
Under this model the member states would set up regional marine management organisations (RMMO) with responsibility for coordinating all matters relating to the regional sea areas. Stakeholders from all sectors would be involved in some form—either as advisors or in a more co-management-like structure. The RACs could continue to operate, but would only be providing advice as one of the affected sectors of the RMMO. Alternatively, the current RACs could be opened for a wider group of stakeholders. A general framework for regional approaches will be provided by the central EU institutions.

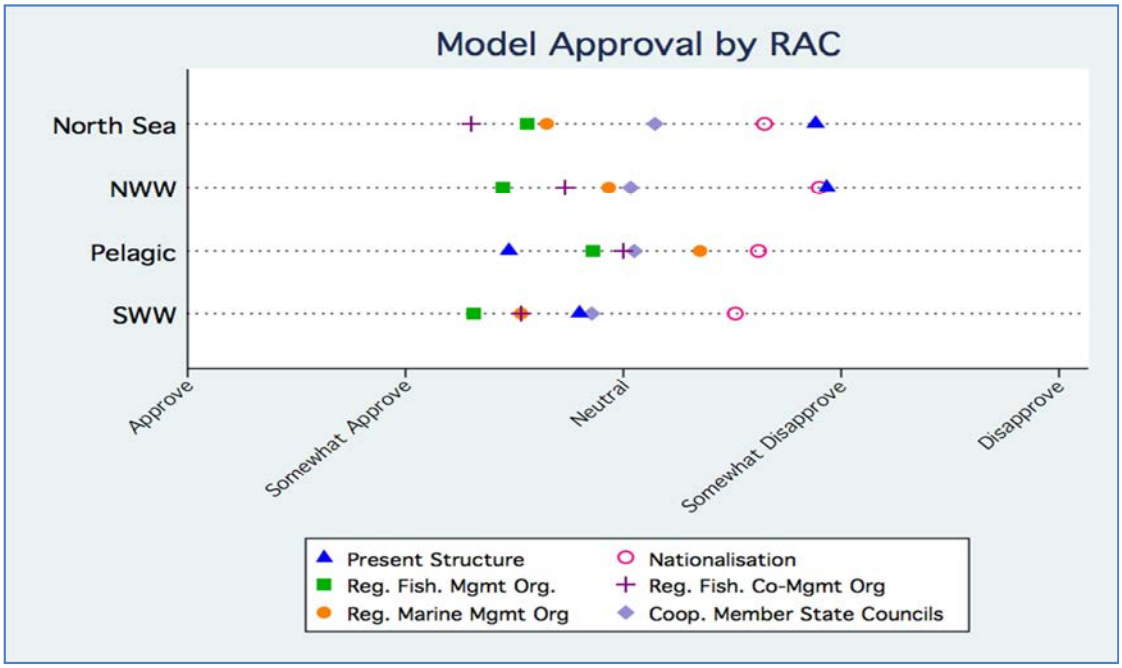
**Cooperative Member State Councils**
The institutional structure and formal distribution of powers remains largely unchanged. However, the member states with fishing interests in a regional sea area establish mini-councils to deal with fisheries management issues specific to that area. These mini-councils forward their recommendations for formal approval to the overall EU Fisheries Council. The RAC would in most cases advice the mini-council rather than the central EU institutions. The exact extent to which stakeholders' input is given weight in the recommendations of the mini-council is up to that mini-council on a case-by-case basis.

It should be noted that the models remain rough outlines of the intended institutional structures, closer to fisheries institutional archetypes than fully developed governance models. Moreover, the survey participants were specifically asked to disregard legal problems of implementing a model so what we gauge is in principle their preference rather than what they believe most likely to materialise.

*Looking for Regional Differences in the Perceptions of Regionalisation Archetypes*
In the first question relating to the archetypes, we asked the survey participants to score their level of approval for each of the variations. The participants could choose between answers ranging from 'I would approve' (score 1) to 'I would disapprove' (score 5) with a neutral midpoint and statements of moderated approval or disapproval. Figure 3 summarises the four RACs' and the total population's aggregate approval of all six options (five plus 'Present structure').

After scoring the degree of approval for each of the six models, participants were asked to select their top choice and least desirable model with the option to select 'None of the above' included. Table 1 summarises the frequencies and relative percentages delineated by RAC as well as the total for our population for the selection of top choice.

*Figure 3. Averages of Approval Ratings for Each Model of Regionalisation by RAC*




(N=X. The calculated averages derive from the numerically coded values of the answer choices. A mean of 1.0 represents unanimous approval whereas 5.0 indicate unanimous disapproval with 3.0 representing the neutral midpoint)

*Table 1. Frequencies and Percentages by RAC for the 'Top Choice' Model*

| Top Choice | None of the above | Present structure | National. | RFMO | RFCOMO | RMMO | Coop. MSC | TOTAL |
|---|---|---|---|---|---|---|---|---|
| **North Sea** | **0** | **0** | **3** | **5** | **12** | **6** | **8** | **34** |
| *Row %* | *0.00* | *0.00* | *8.82* | *14.71* | *35.29* | *17.65* | *23.53* | *100.00* |
| Column % | 0.00 | 0.00 | 60.00 | 22.73 | 34.29 | 31.58 | 47.06 | 29.06 |
| **NWW** | **2** | **3** | **2** | **5** | **12** | **4** | **2** | **30** |
| *Row %* | *6.67* | *10.00* | *6.67* | *16.67* | *40.00* | *13.33* | *6.67* | *100.00* |
| Column % | 40.00 | 21.43 | 40.00 | 22.73 | 34.29 | 21.05 | 11.76 | 25.64 |
| **Pelagic** | **1** | **7** | **0** | **4** | **4** | **2** | **3** | **21** |
| *Row %* | *4.76* | *33.33* | *0.00* | *19.05* | *19.05* | *9.52* | *14.29* | *100.00* |
| Column % | 20.00 | 50.00 | 0.00 | 18.18 | 11.43 | 10.53 | 17.65 | 17.95 |
| **SWW** | **2** | **4** | **0** | **8** | **7** | **7** | **4** | **32** |
| *Row %* | *6.25* | *12.50* | *0.00* | *25.00* | *21.88* | *21.88* | *12.50* | *100.00* |
| Column % | 40.00 | 28.57 | 0.00 | 36.36 | 20.00 | 36.84 | 23.53 | 27.35 |
| **TOTAL** | **5** | **14** | **5** | **22** | **35** | **19** | **17** | **117** |
| *Row %* | *4.27* | *11.97* | *4.27* | *18.80* | *29.91* | *16.24* | *14.53* | *100.00* |
| Column % | 100.00 | 100.00 | 100.00 | 100.00 | 100.00 | 100.00 | 100.00 | 100.00 |

(N=117. The row percentage indicates the percentage within the RAC with the column percentage listed below represents the amount from the RAC making up the model preference)

Our data shows that there is a statistical association[10] between the RAC that the survey respondent is most active in and top choice model. This means that a person's primary RAC is somewhat predictive of the model he or she picks as the top choice. However, the association between RAC and least desirable model, for which we have not provided a table, is not significant due to high disapproval of the Nationalisation model dispersed over the four RACs; in total 41.38 per cent picked the Nationalisation model as least desirable. Nonetheless, we did notice a stronger tendency for the SWW RAC participants to find the Nationalisation model to be least desirable leading us to test if there was a geographical divide (see Note 4) on the issue and indeed that turned out to be the case.[11] Approximately half of those from Southern Europe selected the Nationalisation model as the least desirable model whereas this was only the case for roughly a quarter of those from Northern Europe. This pattern may stem from a combination of Northern Europeans being generally more dissatisfied with the current centralised system and Southern Europeans putting more emphasis on access to waters and funding opportunities. The finding is supported by the fact that a related pattern can be found in connection with the Present Structure, which is selected as least desirable by more Northern European than Southern Europeans.

Returning to Figure 3 above, some findings emerge when examining the plot of approval means. First, there is a significant[12] split along the four RACs on the Present Structure. The North Sea and NWW RACs both disapprove of the Present Structure, whereas participants from the Pelagic and SWW RACs fall between neutrality and approval of the current system. Consequently, the drive for reform seems considerably stronger in the North Sea and NWW RACs.

Likewise, the results for the CMSC model draw an interesting picture. The approval-disapproval rating (Figure 3) for all participants for this model averages to 3.00, an indication of exact neutrality or an average of two extremes. Moreover, the mean plots reveal that this model sits closest to neutral for all four RACs under observation (North Sea, 3.14; NWW, 3.03; Pelagic, 3.05; SWW, 2.86). Looking at Table 1 and the frequencies for selection as least desirable model, for which we have not provided a table, reveals a sort of 'love it, or hate it' dichotomy. The North Sea RAC displays this phenomenon most clearly as eight (23.5 per cent) North Sea participants selected the model as the top choice and seven (20 per cent) chose it as the least desirable model. A possible explanation to this might be, that among our models this one is likely associated with the largest number of actual practical variations, which differ significantly in terms of 'how far' they will take regionalisation (Hegland, Ounanian and Raakjær 2012). Moreover, this particular model is not as strongly institutionalised and might lack the regional identity that many seem to look for in regionalisation but to others may be viewed as attraction.

The RFCOMO model ranked highest in terms of top choice (Table 1), exceeding the next top rated model, RFMO by 10 per cent. In terms of approval means (Figure 3), the RFMO model averages to a level associated with the greatest degree of overall approval (2.50) and the co-management version is associated with slightly lower levels of approval (2.64). Notably, as well, in relation to least desirable model, these two variations of regional management organisation models receive the lowest

[10] The Fisher's exact produced a value of 0.06, which confirmed significant association between primary RAC and top choice of model.

[11] The Fisher's exact value of 0.01 confirmed significant association between geographic affiliation and least desirable model.

[12] The analysis of variance (ANOVA) confirms the statistical significance in the difference in approval means by RAC ($F=10.07$, $R^2=0.21$, p-value=0.001).

share of selections, both drawing only 3.51 per cent, indicating that these are generally favourably perceived and appear as the worst options to very few. The approval mean of the RMMO is 2.81, which places it close to the two other regional management organisation models. However, the RMMO attracts slightly less top choices than the RFMO and considerably less than the RFCOMO. In general the three regional management organisation models score relatively high without exhibiting the love-hate dichotomy of the CMSC model. The preference for the RFCOMO reflects well that many are, as discussed earlier in this article, looking towards regionalisation as an opportunity to bring stakeholders closer to the decision-making process.

In general, in terms of model preferences, it should be noted that the Pelagic RAC remains an outlier. The survey participants from the Pelagic RAC are less enthused by the models outlined and are less hostile to the current system. Likely, for the Pelagic RAC a special solution will have to be made, like it has in the current framework, where the Pelagic RAC and the Long Distance RAC exist as the only two structured along certain types of fishing rather than along a geographical region.

*Perceptions of the Archetypes across the Stakeholder Community*

Although the number of participants in each stakeholder category is not uniform and neither does the type of stakeholder dictate preference for particular models, Table 2 aims to illustrate the diversity of preferences, but also the general convergence of preference for regional management organisation models.

*Table 2. Top Choice Model by Survey Participant Type*

| Top Choice Model | Industry | Multiple Interests | Conservation Organisation | Member State Representative | Science/ Research |
|---|---|---|---|---|---|
| **None of the Above** | 5.5 % | 6.7 % | 15.4 % | 0 % | 0 % |
| *Frequency* | *3* | *1* | *2* | *0* | *0* |
| **Present Structure** | 14.6 % | 13.3 % | 0 % | 0 % | 13.3 % |
| *Frequency* | *8* | *2* | *0* | *0* | *2* |
| **Nationalisation** | 7.3 % | 6.67 % | 0 % | 0 % | 0 % |
| *Frequency* | *4* | *1* | *0* | *0* | *0* |
| **Reg. Fish. Mgmt Org** | 20.0 % | 26.7 % | 0 % | 22.2 % | 13.3 % |
| *Frequency* | *11* | *4* | *0* | *2* | *2* |
| **Reg. Fish. Co-Mgmt Org** | 25.5 % | 20.0 % | 61.5 % | 11.1 % | 26.7 % |
| *Frequency* | *14* | *3* | *8* | *1* | *4* |
| **Reg. Marine Mgmt Org** | 5.5 % | 26.7 % | 23.1 % | 33.3 % | 40.0 % |
| *Frequency* | *3* | *4* | *3* | *3* | *6* |
| **Cooperative MSC** | 21.8 % | 0 % | 0 % | 33.3 % | 6.7 % |
| *Frequency* | *12* | *0* | *0* | *3* | *1* |

(N=107. Percentage and frequency both presented)

As evidenced by Table 2, the three models in the theme of regional management organisations gather significant support among all types of survey participants. Noteworthy, however, is the limited support for the RMMO among industry survey participants compared to other groups. This supports the finding reported earlier, that industry puts less value on the issue of integrated management in the context of regionalisation than other groups included in the survey.

Although not statistically significant due to the few conservation representatives, it can be noted that eight of the 13 conservationists support the RFCOMO model, which suggests that stakeholders—and thereby not necessarily only the industry—should have more say in management. It might be in this light that the less enthusiastic view of the industry upon this model compared to that of the conservationist should be seen; parts of the industry may well view this as a model where they compared to the current RACs potentially risk losing a privileged role, since the industry presently occupies two-thirds of the seats on the RACs.

## Discussion and Implications for Policy

So where does this leave us in terms of mapping a way forward for the CFP? Or in other words: what are the implications for policy?

As described, regionalisation is widely perceived as a compelling way to approach a range of problems that the governance system of the CFP is suffering under. In particular two perceived values of regionalisation seem worth highlighting in this this context; namely, on one hand, the general issue of increased legitimacy deriving from getting the decision-making process closer to those subjected to decisions and, on the other hand, the specific issue of increased ability to respond appropriately to regional fisheries management challenges with tailor-made solutions—preferably building on detailed local or regional knowledge. In combination with the results from our survey (see Table 1), which shows that almost 80 per cent of the participants prefer one of the 'true' models of regionalisation (RFMO, RFCOMO, RMMO, or CMSC) over an alternative approach ('None of the above', 'Present structure', or 'Nationalisation'), there seems to be a strong case for moving the CFP towards a more regionalised state along the lines of one or a combination of the models.

Nevertheless, that there are strong reasons and a wish to move towards regionalisation does not translate into one specific vision for regionalisation. As described, there is a range of issues in relation to building regionalisation in practice where perceptions differ. Opinions diverge in particular on what authorities to regionalise, notably the question of advisory versus decision-making powers, and the role to be played by various regional actors, particularly the balance between (fisheries sector) stakeholders on one side and governmental authorities on the other. Consequently, whereas there is widespread agreement on what regionalisation could potentially deliver, there is less agreement on how a regionalised CFP governance system might look like.

A defining cleavage in the regionalisation debate is, as mentioned, the question of the level of *de facto* authority that should be placed at the regional level. Here opinions differ on what can to some extent be understood a scale ranging from advisory powers only, over decision-making powers on smaller matters, to decision-making powers on a wide range of issues. Keys to understanding the difference in perceptions on this issue include diverging perceptions of what is legally possible, what is reasonable from a democratic point-of-view, as well as the importance placed on maintaining a 'level playing-field' across the EU.

The issue of the level of involvement of stakeholders at the regional level constitutes another contentious issue in the debate. Here the division arises between those emphasising that regionalisation should include moves towards more genuine co-management, and those who for various reasons prefer keeping

stakeholders at arms' length from the decision-making process by continuing the current modest involvement of stakeholders. Besides the more traditional legitimacy and compliance arguments for increased (fisheries sector) stakeholder involvement, further advances towards co-management would, some argue, facilitate the sharing of costs between the fisheries sector itself and the public, thereby potentially reducing the presently very costly process of fisheries management. On the other hand, there are from various sides, including fisheries sector stakeholders themselves, concerns as to the readiness of the sector to take on this kind of responsibility. Moreover, the more ambitious co-management solutions might be legally more complex and democratically more questionable to put into practice than solutions where the decision-making authorities are kept clearly within the realm of accountable, public authorities.

The firm dismissal of the nationalisation option, the mixed to negative feelings towards the present structure and the low number of people indicating a preference for another model than those outlined, leaves us with a situation where, although there are frustrations with the EU bureaucracy, fisheries stakeholders do generally coalesce on the idea of unified management strategies for shared resources. However, they look towards more of these unified management strategies being developed for and exercised at a regional level; though there are indications that this wish is stronger in the North Sea and NWW RACs than in the Pelagic and SWW RACs.

Of our four 'true' regionalisation models—RFMO, RFCOMO, RMMO, and CMSC—it is notable that the RMMO, which presupposes integrated management of the various maritime sectors, received relatively few 'Top choice' nominations from the group of industry stakeholders. The same lukewarm feelings towards maritime integration and ecosystem-based approaches among industry stakeholders were also reflected in our results on the questions on this as an outcome of regionalisation. The fisheries sector stakeholders' general hesitance to pick ecosystem-based management as one of the primary outcomes of regionalisation, indicates that fostering buy-in of this key stakeholder segment is a necessary step prior to the possible development of a governance system that builds institutional structures specifically intended to integrate fisheries with broader maritime management, which certainly does make sense from the perspective of ecosystem-based management and is likely also the reason for this being the overall top choice among scientists.

In contrast, it is not the lukewarm reception by the stakeholder community that leads us to suggest that the RFCOMO may also not be the most appropriate choice as a general model for regionalisation. Rather, this model was well received among industry stakeholders and conservationists alike. Nevertheless, the concern for stakeholder preparedness voiced by several of our interviewees seems a valid intervention. In fact, the RFCOMO to some extent reflects a one-size-fits-all fix that potentially fails to acknowledge regional differences. In contrast the RFMO, as we have outlined it, remains open to varying degrees of stakeholder involvement at regional level being developed over time. In this sense, the RFMO remains more true to the philosophy behind regionalisation than the RFCOMO—at least as a standardised solution to roll out over the entire EU maritime space.

Effectively, with the above in mind we are left two feasible ways forward towards regionalisation of the CFP: a minimalist Cooperative Member State Council model and a more ambitious Regional Fisheries Management Organisation model. The preference among stakeholders for the RFMO compared to the CMSC echoes the calls for a true commitment to integration of local knowledge, increased stakeholder engagement, and the need for more tailor-made management. To many,

the RACs have not gone far in terms of true stakeholder engagement in the decisions, which impact EU fisheries conservation. The CMSC, which also attracts a number of top choice selections, may not to the same extent deliver the same level of commitment or the increase of stakeholder influence wished for but may still stand as an attractive pragmatic next step towards more developed regionalisation, which may explain that of all our models this one most clearly divides opinions.

Based on our analysis, we are of the opinion that the most appropriate and forward-looking move in the coming reform would be towards a solution building on the principles of the RFMO model, as we have outlined it. Though the CMSC model has the potential to deliver the benefits of regionalisation, it would in combination with a strong wish from the stakeholder community of moving in the direction of regionalisation appear as lacking in commitment. A move towards a RFMO solution would in contrast signal commitment to regional solutions and expertise, as well as point forward in the direction of further development of the ecosystem approach to management.

We acknowledge of course that deciding on the RFMO approach as the appropriate end goal does not mean 'end of the story'. A range of challenges remain and there are multiple issues to sort out but making a commitment to this approach would give guidance in the search for solutions. For further discussion of the way forward, please refer to the concluding article of this special issue (Raakjær et al. 2012).

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# THE REGIONAL ADVISORY COUNCILS' CURRENT CAPACITIES AND UNFORESEEN BENEFITS

*Kristen Ounanian*
Innovative Fisheries Management – an Aalborg University Research Centre, Denmark
kristen@ifm.aau.dk

*Troels Jacob Hegland*
Innovative Fisheries Management – an Aalborg University Research Centre, Denmark
tjh@ifm.aau.dk

*Abstract* The 2002 Common Fisheries Policy (CFP) reform introduced the Regional Advisory Councils (RACs) to enhance stakeholder involvement and correct one of the policy's primary deficiencies, its lack of legitimacy arising from stakeholder involvement. While some criticize the 2002 reform as not going far enough to alleviate problems of lacking process and content legitimacy, in certain ways the RACs may be thought of as representing an interim institutional stage, facilitating better information sharing and cultivating stakeholder relationships. Based on a survey of RAC participants, this paper illuminates the current capacities and functions of the RACs. The paper reveals that the RACs possess additional—often not sufficiently recognised—roles and values to the advice they produce as they facilitate understanding across and within sectors and interest groups and act as key purveyors of information. Additionally, the data also shows mixed feelings of impact among those participating in the RACs.

## Introduction

The 2002 Common Fisheries Policy (CFP) reform introduced a novel set of stakeholder bodies, the Regional Advisory Councils (RACs), to provide advice primarily to the Commission of the European Communities (Commission) on matters pertaining to the fisheries in a defined geographic area or relating to specific fisheries. Following good governance principles, which emphasise the importance of public or user group participation in policy-making, the EU attempted in this way to address the CFP's poor record of low process and content legitimacy by utilising the strong link between stakeholder participation and legitimacy, which can be understood as an internalized obligation to comply with rules (Raakjær Nielsen 2003). Nonetheless, soon after the 2002 CFP reform was in place, questions regarding the actual extent of the stakeholder involvement in European-level fisheries management continued to arise (Gray and Hatchard 2003).

Presently, the RACs manifest an intermediary institutional level between the central EU and member state levels oriented toward particular marine regions (and specific fisheries). RAC membership comprises fishing industry and non-industry stakeholders from the member states who share stocks, habitats, and interests in the defined region. With another decadal CFP reform developing, the question is whether the RACs have delivered what their architects had hoped or if indeed they merely

represent relatively weak institutional structures with the weight of power remaining at the central EU entities. For a perspective from those involved, it behoves us to investigate the RACs' current capacities and their memberships' opinions on their functioning. The article focuses on the empirical findings related to the RACs and their membership through comparisons among four RACs surveyed, stakeholder type, and participant's geographic affiliation.[1]

## Background and Methodology

As aforementioned, the RACs came into existence as a product of the 2002 CFP reform in an effort to correct one of the policy's primary deficiencies, a lack of stakeholder involvement as identified by the Commission's 2001 Green Paper (Commission 2001). Gray and Hatchard (2003) contend that the Commission's statements related to the 2002 reform and surrounding discourse exceeded the detectable change attributed to the policy. The central criticism laid against the structure of the RACs is that stakeholder input is restricted to the pre-decision phase while the EU central level retains its decision-making authority (Gray and Hatchard 2003). The authors are blunt with their criticism: 'All these reservations and restrictions seriously question the Commission's commitment to the principle of participation as a right or entitlement of stakeholders' (Gray and Hatchard 2003: 548). However, co-management, defined as a sharing of management between users or stakeholders and state authority, takes many different forms ranging in levels of informative participation to devolved authority (Sen and Raakjær Nielsen 1996; Hegland, Ounanian and Raakjær 2012).

Moreover, literature points to other benefits of forums whose sole purpose centres on soliciting comments and opinions from the constituency (Halvorsen 2003, Chase, Decker, and Lauber 2004). Interactions between different stakeholder groups often afforded in such settings benefit both process and content legitimacy. In the first instance, stakeholders put a face to a divergent opinion and in 'high quality processes' a developed rapport may ease arguments on contentious issues and initiate solutions (Halvorsen 2003, Dalton 2006). Related to improved content legitimacy, the exposure to viewpoints other than ones own fosters understanding of agency or ministerial decisions and compromises often necessary in policy areas like fisheries management (Halvorsen 2003). Furthermore, in cases where stakeholders feel satisfied with the facilitation of the participation process, good will toward the convening entity or governmental body can manifest as confidence in the agency's abilities to handle other policy matters and make decisions (Halvorsen 2003).

The question as to what constitutes a successful participatory process—be it related to user groups, wider stakeholders, or the general public—has received great attention over the past decade. Dalton (2005) outlines active participant involvement, complete information exchange, fair decision-making, efficient administration, and positive participant interactions as the five foci in a framework related to high quality participation in Marine Protected Areas. In an assessment of existing theoretical and empirical work on participation processes in natural resource management, two central conditions emerge: a) learning and gaining information via participation and

[1] The survey comprises three sections: Background, Current RAC Functioning and Capacity, and finally Reform of the Common Fisheries Policy and Regionalisation, of which the first two sections are covered in this article. The findings related to the final section of the survey appear in Hegland, Ounanian and Raakjær (2012a) in this volume.

b) granting some decision-making power to participants. So, has the absence of decision-making authority undermined the value of the RACs?

Holding to the issue of decision-making authority, Gray and Hatchard (2003) argue that the Commission's stated interest in increased compliance through stakeholder input is largely undercut by keeping the RACs consultative in nature. The authors suggest therefore morphing the Regional Advisory Councils into Regional Management Councils in order to correct the wayward reform of 2002. But perhaps this criticism from 2003 undervalues the evolutionary aspect of institutional reform and neglects the need to build institutional capacity? In fisheries the gradual development of stakeholder forums often improves the management system as the slow pace affords time for collective learning and information sharing leading to more successful stakeholder participation forums (Hanna 1995). Additionally, public participation literature asserts that those involved in processes become better informed over time (Chase, Decker and Lauber 2004), which adds to this notion of building capacity. Admittedly, Gray and Hatchard (2003) do point to such benefits as they conclude that the 2002 reform did improve communication between the Commission and EU fisheries stakeholders.

The Commission itself also reaches the latter conclusion in its brief and overall positive review of the functioning of the RACs from 2008 (Commission 2008), which contains other remarks on the positive contributions of the RACs to the CFP governance system, such as improved communication between different stakeholder groups and the increasing number of recommendations submitted. However, the Commission's evaluation focuses on the technical functioning of the RACs such as geographical coverage, composition of RAC bodies, and operational procedures. Gray and Hatchard's scepticism remains certainly deserved in the context of the evolution of the CFP. Nonetheless, as their review came only one year after the reform, it will likely prove beneficial to look at the RACs after a few years of operation.

*Methodology*

Survey participants were solicited for this study between February and April 2010. The survey data yield comparisons between the priorities and challenges of four RACs, specifically the North Sea, North Western Waters (NWW), South Western Waters (sww) and Pelagic RACs. Among the RACs included, the Pelagic RAC faces unique circumstances in comparison to the other three because of the migratory nature of pelagic stocks and resulting quota sharing with non-EU countries. As a consequence of the survey coverage, the data obtained do not illuminate the specific preferences of the Baltic, Mediterranean, and Long Distance RACs; yet the overarching themes and problems associated with the CFP likely apply to these bodies as well.

Due to the diversity of the population, respondents had the option to access the survey in English, French, Spanish, and Portuguese. We defined the population as those who attended a General Assembly, Executive Committee, or first instance of a Working Group meeting in 2009. In effect, the survey population totalled 329 potential participants. Unlike other assessments of the RACs—including one completed by the Commission itself—which review the RACs through the seven secretariats, this research directly contacted individual participants rather than soliciting an aggregated report from each individual RAC. The survey totals 138 observations, of which 100 participants completed an online questionnaire, 30 completed a paper version, and eight partially responded online providing enough

answers to merit inclusion[2]. The response rate for the survey stands at 41.9 per cent (138/329). Participants ranged in age from 23 to 78 years with both arithmetic mean and median coming to 46 years. The survey participants included 100 men and 38 women. For a complete description of the methodology please refer to Raakjær et al. (2010).

Part of the survey intended to measure the challenges facing the RACs and assess if RAC participation has altered stakeholders' trust, access to information, and other markers relevant to the success of devolved decision-making. The RACs, along with the Advisory Committee for Fisheries and Aquaculture (ACFA), represent the primary stakeholder forums in the current CFP arrangement, thus if regionalisation—through decentralising and possibly devolving power—is to deliver better management, we should appraise how well the present model operates.

## Profile of a RAC Participant

With the longest existing RAC (North Sea) marking seven years in November 2011, these forums are in the early stages of development. At this juncture, policy-makers and EU fisheries stakeholders have little comprehensive knowledge of who attends RAC meetings. Many existing reports on the RACs are, as mentioned, mediated by the RAC Secretariats and thus do not provide a direct account from the stakeholders themselves. Therefore, this section seeks to provide a profile of who attends these meetings and illuminate patterns or discrepancies in RAC participation.

While compiling the survey population it was clear that a portion attend meetings in more than one RAC. In the interest of making inter-RAC comparisons, we asked participants to choose the primary RAC in which they were most involved. The survey garnered a relatively even distribution of the four RACs under investigation: SWW (39), North Sea (37), NWW (32), and Pelagic (28).[3] As it will appear later, the designated primary RAC provided a means of comparison to analyse the patterns of opinions and perceptions pertaining to the RAC performance.

For the most part, survey respondents demonstrated a great deal of experience in fisheries management. In terms of experience, about twenty per cent of participants fell into each of the following categories: 11-20 years, 21-30 years, and greater than 30 years. Twenty-nine per cent worked in fisheries for 2-10 years with seven per cent working in fisheries for less than two years.

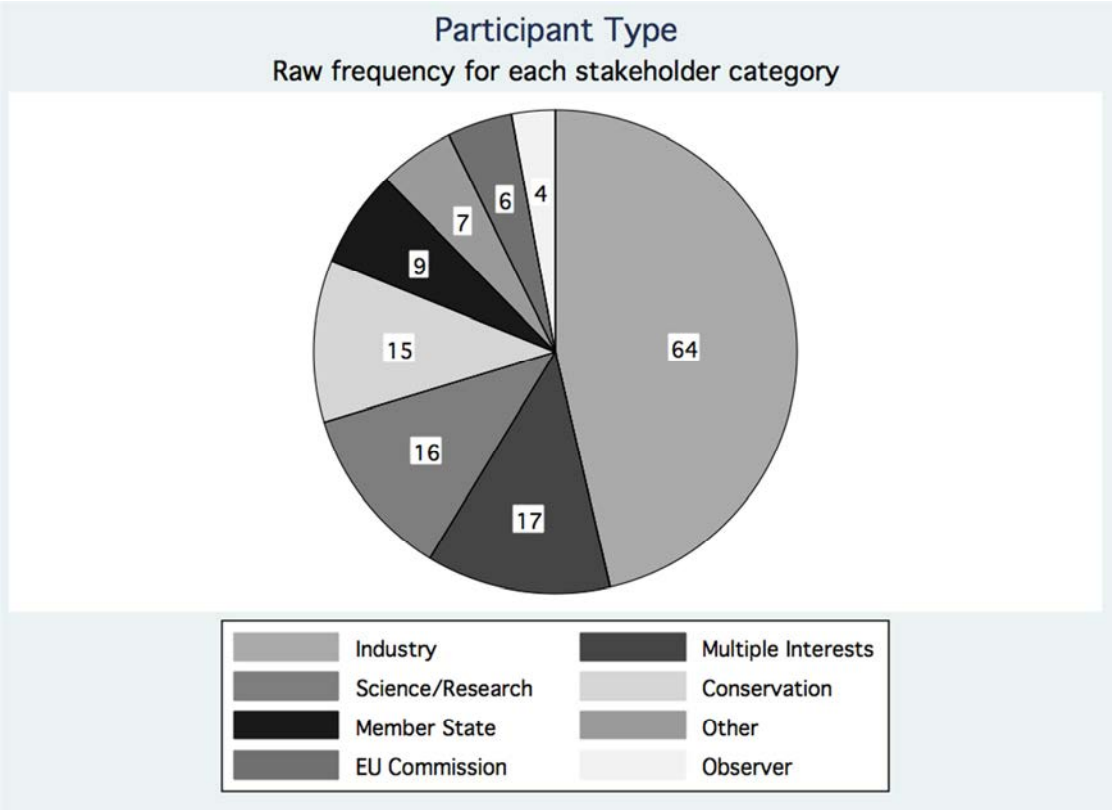
Industry stakeholders form a strong presence in RAC meeting attendance with nearly half the survey participants indicating their affiliation with this category. The survey provided fifteen different participant categories based on those mentioned in the Council of the European Union (Council) decision, which forms the legal foundation of the RACs (Council 2004). In our account, where we have grouped some of the original categories, *Industry* includes both catching and processing sectors. Interest organisations related to recreational fishing, women in fishing, regional development, and those who selected the 'Multiple Interests' option combined into the *Multiple Interests* category. *Conservation*, primarily populated by those working for environmental NGOs, were left separate from *Multiple Interests* stakeholders

[2] Some participants opted not to answer particular questions. Thus, most questions have less than 138 responses.

[3] In the web survey participants were required to choose one of the four RACs; however, two persons responding to the paper version did not choose a primary RAC.

because, although many are not explicitly industry related, those groups are nevertheless tangentially linked to extractive interests.[4] The full breakdown by participant type is summarised in Figure 1 with the divisions for each RAC included in Figure 2 further beneath. Interestingly, none of the survey respondents chose the aquaculture or consumer categories. Although the Commission voiced an explicit intention to include these groups in the RACs, it seems as though they are basically opting out, either due to lack of interest or because outreach efforts have been insufficient.

*Figure 1: Pie Chart of Survey Respondents' Stakeholder Categorisation*

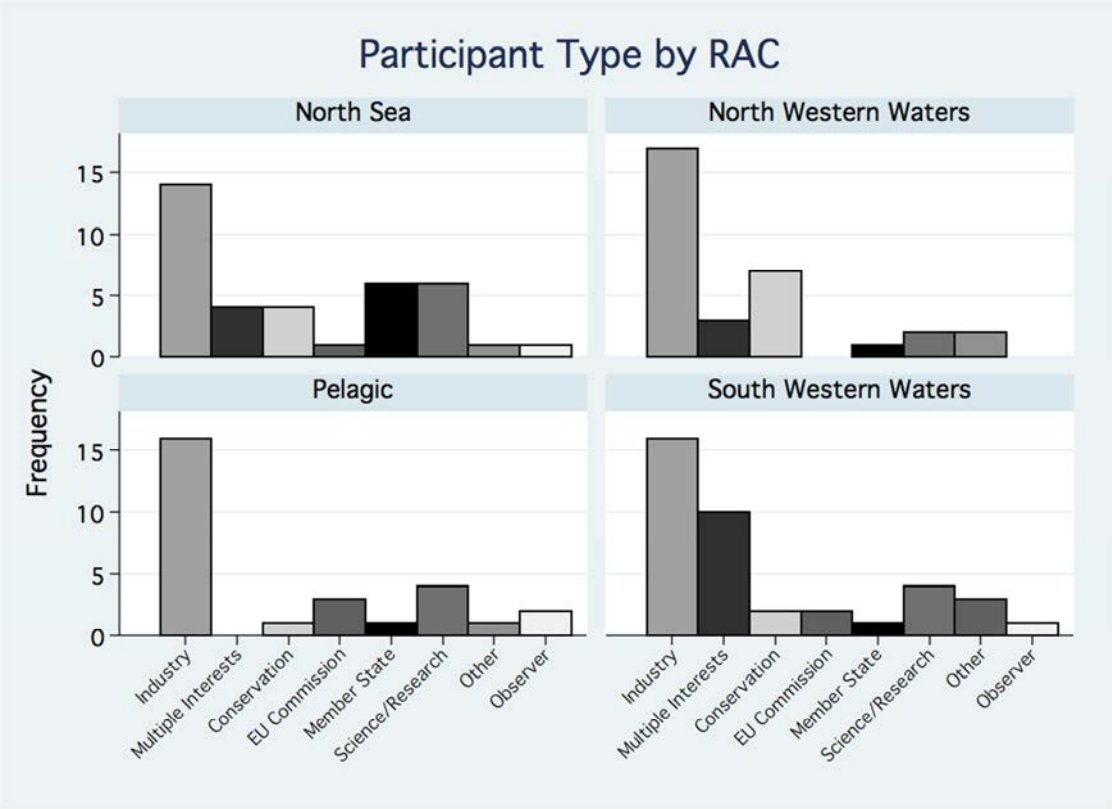



(N=138)

Combining the number of *Multiple Interests* with *Conservation* respondents, the survey's response population approaches the two-thirds/one-third ratio of industry to other interests mandated by the EU policy for the RACs (Council 2004). Such a mirroring of the RAC membership reflects positively on the representativeness of the survey respondents.

[4] Whereas women in fishing and regional development interests in the context of the RACs are often closely associated with the commercial fishing industry, this is generally not the case for recreational fishing interests. These interests—at European level predominantly represented by the European Anglers' Alliance (EAA)—most often find themselves in opposition to the commercial industry. However, at the same time it would not be reasonable to group these representatives within the Conservation category, since they do represent an interest and an industry that base activities predominantly on the extraction of fisheries resources.

*Figure 2: Frequency Distribution of Participants within the Self-designated RAC*




(N=136. Two respondents did not indicate their RAC)

Although there is some variation in the interest composition of participants when organised by primary RAC, Figure 2 shows that in all four RACs *Industry* stakeholders take the largest share of respondents. Notably, the Pelagic RAC has no respondents under *Multiple Interests* and the smallest share of *Conservation* representatives. Meanwhile, *Multiple Interests* stakeholders are more represented in the SWW RAC than in the other RACs.

RAC participants cover a range of countries, some of which are not members of the EU, but that still have people attending meetings as observers, scientists, or other experts. The highest percentage of participants came from France and Spain, which reflects the prevalence and importance of fishing in those countries. Additionally, France borders all four of the RAC areas under observation, which may well have bolstered the number of French participants in this particular survey. The number of respondents from Denmark and Scotland[5], both totalling 8.8 per cent (of the 137 who responded to question), also mimics the relatively larger share of fisheries interests. When combined with Scotland, the United Kingdom amounts to 17.5 per cent of observations.

[5] Participants who specifically wrote Scotland populated their own category and are not included in the total of United Kingdom participants. Those who simply wrote United Kingdom comprise their own separate category.

*Table 1: Geographic Distribution of Survey Participants*

| Geographic Affiliation | Frequency | Percentage |
|---|---|---|
| Belgium | 3 | 2.2 |
| Denmark | 12 | 8.8 |
| Germany | 2 | 1.5 |
| Netherlands | 9 | 6.6 |
| United Kingdom | 12 | 8.8 |
| Scotland | 12 | 8.8 |
| Ireland | 7 | 5.1 |
| Poland | 1 | 0.7 |
| France | 28 | 20.4 |
| Portugal | 8 | 5.8 |
| Spain | 20 | 14.6 |
| Europe/European Union | 16 | 11.7 |
| International | 5 | 3.7 |
| Norway | 1 | 0.7 |
| Faroe Islands | 1 | 0.7 |
| **TOTAL** | **137** | **100.0** |

(N=137. One respondent did not indicate geographic affiliation)

The number of observations for each individual country is too low for reliable analyses; however, the country of affiliation has been used to define a *North-South* category. *South* comprises France, Portugal, and Spain with the remaining countries of Belgium, Denmark, Germany, Ireland, the Netherlands, Scotland, and the United Kingdom populating the *North* category. Those who designated 'Europe' or 'International' as their geographic affiliation combined with Poland[6], Norway and the Faroe Islands to form an *Other* grouping, which due to its diversity is generally not included in the analyses related to geographical affiliation.

## Current RAC Functioning

While there is a clear mandate as to why the RACs exist and their legal foundation, meeting attendants join these forums for reasons other than the sole purpose of providing stakeholder advice. Because many groups of participants total less than ten respondents, the analysis focuses on *Industry*, *Multiple Interests*, and *Conservation*. For *Industry* participants improving stakeholder advice and networking were the main motivations with a slightly lower emphasis on serving an associated constituency. The *Conservation* representatives also fall in line with *Industry* counterparts in that they see less of a role in serving a constituency; however, for *Conservation*[7] the difference between improving advice and serving those represented by the organisation is not statistically significant. *Multiple Interests* participants view, 'Serve those I represent in my organisation' as a very important[8] motivation for participation.

[6] Although Poland is an EU member state, unlike Norway or the Faroe Islands, it was included in the Other group because it did not fit into the North-South dichotomy.

[7] One Conservation participant selected 'Not applicable' on the 'Serve those I represent in my organisation' measure, but as previously noted this is not included in the associated mean.

[8] The associated mean is 4.88 for a measure with an upper inclusive limit of 5, which equated 'Very important' on the survey. Statistical t-tests show that *Multiple Interest* respondents rate this measure

Importantly, overall all six of the motivations presented in the survey are associated with greater than neutral importance. There is, however, a split between the top and bottom three. 'Improve stakeholder advice in the EU', 'Network with other stakeholders', and 'Serve those I represent in my organisation'[9] prove to be well-established motivations for participation. The priority placed on these reasons is echoed in the three primary stakeholder groups: *Industry*, *Multiple Interests*, and *Conservation*. Nonetheless, the bottom three motivations, 'Communicate directly with Commission representatives', 'Interact with scientists who provide fisheries advice', and 'Observe' still measure above neutral; but there is a significant difference between the motivations ranking third ('Network with other stakeholders') and fourth ('Communicate directly with Commission representatives').[10]

Supplementing the statistical findings of the survey, comments left by some respondents underscore that participation in RAC meetings helps stakeholders stay up-to-date on happenings in fisheries management and the perspectives of fellow participants. Additionally, respondents indicated that the RACs are a unique entity in the EU fisheries policy constellation and thus engaging in such a forum is somewhat novel.

*Access to Information*

As alluded to in the discussion on motivations, the RACs have proven to be an asset to stakeholders not only as advice forums, but also through the increased collection of and access to information, a finding also suggested by the Commission's review of the functioning of the RACs (Commission 2008). With the option to choose the two main information sources sought in relation to the impacts and implementation of EU fisheries management, participants designated the RAC as a primary source. Figure 3 beneath summarises the findings for each RAC, which illustrates the strong preference for the RAC as an information source, in particular for those in the North Sea, Pelagic and SWW RACs. The NWW RAC displays a slightly different pattern with a stronger preference for 'Information from industry groups and associations' as well as 'Other' sources; however, the RAC category still fields a number of observations for those from the NWW RAC.

When subsequently asked about which specific RAC information sources participants employ, written communication from the RAC proves to be the most popular. Participants also rely more on industry representatives for information as opposed to their non-industry counterparts; however, stakeholder type has some bearing on these findings as discussed below. Notably, very few participants do not consult RAC materials at all.

There may not be as much information seeking and sharing across organisational lines, however. *Industry*, *Multiple Interests*, and *Conservation* participants differ slightly in the sources of information that they seek. Likely the

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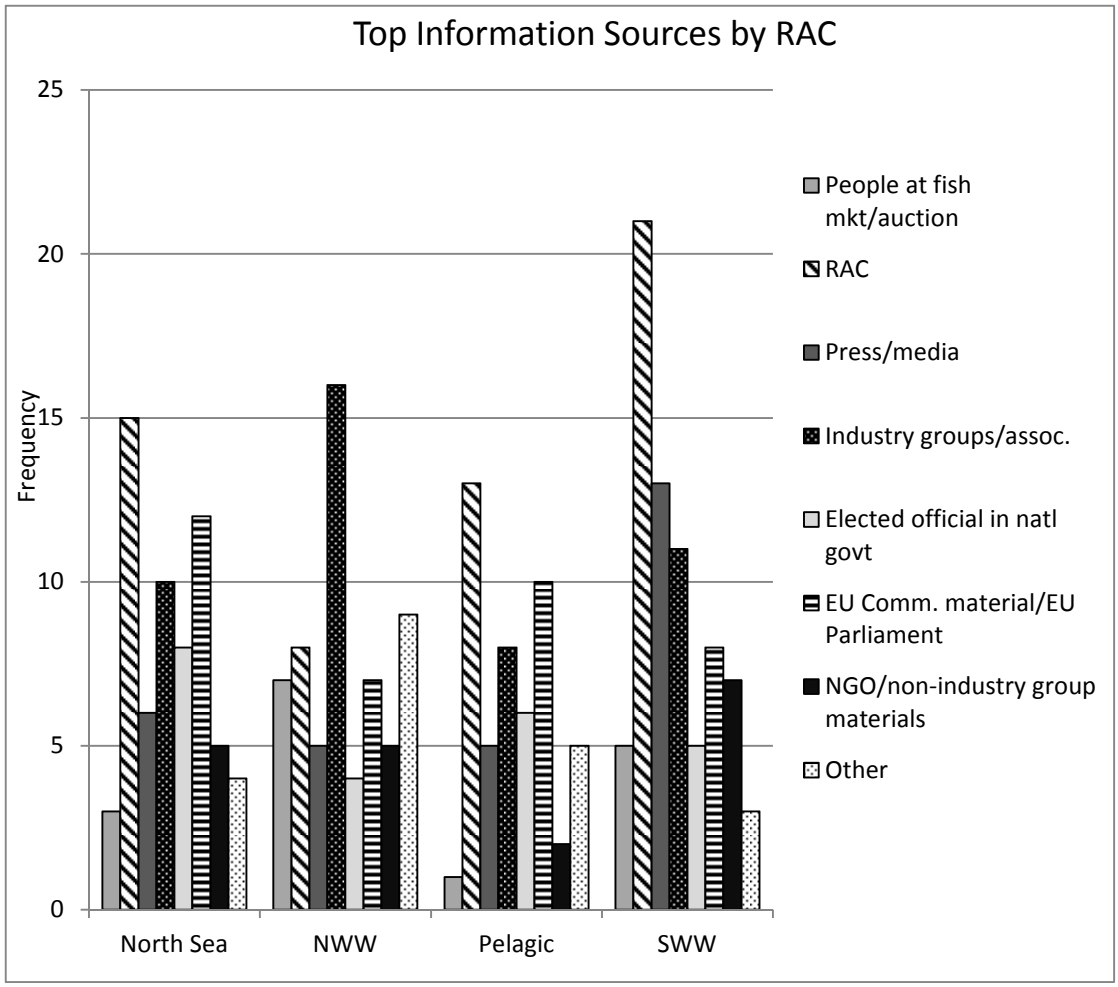
statistically higher than *Conservation* (t=3.72, p-value of 0.001) and *Industry* (t=1.79, p-value of 0.08) counterparts.

[9] Participants who categorise themselves as a non-interest organisation (i.e. member state representatives, scientists, EU Commission representatives) felt some of the questions in the series are not applicable, which is somewhat expected for these groups. Those opting for not applicable on the motivations measures total to less than ten and are evenly dispersed throughout the different participant types. However, on the motivation measure stating, 'Serve those I represent in my organisation,' fourteen of 135 participants chose 'not applicable', many of which fell into the *Science/Research*, *EU Commission*, and *Other* categories.

[10] T-test shows statistical difference between means of 4.31 and 3.85 (t=3.66, p-value of 0.001).

preference for information from industry representatives in the overall question and the RAC-specific question can be attributed to the preponderance of *Industry* participants in the survey.

*Figure 3: Top Information Sources by RAC*




(N=X. Respondents were free to choose two answers from the list)

*Industry* respondents are less likely to seek information from NGOs and other non-industry groups, as only 3 per cent often consult such sources (overall question), and only 11 per cent of the *Industry* category seek information from non-industry representatives based on the RAC-specific question. In comparison, 47 per cent of *Conservation* respondents consult NGO sources (overall question) and 33 per cent seek non-industry RAC representatives (RAC specific question). Nevertheless, *Conservation* respondents still consult industry groups and associations, as 33 per cent of this group select the category in the overall question and 47 per cent of the *Conservation* category consult industry representatives of the RAC for information (RAC-specific question).

Finally and importantly, RAC meeting participants themselves see the establishment of the RACs as a boon to information access. The vast majority of those surveyed say the RAC 'somewhat improved' or 'greatly improved' access to information with 41 per cent electing the latter. While the survey included the option to select 'no improvement at all,' no participants chose this response and a minority

felt as though the RAC has only slightly improved information access. Table 2 below details the full set of responses on this measure.

*Table 2: Number of Participants Selecting the Answer Options for the Extent to which the Establishment of the RAC has Improved Access to Information*

| | Improved very little | Somewhat improved | Greatly improved | Total |
|---|---|---|---|---|
| North Sea | 4 | 19 | 10 | 33 |
| NWW | 3 | 15 | 14 | 32 |
| Pelagic | 2 | 13 | 10 | 25 |
| SWW | 2 | 18 | 17 | 37 |
| **TOTAL** | **11** | **65** | **51** | **127** |

(N=127. No respondents chose the fourth answer choice: 'No improvement at all')

The impression that the RACs have claimed a noteworthy role in information sharing system related to the CFP governance system is also covered in the Commission's review, which encourages further development in the area (Commission 2008).

While the RACs appear successful in aggregating and disseminating information, the message is more mixed looking at the data on access to scientific expertise to support the work of the RACs. Whereas access to technical and practical fisheries knowledge [11] is mostly available (presumably through the stakeholder representatives on the RAC and their networks), the perceived availability drops for expertise on ecosystems and fish stocks (i.e. biologists and ecologists). The perception of availability sinks even further in relation to economic expertise, and even more so for social science expertise. Except for the Pelagic RAC, all RACs are significantly below neutral on economic expertise[12] and all four RACs rank below neutral for availability of social science expertise.

*Table 3: Means Associated with the Availability of Certain Forms of Knowledge and Expertise in Each of the RACs*

| | North Sea | NWW | Pelagic | SWW |
|---|---|---|---|---|
| Technical fisheries knowledge | 4.0 | 3.5 | 4.24 | 3.46 |
| Practical fisheries knowledge | 4.18 | 3.44 | 4.28 | 3.31 |
| Scientific expertise on the ecosystem and fish stocks | 3.18 | 2.72 | 3.48 | 3.06 |
| Economic expertise | 2.47 | 2.34 | 3.17 | 2.49 |
| Social science expertise | 2.18 | 2.03 | 2.58 | 2.36 |

(N=X. 5 equals 'always available', 1 equals 'never available')

[11] Technical fisheries knowledge relates to matters roughly associated with gear and vessel types. Practical fisheries knowledge is mostly gained from day-to-day operations from those who work regularly on the water or in onshore fishing related industries. While the survey intended to capture any difference in the level of availability of experiential fisheries knowledge through the 'practical fisheries knowledge' measure, it is likely that many respondents did not detect the nuance in our employment of 'technical' versus 'practical' wording.

[12] Neutral is associated with the value of 3; one sample mean-comparison test shows the following: North Sea t= -3.58, p-value: 0.001; NWW t=-4.29, p-value: 0.001; SWW t=-3.20, p=value: 0.01. For social science expertise one sample mean-comparison test gave the following results: North Sea t=-6.47, p-value: 0.001; NWW t=-6.37, p-value: 0.001; Pelagic t=-2.46, p-value: 0.02; SWW t=-3.66, p=value: 0.01.

Comparing RACs on the perceived availability of expertise, there are a few key differences to highlight. While all the RACs are unanimous in the feeling that social science expertise is unavailable, the Pelagic RAC is significantly more optimistic about the availability of economic expertise.[13] For scientific expertise on ecosystems and fish stocks the NWW and Pelagic RACs stand in stark contrast as five of 32 NWW participants feel that such advice is available in comparison to 13 of 25 Pelagic counterparts, who feel that way.[14] The low scores for economic and social science expertise resonate with a suggestion in the Commission's review to expand the notion of scientists needed to support the RACs to economists among others (Commission 2008). The expertise gap, so to speak, highlights a shortage in resources that would be helpful, if not required, were the RACs to evolve from advisory bodies to decision-making entities.

Respondent comments underscore the importance of knowledge and expertise for the advisory capacity of the RAC. Many emphasise that 'built-in' scientific expertise would improve debate and advice. Further comments clarify that socio-economic expertise is largely unavailable while still strongly desired by participants. The overarching concern that the RACs do not have access to adequate and sustained resources comes through in many of the comments related to information and expertise. One respondent encapsulates the argument of many:

> The RAC was formed out of desire to work together to reach common objectives. The Commission supports these objectives but denies the RAC the necessary resources to achieve them. Knowledge and expertise are costly but necessary and the RAC does well with the limited finance but could do so much better if properly funded (Comment 56).

*Feelings of Impact*

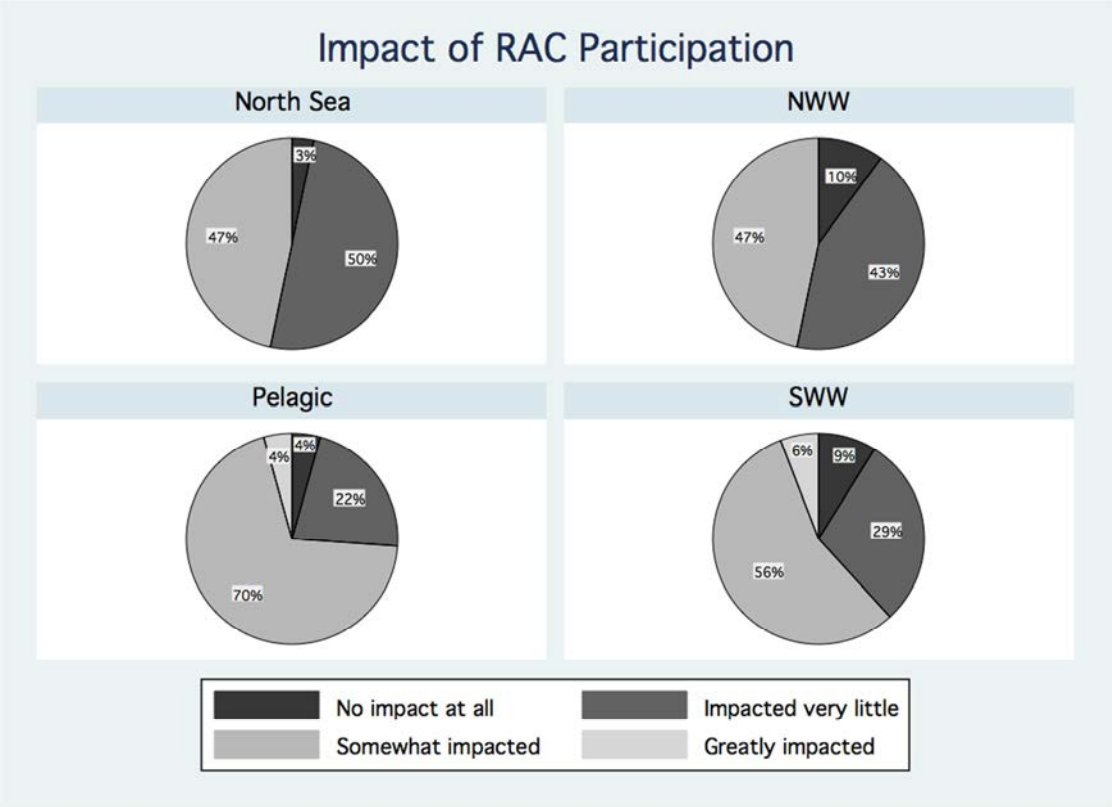
With some discussions of regionalisation suggesting that the RACs evolve into managerial or decision-making entities, it is interesting to gauge how participants feel about their level of impact in the present advisory role. The survey asked respondents, 'To what extent do you feel your organisation's participation has impacted the decisions that change the course of fisheries management in the European Union?' Seeing as some survey respondents do not represent an organisation, twelve of the 130 who responded to the question chose, 'Not applicable'. Of the remaining 118 responses, over half selected 'Somewhat impacted'. Thirty-six per cent were less optimistic, replying 'Impacted very little' and seven per cent felt their efforts had 'No impact at all'. The smallest proportion, three per cent, reacted positively replying 'Greatly impacted'. Figure 4 divides the results of feelings of impact, highlighting a modest split among RACs. A total of 53 per cent of the North Sea and NWW RAC participants find that their organisation's participation in the RAC 'Impacted very little' the course of fisheries management in the European Union. Pelagic respondents are less despondent, with only 26 per cent saying that their organisation has 'Impacted very little' to had 'No impact at all'. Nonetheless, the RAC means for this measure are not statistically different.

[13] The ANOVA statistical test revealed the difference among the four RACs ($F=4.10$, p-value: 0.01). Furthermore, 42 per cent of Pelagic respondents chose 4 or 5 ('always available') whereas 15 per cent or fewer chose the same response in the other three RACs.

[14] The ANOVA statistical test revealed the difference among the four RACs ($F=3.76$, p-value: 0.01).

Moreover, it is difficult to draw conclusions from these results alone. The interpretation of the feelings of impact can be quite subjective depending on the perspective. Those coming from the 'glass is half full' paradigm would cite that over half the respondents feels that they make a moderate to high impact; the more sceptical or cynical among us might be surprised to see that the RACs have in some way made stakeholders feel that they are better heard. On the other hand, an equally large share of participants do not feel that their role in these advice forums has much impact on the policy outcomes—a major tenet of the introduction of the RACs. We can probably best employ these results as a baseline to compare as the RACs continue their work or as their roles transforms in the context of new governance arrangements.

*Figure 4: The Extent to which Survey Respondents Felt their Organisation's Participation in the RAC Impacted the Decisions that Change the Course of Fisheries Management in the EU*




(N=130. 12 responses of 'Not applicable' not included in graphs)

Indeed comments from the survey provide these two different perspectives on impact. On the more hopeful side, one participant notes, 'I do not think that the RACs' have had as great an impact as they should have had. Hopefully this will change in the near future' (Comment 101). Some do not put as much emphasis on the RACs, but see it more as one piece in a larger operation to improve fisheries management in Europe, 'It is not a principal influencing mechanism but important mechanism for improved understanding between Member States and RACs and helpful to input into policy development' (Comment 105).

Of course, there are a number on the other side who feel frustrated by what they consider lack of attention by the Commission, as one *Industry* person responds, 'Not for lack of trying. I attend RAC meetings to put the views of fishermen to the Commission. I may as well stay at home but I take the opportunity' (Comment 110).

Many participants felt that the Commission does little in the way to support RAC recommendations and either ignores or goes on with previously outlined plans. Thus, while these results should be compared to subsequent findings on this topic, it would seem that the Commission does have room to grow in its attention to stakeholders to improve both process and content legitimacy.

*Trust and Understanding*

Overall, 'Trust' in industry, non-industry, and Commission range from no change to increase with none of the means indicating a decrease in trust due to participation in the RAC (see Table 4). The means for levels of change in 'Understanding' trend toward the increase end of the spectrum in comparison to the trust responses, which aligns with the plausible hypothesis that understanding of different stakeholder priorities, is easier to achieve than trust in those parties.

*Table 4: Means Associated with Increase or Decrease in Understanding and Trust for Different RAC Membership Categories for Overall Population*

| | Understanding | Trust |
|---|---|---|
| Industry Stakeholders | 2.34 | 2.54 |
| Non-Industry Stakeholders | 2.59 | 2.76 |
| Commission Representatives | 2.69 | 3.0 |

(N=X. The survey asked, 'Please score the degree to which your level of trust / understanding in the following groups has increased or decreased due to your participation in the RAC.' 1 equals 'greatly increased' and 5 equals 'greatly decreased')

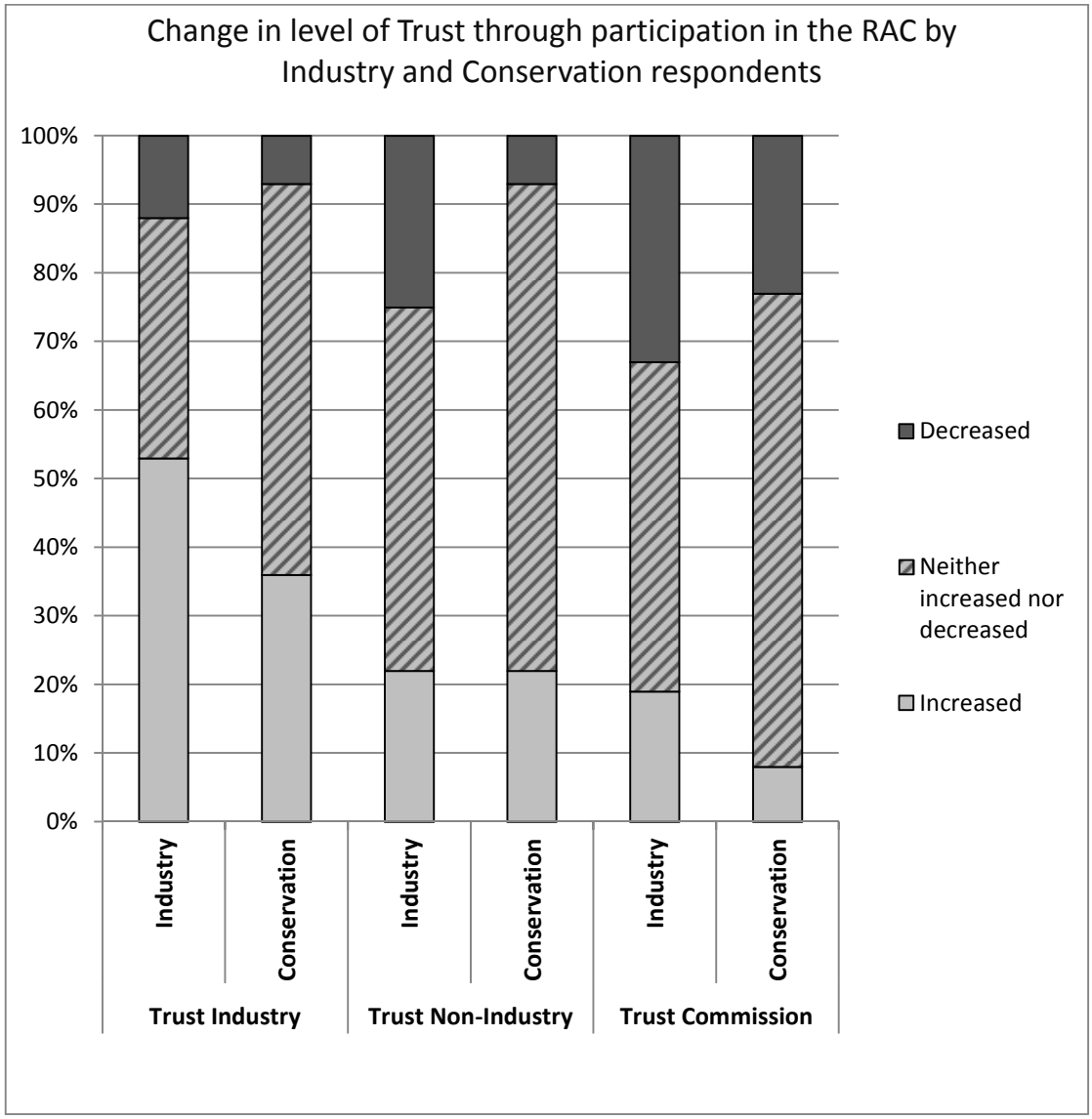
For the full survey population, trust in industry stakeholders ranks significantly higher than the trust in Commission representatives and non-industry stakeholders. However, in the case of industry versus non-industry stakeholders, the large representation of industry members affects the outcome on this measure. Notably, few participants feel that their level of trust or understanding decreased through participation in the RAC, but interestingly the Commission is not as insulated. Roughly 40 per cent of *Industry* participants feel their trust in the Commission has decreased and about 20 per cent of those in the Conservation category feel the same way. Nevertheless, the overall trend of these measures reveals that communicating and working together in the RACs is associated with heighted feelings of connection across stakeholder type (see Figure 5 beneath).

Participant comments echo the overall lower levels of positive change in levels of understanding and trust for the Commission. There is some skepticism toward the sincerity of the Commission's interest in the industry perspective and questions as to whether the Commission understands the impact of its decisions (Comments 65, 68, 72, 78). A respondent elucidates as such, 'Regarding the EU, generally the representation is good and balanced although at times there seems to be almost a sense of giving lip-service to the industry and using the RAC as a tick box exercise to say they have consulted extensively with industry' (Comment 65).

Comments on the survey from participants help contextualize the numerical findings for the trust and understanding measures. In terms of *Industry* respondents indicating that they experience increased levels of trust in fellow industry members, it seems as though that interactions on the RAC between industries from other member states have led to better understanding and subsequently heightened trust within the group. Nevertheless, *Industry* as well as *Conservation* and participants from other

categories indicate that they detect that some RAC participants are more forthcoming than others, 'I think some of the industry and non-industry stakeholders are much more open and transparent than others. Some still seem to forget the purpose of the RAC at times and pursue their own interests, over and above the interests of all the RAC members' (Comment X), a sentiment echoed in other respondents' comments. Some participants remain focused on their own interests and priorities, which in turn results in a mixed feeling of trust and understanding.

*Figure 5: Changes in Level of Trust through Participation on the RAC by Industry and Conservation Respondents*




(N=X. Reading guide: The first two bars from the left show the development of 'trust in industry' reported by respectively *Industry* and *Conservation* respondents. As an example, approximately 12 per cent of *Industry* respondents report that their trust in other industry actors has decreased by participating in the RAC. The third and fourth bars show the development of 'trust in non-industry'; the fifth and sixth show the development of 'trust in Commission')

Numerous participants underscore the developing relationship between environmental NGOs and industry representatives, but some remain concerned that strong economic

interests of industry cloud other objectives that are valued by NGOs and other RAC participants. On the flip side, some industry members note frustration with the strong attention paid to certain conservation agendas by environmental NGO representatives. The ubiquity of the industry versus non-industry theme contributes to it being viewed as somewhat trite. Nonetheless, one respondent provided a rather colorful analogy for the working relationship between industry and non-industry factions, 'Between the NGOs and the industry, it's not so much a matter of trust from my viewpoint but rather like an arranged marriage where you don't choose each other as bedfellows but rub along for the benefit of the progeny (=policy outputs). We rub along and understand each other better than pre-RAC' (Comment X). To continue with the metaphor, while there is a developing relationship, it seems as though we can stop short of describing it as marital bliss, though...

*Challenges of the RAC*

To better understand how the RACs operate and where they struggle to meet the requirements of operating as a forum for wider stakeholder participation, we examined the specific challenges and related levels of difficulty for processes surrounding consensus, communication, navigating differences in stakeholder priorities, and the like. The survey asked participants to score the difficulty associated with six different challenges related to RAC activities. Participants chose from a five-point scale with 1 associated with 'Very Easy' moving up to 5 being 'Very Difficult'. Additionally, if participants felt any of the challenges were not pertinent to them, they had the option to check 'Not Applicable'. In addition to ranking the six challenges, the survey also asked participants to select the challenge 'Most critical to the success of [the] RAC.'

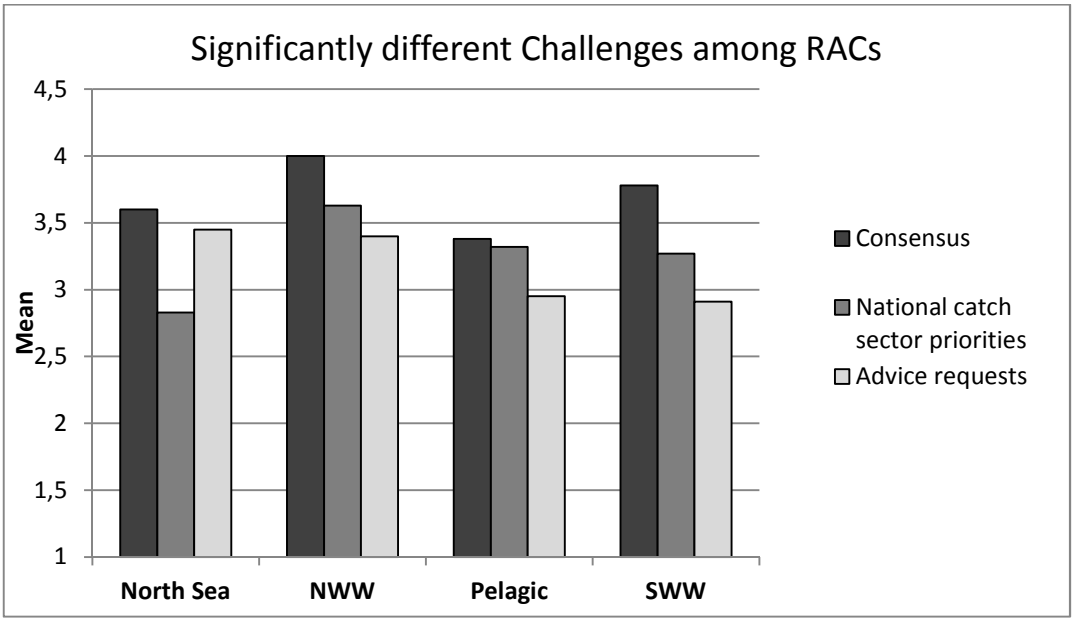
Overall there was a great deal of convergence on the difficulty of the challenges among the RACs and stakeholder types. Of the six different challenge dimensions, three measures are statistically different among the four RACs and another measure divides along geographic lines. Comparisons can be made among the RACs on these measures as well as comparisons among the challenge measures themselves within a particular RAC.

Figure 6 beneath illustrates the three measures where the means for associated difficulty differ significantly among the RACs. To begin, 'Reaching consensus' ranked as one of the most difficult challenges for all four RACs. Although perceived as somewhat difficult in all RACs there are statistically significant differences between the NWW RAC at the top end of the range and the Pelagic RAC at the low end with the North Sea and SWW RACs falling in between.[15] For the NWW RAC, 'Reaching consensus' scored significantly higher than any other of the challenges.[16] Among the challenges presented, 'Reaching consensus' was the most frequently selected option for the challenge most critical to the RAC's success. In the case of the North Sea, 'Reaching consensus' was the second most frequently selected with one response less than 'Cultivating better cooperation between industry and non-industry members'. Participants from the SWW RAC chose the consensus measure as the second highest priority to 'Balancing small-scale versus large-scale fishing priorities'.

[15] Analysis of Variance (ANOVA) provides basis for statistical difference among four RACs on Consensus measure with F statistic of 2.40 and p-value of 0.07.

[16] The difference in means between 'Reaching consensus' (4.00) and 'Addressing different national catching sector priorities' (3.63), the second highest mean, was statistically significant at p=0.10, whereas all other measures were statistically different from consensus at levels of less than 0.05.

*Figure 6: Means for Three Statistically Different Challenges among RACs*




(N=X. 1 equals 'Very Easy' and 5 equals 'Very Difficult')

Building on the themes of trust in the previous section, one respondent ties together the importance of consensus and the challenge that lack of trust and understanding can present to this goal:

> One of the major challenges for the RACs (and a key driver for its success) is the need to build trust among members: it is necessary that RACs are not seen as a lobby organisation but a forum to provide advice on fisheries management measures for some particular fishing areas through sound evidence-based advice. In practice, consensus is difficult to achieve (especially when talking about reconciling biological and socio-economic objectives) because some members still put their own interests before the achievement of common goals (Comment 75).

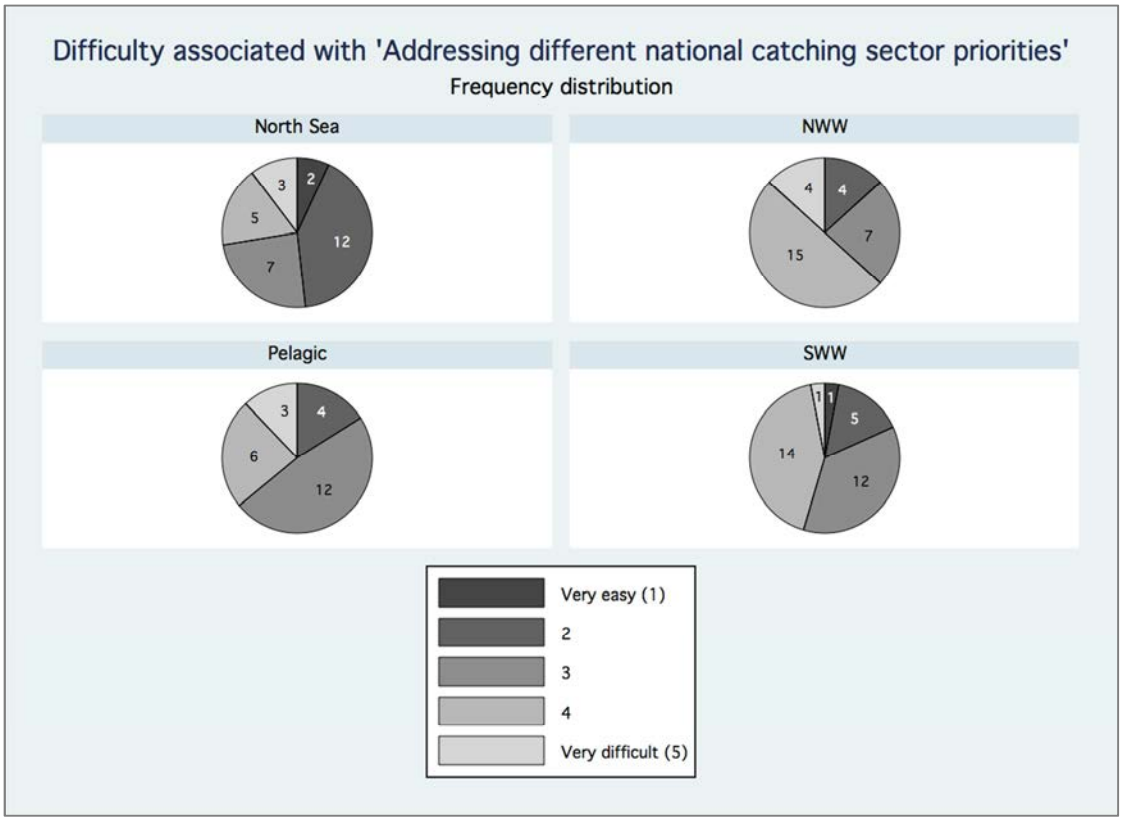
The RACs significantly differ on the measure of 'Addressing different national catching sector priorities,' which in turn is most pronounced in the division between the NWW and North Sea.[17] The North Sea RAC participants view this challenge as significantly easier than participants in the NWW, SWW, and Pelagic RACs. By contrast, the NWW RAC grapples with this challenge more than the other RACs. The Pelagic and SWW RACs fall between the North Sea and NWW RACs and closely to one another with averages of 3.32 and 3.27 respectively. Figure 7 beneath shows the frequency distribution for the answers selected for this challenge grouped by each of the four surveyed RACs.

Nearly two-thirds of the NWW respondents rank 'Addressing different national catching sector priorities' as somewhat difficult (score 4) to 'Very difficult' (score 5), whereas less than one-third of the North Sea respondents rate the challenge as such. Of the Pelagic RAC survey participants, nearly half regard the challenge as neutral.

[17] ANOVA on this measure indicates differences among RACs that are statistically significant (F=3.54, p-value=0.02).

Furthermore, 48 per cent of the North Sea RAC respondents find the challenge somewhat easy (score 2) to 'Very easy' (score 1). Within the three other RACs, NWW, Pelagic, and SWW, respondents selecting those same categories amount to shares between 13 and 18 per cent. Additionally, four North Sea RAC respondents find this challenge to be 'not applicable', which is not reflected in the averages and the answer tabulations as aforementioned; by contrast none of the NWW participants believe this challenge is not relevant. One NWW participant observes, 'As an outsider looking in I would say the NWW RAC at times seems to struggle to reach a consensus with some countries almost vetoing others' (Comment 45) underscoring the findings on this question. Although we cannot say with certainty why this measure likely does not score high on difficulty for the North Sea, but the relative similarity of national fleet structures in the North Sea countries may be a contributing factor.

*Figure 7: Frequency Distribution of the Level of Difficulty Associated with 'Addressing different national catching sector priorities' for each RAC*




(N=117. The raw number of participants is displayed in a pie graph to illustrate the differences in distribution especially for the North Sea and North Western Waters RACs)

There is a division between RACs on the difficulty of 'Responding to specific advice requests ("firefighting")'.[18] Both the North Sea and NWW RACs experience greater difficulty with this challenge as compared to the Pelagic and SWW RACs. Both the Pelagic and the SWW RACs average to slightly below neutral with 2.95 and 2.91 respectively, while the North Sea and NWW are slightly above the neutral mark with 3.38 and 3.45 respectively. We speculate that this divide is due to the precarious situation of several stocks in the North Sea and to a lesser extent in other waters,

[18] Once again, the ANOVA indicates statistical significance with F=2.75 with significance level p=0.05.

which has led to more demands on providing advice to specific requests, often referred to as 'firefighting' as compared to the two remaining RACs. However, few participants from each of the RACs selected this challenge as the most critical, highlighting that it is in any case not one of the most salient issues to RAC participants. Nevertheless some respondents do see the need to tackle emerging problems as a hindrance to the long-term development, 'The RAC's firefight most of the time leaving very little opportunity to create and deliver higher, longer term strategies. This is one of the glaring weaknesses' (Comment 102).

While not statistically different among the RACs, survey participants also struggle with the challenge of 'Cultivating better cooperation between industry and non-industry interests'. For the North Sea RAC, this challenge ranks highest (3.67) of all presented, though in relation to some of the other challenges the difference is not statistically significant. However, 12 of the 35 North Sea respondents view the relationship between industry and non-industry members as the challenge most critical to the RAC's success. The proximity of the consensus and industry/non-industry means and the priority placed on them indicates that the North Sea RAC struggles with these two challenges, but also sees them as integral to its success. The NWW RAC (3.60) and SWW RAC (3.52) fall close to the overall mean and to the North Sea RAC average. The Pelagic RAC averages the lowest of the RACs on the industry and non-industry challenge (3.16)—statistically lower than the combined average of the other three RACs (3.60).[19] Bear in mind though that more so than in any of the other RACs surveyed, the *Industry* stakeholders predominate the composition of Pelagic RAC respondents with few other stakeholders counterbalancing.

The results from 'Balancing small-scale vs. large-scale fishing priorities' reveal an interesting division between participants from southern and northern Europe. Among the RACs, the SWW stands apart from the other three, but like the Pelagic RAC and the industry versus non-industry measure there is not a significant difference in the variance when divided by RAC. Nevertheless, 66 per cent of the SWW respondents rank the measure somewhat difficult (score 4) to 'Very difficult' (score 5) while in the other RACs such answers comprise only 45 per cent of responses. In addition to the difficulty mean of 3.77, a quarter of the SWW participants select this challenge as the most critical to the RAC's success. Notwithstanding, geographic affiliation highlights a starker contrast for the difficulty associated with the proposed obstacle and is statistically significant[20]. A total of 32 per cent of the survey participants from the *North* rate the scale challenge as difficult; in comparison 66 per cent of those from the *South* rank it as such. Like in the case of the SWW RAC, more than a quarter of the 52 *South* participants believe the issue of scale is the most critical to the RAC's success while none in the *North* category regard scale as the most important challenge. Moreover, one UK participant commented that small-scale fisheries had no bearing on RAC processes because such fisheries fell under national jurisdiction. By contrast, one Spanish participant noted the struggle for balance, 'Being a RAC (SWW) in which the critical mass is mostly small-scale fisheries, the control of the presidency and secretariat is held by the industrial fisheries' (Comment 60 translated from Spanish). These results highlight one of the more pronounced cleavages between northern and southern perspectives that we found.

[19] Although the ANOVA did not confirm statistical significance among the four RACs, when comparing the Pelagic RAC mean with the mean of the remaining three RACs the difference is significant (t=-2.08, p-value=0.04). Thus, there is not a split like on other measures, but rather one RAC standing alone.

[20] Comparing responses by geographic affiliation reveals a significant difference between those from the North and South with F=7.34 and p-value=0.001.

There is no significant association between the choice of most critical challenge and the RAC membership; however, the North-South divide proved a strong relationship. The North Sea, NWW, and the Pelagic RAC participants all rank the consensus measure and the cooperation between industry and non-industry members as the first or second most critical challenge to the RAC's success at a share of about 30 per cent within each RAC. While SWW participants recognise reaching consensus as a critical challenge, 25 per cent from this RAC selects balancing small- versus large-scale priorities, the highest proportion of the SWW responses.

There is significant association[21] between geographic affiliation and most critical challenge chosen. The participants from the *North* category focus more on consensus and cooperation between industry and non-industry members. None of the participants from the *North* category view scale as the most critical issue. On the other hand, those from the *South* category make up 82 per cent of those selecting small- versus large-scale as the top issue.[22] 'Reaching consensus' and 'Addressing different national catching sector priorities' also rank highly for those from the *South* category, 10 of 52 and 9 of 52 respectively.

'Communicating in different languages and across cultures' was included to measure if RACs with more diverse composition of countries, such as the NWW RAC struggle more than a RAC that is able to communicate almost entirely in one language, such as English in the North Sea RAC. Furthermore, to a degree this question aimed to gauge the North-South divide without explicitly naming the ostensible phenomenon. Unlike the other five challenges, the means for communication measure within each RAC range from neutral to relative ease. Moreover, there is little difference in the frequency distribution of answers along North-South lines. Somewhat surprisingly, communicating in different languages and across cultures does not seem to pose a major challenge in the perception of participants for any of the RACs.

## Discussion

As laid out in the introduction to this article, some criticise the establishment of the RACs in the 2002 CFP reform arguing that they did not go far enough to engage stakeholders in decision making (Gray and Hatchard 2003). This article aimed to probe the operations of the RACs further than the discourse analysed in previous work and identify how meeting participants rate these advisory forums. In some ways the RACs can be seen as representing an interim institutional stage, facilitating better information sharing, and cultivating stakeholder relationships. Displayed through the motivations of many interest group participants, people come to the RAC primarily to improve stakeholder input to the Commission and represent the interests and constituencies of their organisations, but notably also to interact with fellow stakeholders. The interest in networking with others is further pronounced in the trend toward using the RAC as a primary purveyor of information, both in its written communications and—though to a lesser extent—its membership.

Furthermore, the RAC has proven itself a worthwhile forum in terms of the added benefits of understanding and trust. While in many cases the level of trust and understanding remains unchanged, there are promising signs that interactions between industry and non-industry representatives have increased the level of understanding

[21] Fisher's exact=0.00.
[22] The *Other* category of geographic affiliation drew the remaining 18 per cent.

and trust. Moreover, few participants feel as though their level of trust and understanding decreased because of RAC interactions. Consequently, the RACs possess an additional—often not sufficiently recognised—role and value to the advice sent to the Commission in that they facilitate understanding across and within sectors and interest groups. However, it should raise some concern that the Commission representatives score low on this measure. To some extent it looks like RAC participation of both *Conservation* and *Industry* respondents has resulted in decreased levels of trust in and understanding of the Commission.

Although communication appears to be an insignificant challenge to many of the RACs, they are nevertheless challenged to find consensus and navigate the different priorities of the membership either in terms of national designations or industry versus non-industry groups. In addition, each RAC or region must address particular needs, which in turn necessitate solutions that afford the opportunity to tailor policy to certain regional conditions. In relation to this, the resources available to the RACs are lacking in terms of the scientific knowledge and expertise available to respond to specific advice requests. The respondents especially perceive economic and social science expertise as being unavailable in their work within the RAC.

*The Direction of the CFP in 2012*

When gathering the empirical material for this article commenced, the 2012 reform had only just begun with different stakeholders postulating on where the Commission would come down on regionalisation and possible co-management with many trying to affect change by submitting comments to the 2009 Green Paper. At that point it was a bit easier to behave as a Pollyanna[23] when viewing the RACs and the CFP. However, with the release of the Commission proposal in July 2011 (Commission 2011), the dark clouds have propagated over this sunny institutional evolution outlook.

From the findings of this research, it appears that the RACs are doing well, but are likely approaching a critical juncture where resources and some indication of confidence or acknowledgement of their efforts would at least sustain if not propel these forums forward. Nevertheless, mention of the RACs is curiously absent from the Proposal apart from scrubbing 'Regional' from their titles as a cosmetic adjustment for the likes of the Pelagic and Long Distance entities, as well as the creation of an Advisory Council devoted to the issue of Aquaculture (Commission 2011). Rather the Commission has set its sights on rationalizing EU fisheries. There is no means of knowing how such a management scheme would affect the RACs, but certainly it does not seem to address the problem of legitimacy, which has rolled over from the previous reform (Raakjær 2009).

Evident from the literature and from the opinions garnered in the survey, participants will continue to engage in good faith, but there will come a point when many will question the degree of advice uptake into the decisions. Some research even warns that a prolonged pattern of no perceptible influence on policy decisions will alienate participants even more than no provision of a participation mechanism (Halvorsen 2003). If the Commission assumes that engagement with stakeholders is fine as it is, making no effort to improve for instance the problem of availability of expertise, then they indeed risk alienating those giving their time and effort to RAC working groups and Executive Committees. Without support to these bodies the murmurs accusing the Commission of only paying lip service to stakeholder

[23] A 'Pollyanna' is defined as one who is overly optimistic (New Oxford American Dictionary).

participation as a public relations exercise will likely grow louder with ramifications for conservation outcomes.

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# Participatory modelling in EU fisheries management: Western Horse Mackerel and the Pelagic RAC

*Troels Jacob Hegland*
Innovative Fisheries Management – an Aalborg University Research Centre
tjh@ifm.aau.dk

*Douglas Clyde Wilson*
Innovative Fisheries Management – an Aalborg University Research Centre
dw@ifm.aau.dk

*Abstract* In 2006 the stakeholders of the Pelagic Regional Advisory Council (Pelagic RAC) contacted scientists with expertise on western horse mackerel and asked them to assist the RAC in developing a long-term management plan. This article reports on that process and contributes to the knowledge of best practices for interactive processes between scientists and stakeholders. Overall, the participants considered the process, which led to the first step of the implementation of the management plan from 2008, as a considerable success. As such, the process could serve as an inspiration for stakeholders, researchers and policy-makers wishing to do similar exercises.

## Introduction

The Pelagic Regional Advisory Council (Pelagic RAC) is one of several RACs set up since 2004 to provide advice to the Directorate General for Maritime Affairs and Fisheries (DG MARE), the part of the European Commission that is responsible for the administration of the European Union's (EU) Common Fisheries Policy (CFP). RACs are stakeholder fora consisting of representatives of the fishing industry, conservation groups and other marine fisheries stakeholders. Two thirds of the seats in the RACs are allocated to the fisheries sector and one third to other interests.

In the late summer of 2006 the Pelagic RAC contacted scientists with expertise on horse mackerel and asked them to assist in developing a long-term management plan for western horse mackerel. The stakeholders on the RAC were in doubt about whether the western horse mackerel stock was being harvested optimally and suspected that the development and adoption of a management plan was not a priority for the fisheries managers in DG MARE. Moreover, the Pelagic RAC wished to explore ways to develop management plans by stakeholder consensus, rather than waiting for a plan to arise from the International Council for the Exploration of the Seas (ICES).

What emerged from this initiative was an interesting process from several perspectives. The first is simply as a programmatic way to circumvent the usual cumbersome procedures of the CFP that result from it being the only serious effort on the planet to directly manage fisheries at a continental scale. As such it offers

lessons and cautions for the upcoming 2012 CFP reform.

More than that, it represents an experiment with emerging ways of carrying out science, and may therefore hold lessons valuable beyond the CFP. Fisheries and marine management is a good example of science being performed in a context of high stakes and high uncertainty. Western horse mackerel, the subject matter in this article, is a valuable commodity targeted to a great extent by very large fishing vessels. To exemplify this, the newest such vessel, to be launched in Denmark (though not targeting horse mackerel) is said to represent an investment, including both the vessel itself and the fishing rights needed to keep it in business, in the order of one hundred million dollars.

Identifying a sustainable level of harvesting for western horse mackerel is quite an uncertain business where common assessment procedures, for various reasons, do not apply. Atlantic Horse mackerel (*Trachurus trachurus*) is a small, migratory, pelagic species inhabiting wide areas in the North Atlantic, the Mediterranean Sea and the Sea of Marmara. In the North Atlantic horse mackerel is divided into three separate stock units: southern stock, North Sea stock, and western stock (Clarke *et al*. 2007; ICES 2006). Although western horse mackerel is one of the best studied horse mackerel stocks worldwide, the scientific knowledge base relating to it remains limited. The relationship between size and age shows much overlap between juveniles and adults. Consequently it is difficult to separate mature fish from juveniles based on size alone. Western horse mackerel is, moreover, considered an indeterminate spawner, meaning that the total number of eggs produced by an individual depends on factors that can change during spawning. Spawning also takes place over an extended spawning season. This implies that an otherwise potentially useful assessment methodology, the annual egg production method, is not applicable to horse mackerel. Furthermore, western horse mackerel recruitment is highly spasmodic; the 1982 year class was more than twenty times the average and the 2001 year class is considered much above average (Clarke *et al*. 2007; ICES 2006). The only data systematically available for management purposes are triennial egg abundance surveys, data on catches and on catch-at-age. As a consequence, the spawning stock biomass, recruitment and fishing mortality rate (F) cannot be reliably estimated and there are no defined reference points for those values (Clarke *et al*. 2007).

## Research Process

We studied the development process of the management plan for western horse mackerel by means of several research strategies. We observed five of the seven meetings of the Pelagic RAC where the development of the horse mackerel management plan appeared as an item on the agenda. For the two meetings we could not attend, we have benefited from information from a stakeholder representative with whom we were collaborating. Besides these observations we have had access to minutes, presentations and papers from all RAC meetings, as well as to significant amounts of e-mail correspondence between the involved horse mackerel scientists. Finally, after the development process ended, we administered an

e-mail survey among key participants in the process. The questionnaire asked how they saw the process in retrospect. We distributed the questionnaire to six scientists and five stakeholder representatives and received six and three answers respectively.

Moreover, the research process has contained elements of 'action research', where the researcher assumes a position of participant, as opposed to only an observer, in a change process – and at the same time observes and researches the process to gain new knowledge of the social mechanisms of the process (Hegland *et al*. undated). The EU sponsored SAFMAMS research project[1] provided an avenue of cooperation between us and the Pelagic RAC. This was related 1) to the ability of SAFMAMS to help set up a Pelagic RAC meeting on the horse mackerel management plan in February 2007; and 2) the involvement of SAFMAMS researchers in discussions on the limited response to a questionnaire presented by the group of horse mackerel scientists to the stakeholders.

## Science and Participatory Modelling

Scientists involved in supporting policy often find themselves required to deal with uncertainty in contexts where the stakes are high as is the case with western horse mackerel. In this situation scientists are moved beyond their training and, sometimes, even their understanding of what it means to do 'science'. They refer to science carried out under these conditions as 'post-normal' science.

Funtowicz and Ravetz (1990) develop two important ideas about how scientists can aid, and be aided, in dealing with these situations of high stakes and high uncertainty. The first is the concept of the 'extended peer community' as a way to guard the quality of science. To deal with new problems in a high uncertainty and high stakes area an open dialogue or 'extended peer review' is needed. The idea of the extended peer community is close to, but not synonymous with, stakeholder involvement in science. Stakeholder involvement in science, as it is broadly understood, includes issues beyond the questions of quality control, such as how science comes to reflect social values, priorities, and ethics. The idea of the 'extended peer review' focuses on the more limited issue of stakeholder involvement and scientific quality control. The extended peer community is made up of the various groups who have perspectives on policy and their own knowledge to contribute. Ravetz (1999) argues that effective science-based policies in arenas of high stakes and high uncertainty require an open dialogue with all those affected. The extended peer community is primarily about quality control, but this quality control extends beyond simply ensuring the scientific credibility of results, it also extends to the relevance of the result for the policy process and the legitimacy of the results as something which is perceived as emerging from a fair and unbiased process.

The other important concept is the contrast between 'knowing-how' and 'knowing-that'. Traditional science has seen itself basically as the second, but post-normal science requires a new emphasis on the first. Within the high stakes, high uncertainty context it is scientific skills in respect to providing 'rubrics, guidelines

and elicitation procedures, for the expression of uncertainty, for the assessment of quality, and also for the training in both skills' (Funtowicz and Ravetz 1990:68) that come to the fore. Scientists are not trained to be consultants but it is the skills of the consultant that are required here. These are the skills to work with policy makers and other stakeholders in a process linking the uncertainty and quality of the information with the needs of the policy. They point out that where experts in consulting professions normally have very long practical, apprentice-type training (for example doctors) after their formal educations, scientists generally do one major research project under supervision and are then certified as able to operate as independent scientists. They argue that the ideas of skill and craftsmanship can be the basis of a way to reformulate the 'science boundary', that is the line drawn by various social processes between what is and is not science and who is and is not practicing science, in areas of high stakes and high uncertainty (Funtowicz and Ravetz 1990).

Scientists are often able to model the environmental risks of activities such as fishing and provide probabilistic estimates of uncertainty, whereas the acceptable level of risk and the setting of management objectives – while they have important scientific elements – are not strictly scientific issues. One important expression of 'knowing-how' within an extended peer community, therefore, is 'participatory modelling'. Sometimes also referred to as 'co-modelling' (Levrel *et al*. 2009), participatory modelling is an interactive process in which stakeholders and scientists work together choosing and modelling various scenarios linking policies and outcomes. Various modelling approaches, including multi-agent system modelling, Bayesian modelling (Boulanger and Bréchet 2005), bio-economic fisheries models (EFIMAS 2008) and, as in the present case, simple stock assessment models, have been used as the basis of participatory modelling. Experience in several science-based policy arenas has shown that participatory modelling can allow decision makers and other interested parties to help scientists to choose the most useful simplifications of reality. Because the focus of the discussions is on crafting carefully coordinated strategies rather than horse-trading options into a lowest common denominator strategy, less time is spent battling over fundamental values (Andrews 2002). An important aspect of participatory modelling is that it forces stakeholders to clarify their objectives and explicitly address the trade-offs implied by various strategies (Wilson and Pascoe 2006).

The present article documents the process of participatory modelling as it emerged around the management of western horse mackerel. We begin by shortly describing the institutional context in which the participatory modelling took place. We turn next to the flow of the participatory modelling process itself. Then we discuss a series of practical and procedural issues that emerged, before offering a conclusion.

## Institutional Setting

In the EU western horse mackerel is managed under the CFP, which is as a policy framework extraordinarily dependent on scientific information in order to func-

tion (for details see Hegland 2006). The core element of the CFP is a system where total allowable catches (TACs) – being quantitative limits (expressed in tonnes) on landings – for individual stock units are decided on and allocated to the member states on an annual basis, usually based on advice coming from ICES. ICES, however, cannot always take on *ad hoc* tasks or respond as quickly as desired by DG MARE. Moreover, the scientific community needs to be better at incorporating the knowledge of stakeholders in its work, something that ICES has not traditionally been geared to do. These issues have led to a situation where the almost *de facto* monopoly of ICES on providing scientific advice has increasingly been questioned and DG MARE has invested in creating its own capacity for this. In the case of the horse mackerel management plan ICES functioned as a final reviewer of the plan as opposed to being instrumental in the development of it.

The CFP and the TAC system has continuously failed to provide either biological or economic sustainability. In light of the poor condition of many stocks in EU waters, DG MARE has in several rounds attempted to modify the TAC framework and the current strategy involves developing single-species, multi-annual management plans as an important element (see for instance Hegland and Raakjær 2008). A key element in several long-term management plans, including the one developed for horse mackerel, is a defined harvest control rule (HCR) to improve predictability for the industry and secure biological sustainability. Under the CFP, HCRs are defined as 'rules which consist of a predetermined set of biological parameters to govern catch limits' (Council 2002, Art. 6(4)). In other words, scientific knowledge on the state of the stock is in principle directly determining the size of the TAC. This, of course, makes the principles underlying the HCR of utmost importance to all stakeholders.

RACs were created by DG MARE as purely advisory bodies as a tentative step, taken within the most top-down command and control fisheries management regime in the developed world in connection with the 2002 CFP reform, towards more stakeholder participation in developing fisheries policy. The idea is that the stakeholders on the RACs will come to a consensus about fisheries management and policy issues and this will allow DG MARE to weight the political advantages of following the RAC's consensus against any differences between the consensus and other preferences of DG MARE. The RACs are from the outset provided by DG MARE with a small operating budget, which does not include funds to cover the considerable time that stakeholder representatives spend on RAC work. There are also no RAC funds for scientific advice. If RACs want scientific information they are expected to ask DG MARE, and if DG MARE agrees a request for the information will be passed on to ICES. In spite of these limitations in both role and funding, the RACs – particularly the Pelagic and North Sea RACs – have developed a great deal of institutional momentum during their young lives. Arguably the RACs face a number of problems, but they hold at least the seeds of a possible future EU fisheries co-management system (Symes 2007).

The Pelagic RAC stands out from most of the other RACs because it is *not* a regionally defined stakeholder forum but rather defined by dealing with fisheries for specific pelagic species (for example horse mackerel) in *all* EU waters. In contrast, all but one other RAC, the long distance RAC, provide advice on management

issues relating to a specific region. Despite the broad geographic coverage of the Pelagic RAC, it remains relatively homogeneous in relation to the composition of stakeholders from the catch sector, which was in reality the only active stakeholder group in relation to the long-term management plan for horse mackerel. Most catch sector representatives in the Pelagic RAC sit there on behalf of large-scale fishing enterprises employing large, highly capital-intensive, modern vessels. This is particularly the case for stakeholders from the Northern European countries, which are the most important in relation to western horse mackerel. Although the enterprises are competitors on the market, the relative homogeneity among them means that they often see eye-to-eye on issues relating to management. Moreover, many of the fisheries covered by the Pelagic RAC have been blessed with relatively healthy stocks in later years compared to many of the fisheries covered by other RACs.

## The Management Plan Development Process

In 2006 the Pelagic RAC catch sector stakeholders with an interest in western horse mackerel came to the conclusion that the development of a management plan for this stock would not take place for a long time unless they themselves instigated the process. The key stakeholders were of the opinion that the stock was being harvested in a suboptimal way and that the development of a long-term management plan could lead both to more sustainable fisheries and higher average catches. As a consequence, the Pelagic RAC contacted scientists with expertise on horse mackerel and invited them to assist. In response six scientists set up an informal *ad hoc* working group with the aim of developing and presenting various strategies for a future management plan.

At the Pelagic RAC Working Group (WG) meeting in Brussels in November 2006, when the idea of developing a long-term management plan for horse mackerel was presented publicly for the first time, the DG MARE representative confirmed that a management plan for western horse mackerel was not a high priority in DG MARE. Moreover, the representative informed the Pelagic RAC that DG MARE leaned towards proposing a cut in TACs for horse mackerel for 2007 *vis-à-vis* 2006 in the light of the weak scientific knowledge base and the lack of a management plan for the species. DG MARE welcomed the suggested efforts by the industry and indicated that if the efforts were genuine DG MARE would reconsider its stand on the TAC question (PRAC 2006). At the same meeting a representative of the *ad hoc* group of scientists introduced the basic biological features and status of the stock, the challenges in terms of the limited scientific knowledge base, and the current management regime. Preliminary results of simulations on a range of different HCR scenarios were outlined. It was decided to aim to have a plan ready for presentation to (and validation by) ICES' Working Group on the Assessment of Mackerel, Horse Mackerel, Sardine and Anchovy (WHMHSA) in September 2007 so that it could enter into force from 2008. Finally, the Pelagic RAC was presented with a number of questions, which the scientists felt that it would be helpful that the industry answered. These questions related to issues of stability versus flexibility

of TAC, the acceptable range of the TAC, the preferences of the market in relation to sizes et cetera (Clarke 2006). The response from the industry to the questionnaire, however, was limited and came in too late to really aid the preparatory work of the scientists in advance of the following meeting (Clarke 2007).

At the next meeting in February 2007 in Edinburgh two detailed presentations of the results of simulations on five different HCR scenarios were held. The meeting allowed the first substantive discussions between scientists and industry stakeholders. However, considering the limited response from the industry to the questionnaire that had been distributed and the need for more in-depth discussions particularly on the question of the HCR, it was decided that the best way to go forward was to set up a meeting between the key stakeholders from the industry, the horse mackerel scientists, and the Pelagic RAC as organiser and convener. At the February meeting the DG MARE representative expressed support for the process and, notably, the fact that it was taking place outside the ICES-system: 'We want to say that the Commission believes that ICES is somewhat set in their ways and we very much support this initiative. This does not need to go through the traditional route.' (Observer's notes February 2007).

The following meeting with only key stakeholders present took place in April 2007 in Dublin and began with two presentations of results of simulations on the five HCR scenarios (Kelly and Campbell 2007; Roel 2007). In one of the presentations industry priorities had explicitly been implemented in the scenarios (Kelly and Campbell 2007). However, differences in the two presentations made it difficult to compare the performance of the HCRs. The outcome of the discussion at the meeting was an agreement on doing detailed simulations on no more than three different HCR scenarios; this should then be presented in a comparable format at the following Pelagic RAC WG meeting (Clarke *et al.* 2007). To facilitate a targeted discussion, the key stakeholders considered it – in the light of the experiences from the February meeting – important to reduce the number of different HCR scenarios before presenting them to the entire group of stakeholders for decision.

As it turned out, one single presentation comparing the simulated performance of two fundamentally different HCR scenarios was held at the Pelagic RAC WG meeting in May 2007: 1) a hybrid between a constant yield and proportional catch strategy (referred to as the 'slope strategy'); and 2) a 'modified constant yield strategy'. Under the 'slope strategy' the coming three years' TAC is calculated by adjusting a share of the previous year's TAC, based on information from the triennial egg abundance surveys, which monitor the trend of the stock. If the data from the egg surveys for the last nine years (three surveys) shows a downwards trend the adjustable share of the TAC will be reduced while the opposite will be the case if the data shows an upwards trend. This approach can be implemented without a full assessment of the stock. Under the 'modified constant yield strategy' the TAC is modified based on the overall development of the spawning stock biomass; notably this strategy demands an assessment (Kelly *et al.* 2007; Clarke *et al.* 2007; Roel and De Oliveira 2007).

As the members of the Pelagic RAC needed to discuss the implications with their home constituencies, the final discussions and a decision on what elements

and HCR to include in the long-term management plan were taken at the Pelagic RAC WG meeting in June 2007. Here it was decided to go with the slope strategy (PRAC 2007d), which did not demand a full assessment to be carried out. Although long-term average yields were quite similar in the two simulations, the slope strategy did not impose any limit on TAC variation (Kelly *et al*. 2007; Scientist Two). The final draft of the plan (PRAC 2007c) was formally adopted by the Pelagic RAC Executive Committee in July 2007, after which it was passed on to DG MARE with a request to have it submitted to ICES for evaluation (PRAC 2007e). In the fall of 2007, after having been through its internal committee procedures, ICES found it to be in accordance with the precautionary principle – initially for a period of three years (PRAC 2007b; ICES 2007).

## Emergent Practical and Procedural Issues

*Scientist/Stakeholder Interactions*

Fisheries scientists and industry stakeholders approach modelling from different perspectives. Scientists want accurate scientific models; industry stakeholders are concerned with practical output rather than accuracy. The traditional argument in favour of keeping scientific modelling separated from the influence of industry stakeholders is, of course, the concern that stakeholders' own short-term interests will lead to undue influence on outcomes. If industry stakeholders are continuously arguing based on a notion of achieving highest short-term yields while scientists are arguing based on merits of the science and the accuracy of the model without taking input from the industry seriously, then the cooperation will not be fruitful.

In line with this concern, Scientist One responded to our questionnaire that prior to the process he[2] had been 'concerned that RAC members may push for unsustainable and non-precautionary approaches'. The scientist, however, reported that he did not feel that this had turned out to be the case. Rather, although the stakeholders had different objectives than the scientists, this scientist had the feeling that the group had been working towards a common goal and that the objectives of the industry stakeholders could easily be aligned with the issue of sustainability. Along the same lines, Scientist Four commented that the 'willingness [of the industry stakeholders] to deal openly with trade-offs' had surprised him.

Our observations confirm that the industry did not push for outright unsustainable or non-precautionary elements being added to the models. As an example, the industry stakeholders did not argue particularly hard in favour of having pulse recruitment included in the models even though this would have provided a potential for higher short-term yields as it would have been possible to 'count' on the future occurrence of a pulse recruitment event when setting the TAC. The scientists did at an early stage discuss how to incorporate pulse recruitment in the simulation work but left the idea along the way with reference to the infrequency of the events (Scientists' e-mails, January 2007; Kelly *et al*. 2007). Instead of insisting on including the pulses, the industry stakeholders supported including a clause stating that if pulse recruitment was detected then the normal HCR of the management plan would be revisited – the precautionary way to incor-

porate pulses (PRAC 2007c).

Although the general picture is that the industry did not seek to push the limits of the precautionary approach, our questionnaire revealed that at least Scientist Two had more mixed feelings *vis-à-vis* the way that the industry stakeholders approached the process:

> My impression is that Industry worked out which harvest control rule had the potential of providing higher yields in the short term and therefore favoured a particular strategy on that basis. So, the worse elements are linked to the very different perspectives/interests stakeholders and scientists may have. This is to be expected but communication and mutual trust may not be easy as a result.

Here clear differences arise between the two groups about the basic meaning of using science to support policy goals. The same scientist also indicated that he does not 'think stakeholders are particularly concerned about the science and that is a concern'. Industry stakeholders were reluctant to take decisions based on the 'quality' of the models alone. They wanted to know the policy implications up front, that is to see the implications of various HCRs for the size of the TAC. The scientists, however, would have preferred that the stakeholders could make a decision about an HCR 'in principle' and then afterwards see the result of the calculations. It is of course a very different approach to choose a specific HCR based on the TAC it can deliver, compared to the scientific approach of choosing a specific HCR based on its 'scientific merits' – and then afterwards calculate the size of the TAC. But what needs to be understood here is that these 'scientific merits' are to a large extent about the application of the precautionary approach, which is itself a political decision often packaged as a scientific one. Given the general commitment of fisheries scientists to the precautionary approach and that the process includes an independent scientific evaluation – in this case by ICES – after the management plan has been developed, the experience from this case suggests that the industry stakeholders will not risk trying to push the limits of the precautionary approach.

Another important issue, relating to the interaction between scientists and stakeholders, is communication. Based on the responses to our questionnaire, particularly the group of scientists expressed that they were positively surprised about how quickly the stakeholders grasped the concepts of the science and became able to 'judge the scientific merits of various schemes' (Scientist One). On the other side, the stakeholders were also positively surprised about the scientists' ability to explain their concepts, so that they could be understood by laymen. Consequently, the process was not characterised by significant problems related to the communication of science. This challenges the common idea (Pálsson 1995; Roepstorff 2000, Smith 1995) that scientists and fishers have problems communicating because of cultural differences, an idea that has also been qualified by earlier research by one of the present authors (Wilson 2003). However, the pelagic fishery is a large and important industry and these particular fishermen – or fishermen's representatives – are highly sophisticated managers, which suggests that there may be less of

a cultural gap here than would be found in smaller scale fisheries.

It turned out to be more challenging to find effective tools for feeding information from the industry stakeholders into the work of the scientists. From the perspective of the scientists it was of concern to get clear information and objectives that could be used in model development. The scientists drafted early in the process a questionnaire for the Pelagic RAC stakeholders but the responses to that came in late and only after several reminders. Moreover, although the answers were in some respects useful they were in other respects lacking and, notably, one major industry player did not answer at all (Clarke *et al*. 2007). The hesitance of the industry might be related to two issues: 1) the nature of the questionnaire as a communication tool and 2) the nature of the questions posed. The questionnaire as a communication tool demands written answers. Based on the experiences from the meeting in April with only key stakeholder representatives present, it seems that the they were more comfortable discussing freely within their mandate compared to having to consult their members to be able to provide a fixed answer to a question. Moreover the face-to-face discussion gives the involved parties the possibility to add 'off the record' explanations to answers. Most importantly, simply, may be that the industry actors are culturally accustomed to meetings, not to questionnaires. In relation to the nature of the questions one industry stakeholder (Personal communication) argued that they had been too 'concrete' without developing further what that meant. A reasonable interpretation could be that the industry stakeholders were uneasy about answering – for example about the acceptable size of TAC – without really having a clear idea of how their answers would be used in the process.

In response to the partly failed questionnaire, it was at the meeting in February 2007 agreed that the way to get the needed information from the industry would be through face-to-face interactions. However, the meeting in February also proved that this could not work in a setting where many attendees had only marginal interest in horse mackerel. The experiences relating to the meeting in February and the partly failed questionnaire led thereby to the decision to set up a group consisting of the scientists and the key stakeholders. This turned out to be a good strategy and several respondents suggest that this strategy could be employed in future processes. However, it should also be noted that some insights did come out of the responses to the questionnaire, for example the emphasis on stability of TAC, which seems to indicate that a questionnaire may be useful, as well, but not as the only communication tool.

*Role of ICES*

On the most basic level, the dissatisfaction with the standard way of developing management plans under the CFP, in which ICES plays a central role, was – together with the recognition of the comparatively low priority of the horse mackerel plan within DG MARE – the main argument for developing the management plan within the Pelagic RAC. In our questionnaire Scientist Five compares the RAC process to the traditional process, which he argues to be overly bureaucratic and failing to put the stakeholders at the centre:

> The best element of the process was the interactive dynamic of work between scientists and stakeholders, skipping over the, many times, slow and/or bureaucratic procedure of the complete path for the process (stakeholders, national administrations, European Commission and ICES, for going for queries and coming back with answers, which usually make the processes of definition of management plans too lengthy). With the selected procedures the pros and contras of alternative management plans were quite quickly revised and sorted out by stakeholders, which are the ultimate end-users of the management plans.

Besides the fact that dissatisfaction with ICES was part of the argumentation for starting the process altogether, the presence of the organisation as the final reviewer of the plan may very well have affected the way the participants acted and related to each other as well, which may also add to the explanation of the 'communication success' described above. Consequently, pushing the limits of the precautionary approach or in other ways challenge ICES' standard norms would jeopardise the approval and implementation of the management plan. Moreover, having the plan turned down in ICES would discredit the Pelagic RAC and the scientists involved. Consequently, the presence of ICES as a final reviewer of the plan probably functioned as a disciplinary measure particularly *vis-à-vis* the industry stakeholders. Although the scientists and the stakeholders were formally on an equal footing in the development process, the plan would eventually have to go through a strictly scientific review process, which may have inspired the industry stakeholders to conform more to scientific norms than they would otherwise have.

*Funding*

The RACs have recently been accepted as 'bodies pursuing an aim of general European interest', which has entitled them to a permanent budget (Commission 2006). Although this relieves the RACs of the uncertainty of not knowing where future funds should come from, which was a concern under the earlier arrangement where the initial 'basic' EU funding was decreasing year by year, the amount under the new scheme is adjusted to make the RACs able 'to effectively pursue their advisory role within the Common Fisheries Policy' (Commission 2006:10). Consequently, if a RAC wishes to assume a wider, more proactive role extending beyond the purely advisory, for instance by assuming a greater role in developing management plans, funding will likely remain a challenge.

It is noteworthy that no conservation organisations took part in the development process related to the long-term management plan for horse mackerel. A representative of a conservation organisation explained to us that there are at least three reasons why conservation organisations choose to focus on 'iconic species such as cod': limited time, limited knowledge and the basic fee (generally more than 1,000 Euro) for participating in a RAC, which altogether motivates them to concentrate their efforts in as few RACs as possible. Consequently, it seems that the conservation organisations do not have sufficient funding to participate productively in the relevant activities. This raises the question whether the funding arrangement for conservation organisations is adequate if the RACs develop into

more proactive bodies. The conservation organisations are in a qualitatively different position than the industry. Where each industry representative in a RAC defends the interests of a relatively well-defined, *specific* group of fishermen or processors – often with an interest in a limited number of RACs – each conservation organisation defends the interests of a broader and less well-defined *diffuse* group of citizens – most often with an interest in issues cutting across many or all RACs (for a detailed discussion of diffuse and specific interest associations in EU policy-making, see Beyers (2004)).

In relation to the horse mackerel scientists, two funding challenges emerged: salary costs and costs of travel and accommodation. The first issue proved least problematic as the national fisheries institutes, where the fisheries scientists are employed, proved willing to bear the salary costs since participating in this process was of relevance to their work. Covering their travel costs was more challenging for the scientists as this constituted an additional cost that the national fisheries institutes were less inclined to cover. As a consequence, the costs of the scientists were covered in an *ad hoc* fashion by such sources as the SAFMAMS project, the Scottish Executive, the Pelagic RAC itself and the various institutions where the scientists worked.

*Planning*

Several of the scientists felt that the process had been rushed because of the desire of the industry stakeholders to have the plan ready by July 2007 to allow implementation by 2008. The resulting relatively short time between the five meetings held from February to July 2007 meant that there was little time for the scientists to work on the simulations between them. However, this was not the only problem related to the speediness of the process. Scientist Five added that the tight schedule between the last couple of meetings in reality meant that stakeholders who were unable to take part in a meeting and/or needed documents to be translated were effectively sidelined in relation to the final discussions on the management plan. The same scientist also mentioned that it was a problem that the final draft of the management plan was never discussed at working group level due to the calendar issue but was presented directly by the main industry stakeholders to the Pelagic RAC Executive Committee in which not all stakeholders have a seat.

The scientists' feeling of being short on time is probably also related to the fact that the scientists had to fit the simulation work in with their other work. Notably, although the national fisheries institutes paid the salary, the scientists were not convincingly relieved of their day-to-day work to allow them to concentrate on the development of the long-term management plan. Several respondents indicated that they believed a main problem was that the scientists did not have sufficient time allotted for the horse mackerel work. A recommendation was therefore that in future processes the national fisheries institutes' commitment to pay the salary of the scientists should also include a commitment to relieve them of other work (see also Hegland and Wilson 2009).

*Science/Management Discrepancies*

For EU TAC management purposes one sea area (ICES area VIIIc north of Spain in the Bay of Biscay) that is covered by the western horse mackerel stock assessment is traditionally combined with another sea area (ICES area IXa covering the waters off the west coast of Spain and Portugal) covered by the assessment for southern horse mackerel. The TAC and quotas set for horse mackerel in the combined southern areas include thus both southern and western horse mackerel.

This issue caused considerable debate since the Spanish, Portuguese and to a lesser extent French fishermen, who target horse mackerel in the southern waters, were concerned that the proposed management plan could set a problematic precedent for them in terms of size of quotas and where to catch quotas (Clarke 2007; PRAC 2007a; PRAC 2007f). The communication between the scientists, the fishermen fishing in the northern EU waters and the fishermen fishing in the southern EU waters was somewhat complicated by the need for translation of the English presentations and discussions into French and Spanish. Moreover, as mentioned earlier, the tight schedule towards the end of the development process meant that there was insufficient time to have key documents translated into the relevant languages to allow all stakeholders to participate in the discussions on an equal footing. Nevertheless, the issue was settled with assurance from the WG chairman stating 'that there was no intention to interfere with the relative stability[3] for horse mackerel and that he envisaged the present horse mackerel areas being maintained' (PRAC 2007e).

Another issue concerned how to handle the at times substantial, unregulated Norwegian fishery for western horse mackerel north of EU waters (ICES areas IVa and II covering the northern North Sea and the Norwegian Sea). This fishery developed in response to western horse mackerel spreading northwards after the large year class of 1982 (Roel and De Oliveira 2007) and to be able to implement the management plan, which according to its general provisions is designed to cover the *entire* distribution area (PRAC 2007c), some sort of political understanding would need to be established between the EU and Norway. Historically the TAC for horse mackerel covers only the EU zone. Nevertheless, during the development process various ways of approaching the issue in the management plan were aired. The horse mackerel scientists were in relation to this concerned about the risk of being dragged into discussions on non-scientific management decisions and seemed in this situation determined to protect the 'science boundary', which was potentially being put under pressure by stakeholders wanting science to provide answers of a political nature. This was discussed by the scientists over e-mail in January 2007 where one scientist wrote the following:

> The TAC management and division to quotas both spatially and nationally is really an issue for the industry and managers to solve. We have a stock definition (from HOMSIR [Horse Mackerel Stock Identification Research, an EU fifth Framework research project], the findings of which are unlikely to change) and the data for the abundance (egg survey) and outtake from this area; we can therefore simulate management tactics for this as a single area. There is no spatial dimension either in the assessment or in the

> simulation (at least the one [name of scientist] and [name of scientist] are working on), so we can't provide the workshop with any information on how a stock TAC might be managed spatially. If this is the case for [name of scientist] also then we should make this crystal clear to the industry before the question arises.

Consequently, the management plan developed in the Pelagic RAC covers the *entire* area where the western horse mackerel stock is distributed and provides a method on how to set a sustainable TAC for that area – and notably *not only* for the part of the EU waters where the western horse mackerel TAC traditionally applies. This means, as it is stated in the management plan, that a general provision for the plan is that '[a] unified management regime across all areas where the stock is distributed' (PRAC 2007c) is in place. Whereas the EU is in a position to solve the issues related to the southern areas on its own, the same is not the case in relation to the Norwegian catches.

In practice ICES advised in late 2007 – on the background of the full implementation of the management plan – that a TAC of 180,000 tonnes for 2008, 2009 and 2010 would be sustainable (PRAC 2007b; ICES 2007). Subsequently, however, the general provisions of the plan have not been lived up to, as no unified management regime has been agreed on. Nevertheless, the EU adopted a TAC of 180,000 tonnes covering EU waters only[4] which ignores the possible Norwegian catches outside EU waters. The level of the western horse mackerel TAC has been decided according to the HCR but for a smaller area than that envisioned by the management plan. One of the horse mackerel scientists, in a personal e-mail to us, evaluated the situation like this:

> What has happened politically is that the RAC have decided to take the results of the simulation (in terms of catch) and apply them to the EU *only*. When we warned them that if they did this, either Norway would have to have a zero catch or the conditions of the risk perception in the HCR would be violated, they said they would deal with this at a political level and that the scientists did not need to consider themselves further with the problem.

However, the same scientist also emphasises that the Pelagic RAC and DG MARE as a result of the development of the management plan are starting the work on aligning the assessment and management areas for horse mackerel; something that ICES has advised being done for the last several years.

## Conclusion

Although the Pelagic RAC to some degree stands out among RACs, mainly due to the relative homogeneity between and large institutional capacity of the industry stakeholders as well as the relatively healthy stocks that the RAC deals with, we believe that the horse mackerel process nonetheless offers a number of useful

lessons for stakeholders, scientists and policy-makers as well as insights to the knowledge behind participatory modelling.

On the most basic level the positive end result suggests that it is possible to develop a long-term management plan without following the CFP standard procedure of having it developed within ICES – and that industry stakeholders are alongside scientists able to contribute positively and actively to the development of a biologically sustainable management plan. Besides these very general insights, however, the process offers lessons in relation to a number of practical and procedural issues, which may be useful to keep in mind when wishing to design processes of a similar character in the future. These issues have been detailed in the preceding sections. Beneath we outline some more general crosscutting lessons.

While recognising that the Pelagic RAC may represent an extreme case in respect of variable institutional capacity between the industry stakeholders and other interest groups, it still seems that this imbalance represents a challenge on a more general level in processes of participatory modelling – at least if the exercise shall extend to all legitimate stakeholders. As evidenced by the horse mackerel case, conservation groups, primarily representing diffuse interests, find it difficult to stretch their resources and expertise to the entire range of issues and arenas that potentially is of relevance to their objectives. As a result these groups opted out of the horse mackerel process to focus their attention on issues with higher public impact factor; the process of interaction between stakeholders and scientists became in this case effectively a process of interaction between industry stakeholders and scientists. Although this does not *per se* disqualify a process, it still casts a shadow over it and must stand as a source of concern in relation to the potential of participatory modelling as the new way of formulating policy in science dependent policy areas. The legitimacy of the output of participatory modelling in the policy process will be lower if some stakeholder groups are prevented from participating. Arguably, although industry stakeholders have a more direct stake in issues relating to the resources they base their business on, most conservation groups seek – at least ideally – to serve less direct but still legitimate interests of a much wider constituency. It seems likely that the issue of the variable institutional capacities of the different stakeholders is something that may need to be approached by the legislators, in this case the EU and the member states, possibly by making funding available to stakeholder groups participating in similar targeted policy support actions with scientists.

A related question is an ongoing discussion in European fisheries management about the placement of the burden of proof on fishing activities (Lassen *et al*. 2008). If the industry stakeholders were required to show that they are meeting standards of sustainability as a condition of their license to fish then the stakeholders with revenue from fishing would be funding part of the scientific process and its public review. In the current situation the public is setting the limits on fishing, demonstrating that these limits meet standards of sustainability, as well as funding the monitoring of the fishing activities. If the burden of proof were reversed the public would be responsible only for setting the standards of sustainability.

The participation of scientists represented another side of the resource and funding problem. The scientists in this process found themselves having partly to

base their participation on creative *ad hoc* funding sources, which hardly constitutes a useful permanent model, and they had problems fitting the involved work with other tasks. Consequently, as long as the RACs (or other science dependent actors) are unable to fund the scientific expertise needed to develop a proactive role and strengthen the upstream processes in policy formulation under the CFP – then their contributions risk lacking in quality. Anyway, in relation to fisheries scientists a possible solution to this problem has to take into account the general shortage of qualified manpower within this field. The way forward must therefore also involve a rethinking of the policy design of the CFP, which has created a demand for scientific support that exceeds the available capacity.

An additional issue relating to the participation of scientists in modelling exercises and policy making with stakeholders was the events following the development process. As described, the Pelagic RAC recommended a TAC of 180,000 tonnes and the EU later adopted the same TAC on the background of the chosen HCR. However, this happened *without* taking into consideration that the HCR was only sustainable in so far that certain basic conditions had been met (particularly a solution to the issue of Norwegian catches), which was *not* the case by 2008.[5] There is, of course, nothing new in the fact that scientific advice is not followed in a precise manner when it comes to policy because it is only one of several things policy makers must consider (Wilson 2009). However, when scientists have been involved in close cooperation with industry stakeholders on creating a joint product, it does not seem unreasonable to require that stakeholders do their utmost to respect the result arrived at when manoeuvring in the political system. If loyalty to the integrity of the joint product cannot be expected, then there is a risk that scientists try to re-isolate their science from stakeholder influence to avoid being taken hostage to unsustainable application of joint products. Although probably aware that this will not lead to more useful science, the scientists can more easily renounce responsibility for unsustainable policy decisions and protect the science boundary in that way.

One could speculate if the Pelagic RAC had been more cautious in its recommendations, if the plan had *not* been reviewed by ICES but rather had been a direct output of the participatory modelling process. The fact that ICES functioned as a final reviewer may have served to 'mentally allow' the industry stakeholders in the Pelagic RAC to resort to 'business as usual' when the advice came out, as it was no longer 'their' advice. This also highlights the role that conservation organisations can play in the process. That the advice of the Pelagic RAC was in fact not in line with the management plan was not evident without in-depth knowledge of the process, which no conservation organisations had; hence they could not assume the role as whistle-blower.

Keeping the concerns expressed above in mind, carefully designed processes of participatory modelling can assist us in understanding and clarifying the science boundary in situations of high stakes and high uncertainty. Such processes cannot separate science from politics, because in environmental policy such separation is an illusion. What they can do is to provide a mechanism for making the distinction a bit clearer between discussions of fact and discussions of values and interests. Doing so increases the transparency of negotiations and builds

more rational communications that can lead to stronger mutual understandings of the situations being addressed. This can aid in reaching greater sustainability and fairer compromises.

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## Notes

1 For details see www.ifm.dk/safmams.
2 There was only one female among the scientists and stakeholders. In order to keep her anonymous, we will generally use 'he' when referring to a scientist or a stakeholder.
3 Simply put, the principle of 'relative stability' ensures under normal circumstances each EU member state a fixed share of the -- to any time -- agreed TAC for an individual stock unit. Originally these shares were agreed with reference to: 1) historic catches, 2) special provisions for fisheries dependent, coastal communities, and 3) compensation for losses in catches in third countries' waters after the adoption of 200 miles exclusive economic zones in the mid-70s.
4 The EU TAC decision entailed a TAC of 170,000 tonnes for the traditional western horse mackerel area but does not mention specifically that the remaining 10,000 tonnes *vis-à-vis* the advice were included in the TAC set for the southern areas (Council 2008). However, that this was in fact the case seems to be indicated by a statement by Commissioner Joe Borg indicating that the Council decided to follow the advice of the Pelagic RAC in relation to the TAC for the traditional areas (Directorate-General for Maritime Affairs and Fisheries 2007). The advice for a 180,000 tonnes TAC from the Pelagic RAC was divided in two: 170,000 tonnes to the traditional western horse mackerel TAC area and 10,000 tonnes to the combined southern areas (PRAC 2007g) -- possible Norwegian catches were ignored.
5 In fact, DG MARE advised a lower TAC than the RAC, possibly in recognition of the fact that the management plan as a whole could not be implemented in 2008 (Commission 2007).

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# Co-author statement in connection with submission of PhD thesis

With reference to Ministerial Order no. 18 of 14 January 2008 regarding the PhD degree § 12, article 4, statements from each author about the PhD student's part in the shared work must be included in case the thesis is based on already published articles.

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| Paper title: | RECOVERY PLANS AND THE BALANCING OF FISHING CAPACITY AND FISHING POSSIBILITIES. Path Dependence in the Common Fisheries Policy |
| Place of publication: | S.S. Gezelius and J. Raakjær (Eds.): Making Fisheries Management Work. Implementation of Policies for Sustainable Fishing. Dordrecht: Springer: 131-159 |
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| PhD student: | Troels Jacob Hegland |
| Contribution: | 60 % |

| | |
|---|---|
| Formulation of Idea: | C |
| Development of method: | A |
| Data gathering: | B |
| Analysis: | B |
| Writing: | A |

(major contribution = A; moderate contribution = B; minor contribution = C)

Signatures:

Troels Jacob Hegland 17/10 2011 _____

Jesper Raakjær 17/11 2011 _____

# Co-author statement in connection with submission of PhD thesis

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|---|---|
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| List of authors: | Troels J. Hegland, Jesper Raakjær |
| PhD student: | Troels Jacob Hegland |
| Contribution: | 60 % |

| | |
|---|---|
| Formulation of Idea: | B |
| Development of method: | B |
| Data gathering: | B |
| Analysis: | B |
| Writing: | A |

(major contribution = A; moderate contribution = B; minor contribution = C)

Signatures:

Troels Jacob Hegland 17/11-2011

Jesper Raakjær 17/11-2011

# Co-author statement in connection with submission of PhD thesis

With reference to Ministerial Order no. 18 of 14 January 2008 regarding the PhD degree § 12, article 4, statements from each author about the PhD student's part in the shared work must be included in case the thesis is based on already published articles.

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| List of authors: | Stig S. Gezelius, Troels J. Hegland, Hilary Palevsky, Jesper Raakjær |
| PhD student: | Troels Jacob Hegland |
| Contribution: | 30 % |

| | |
|---|---|
| Formulation of Idea: | B |
| Development of method: | B |
| Data gathering: | B |
| Analysis: | B |
| Writing: | B |

(major contribution = A; moderate contribution = B; minor contribution = C)

Signatures:

| | |
|---|---|
| Stig S. Gezelius | 22/9 2011 S.S. Gezelius |
| Troels J. Hegland | 17/10 2011 |
| Hilary Palevsky | 9/13/2011 |
| Jesper Raakjær | 17/11 -2011 |

# Co-author statement in connection with submission of PhD thesis

With reference to Ministerial Order no. 18 of 14 January 2008 regarding the PhD degree § 12, article 4, statements from each author about the PhD student's part in the shared work must be included in case the thesis is based on already published articles.

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| List of authors: | Troels J. Hegland, Kristen Ounanian, Jesper Raakjær |
| PhD student: | Troels Jacob Hegland |
| Contribution: | 60 % |

| | |
|---|---|
| Formulation of Idea: | B |
| Development of method: | A |
| Data gathering: | B |
| Analysis: | A |
| Writing: | A |

(major contribution = A; moderate contribution = B; minor contribution = C)

Signatures:

| | |
|---|---|
| Troels J. Hegland | 17/10 2011 |
| Kristen Ounanian | 3/10 2011 |
| Jesper Raakjær | 17/11 2011 |

# Co-author statement in connection with submission of PhD thesis

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|---|---|
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| List of authors: | Troels J. Hegland, Kristen Ounanian, Jesper Raakjær |
| PhD student: | Troels Jacob Hegland |
| Contribution: | 60 % |

| | |
|---|---|
| Formulation of Idea: | B |
| Development of method: | A |
| Data gathering: | B |
| Analysis: | A |
| Writing: | A |

(major contribution = A; moderate contribution = B; minor contribution = C)

Signatures:

| | |
|---|---|
| Troels J. Hegland | 17/10 2011 |
| Kristen Ounanian | 3/10 2011 |
| Jesper Raakjær | 12/11 2011 |

# Co-author statement in connection with submission of PhD thesis

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| PhD student: | Troels Jacob Hegland |
| Contribution: | 20 % |

| | |
|---|---|
| Formulation of Idea: | A |
| Development of method: | B |
| Data gathering: | C |
| Analysis: | C |
| Writing: | C |

(major contribution = A; moderate contribution = B; minor contribution = C)

Signatures:

Kristen Ounanian 3/10 2011

Troels J. Hegland 17/10 2011

# Co-author statement in connection with submission of PhD thesis

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| PhD student: | Troels Jacob Hegland |
| Contribution: | 80 % |

| | |
|---|---|
| Formulation of Idea: | C |
| Development of method: | A |
| Data gathering: | A |
| Analysis: | A |
| Writing: | A |

(major contribution = A; moderate contribution = B; minor contribution = C)

Signatures:

Troels J. Hegland 19/9/11

Douglas C. Wilson 14/9/11

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- an Aalborg University Research Centre

AALBORG UNIVERSITY

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