

Note of meeting of the Discard Action Group (DAG) Regulatory Change Working Group held at MIC, London on Friday 14 October 2011

Attendees

Mike Park (MP)	SWFPA and Seafish Board Member (Chair)
Ivan Bartolo (IB)	Seafish (Secretary)
Ashley Wilson (AW)	Defra
Erin Priddle (EP)	Defra
Jane Sandell (JS)	Scottish Association of Fish Producers' Organisations
Mike Short (MS)	Food and Drink Federation
Sandy Luk (SL)	ClientEarth
Chris Leftwich (CL)	Fishmongers' Company
Claire Tibbott (CT)	Fishmongers' Company
Phil MacMullen (PM)	Seafish

1. Welcome and apologies

The Chair (MP) welcomed the group. Apologies were received from:

Dale Rodmell	NFFO
Melissa Pritchard	Client Earth
Lisa Borges	SFP

MP asked all delegates to introduce themselves. He then explained that the aim of the meeting was to produce a document that contained a response to the proposed CFP and associated legislation that could be sent to DG Mare. Discards, regionalisation and the Common Market Organisation (CMO) were to be the main themes. The Working Group would obtain a sign-off for the document from the wider DAG.

Action: IB to prepare document and obtain sign-off from DAG members.

2. Account of DAG meeting of 27 September any matters arising

MP explained that this meeting of the Regulatory Change Working Group (RCWG) was an action resulting from the DAG meeting.

3. Defra consultation on the proposed Common Fisheries Policy (CFP) and CMO regulations

EP explained that responses to the consultation were low at this point in time but she expected more responses to arrive towards the end of the consultation period, which is 10 November. A stakeholder workshop was planned for the 4 November and a representative would attend on behalf of DAG. MP said that member states were currently examining the proposals in detail and the European Parliament will be taking into account comments and proposals from member states. France is the only member state to submit a formal response at the time of the meeting; however, more responses are expected. The Commission is expected to be issuing a document on regionalisation very soon but Defra have yet to see this come through.

SL asked whether Defra was aware that proposals for transferable fishing concessions (TFC) are in contravention of Article 345 of the TFEU. EP said Defra was aware of the Client Earth briefings on CFP reform and suggestions that TFCs are not legally valid; however Defra is content that the Commission are acting under their right of initiative to introduce proposals for TFCs and that they do not contravene Treaty articles. .

Action: EP to update group on CFP reform developments and the UK position as it develops.

4. The CFP proposal

- Article 15 of the proposed CFP Regulation: the obligation to land all catches

MP explained that delegates had already discussed with him the intrinsic problems with this article: that the timeline and reference to particular species were too prescriptive, and at the same time it provided no high level principles (e.g. on allocation of responsibilities and general framework) to achieve its requirements. Lowri Evans (the Director General at DG Mare) had suggested to MP that member states had to fill in the detail by producing their own plans on discard reduction. This could lead to problems since member states have different approaches. The RCWG agreed that this Article should have been a high level article that delegated the detail – the timeline, the stocks etc. – to regional bodies.

AW explained that the UK wants to assess the proposed discard ban by examining the various implications, including economic ones, on a stock by stock basis, and also to assess what sort of regional management can be used to manage discards. A multispecies approach would be included in the assessments.

The RCWG agreed that discard reduction had to be phased, and not have one single deadline as currently in Article 15. PM noted that as long as an ecologically sustainable fishing regime was reached, there could be room for a managed, low level of discards, and therefore the complete elimination of discards was not absolutely necessary.

SL, MP and PM discussed that there should be a gradual reduction in discards (possibly over 10 years) working towards full documentation, through incentives and staged by-catch limitation targets. In order for this to work, good incentives (and disincentives) need to be in place, together with regulatory flexibility, for fishermen to experiment with selective gear and practices.

Issues such as by-catch quotas, “choke” species and international trading of quotas were not resolved in the regulation, and there will be delays while these are resolved. Multiannual plans take time to develop and implement. These lag times, and the need for staged reductions in discards, are what contribute to the longer timeframe required.

Defra are keen to link the CFP requirements with the Marine Strategy Framework Directive (MSFD). This is a challenge Europe wide because the two regulations tend to be administered by different authorities, both in individual member states and in the Commission. The requirements in the MSFD for “good environmental status” are closely aligned to the CFP requirement for an ecosystem-based approach. Moreover, the MSFD sets up a framework for international co-operation that could be usefully adopted within the context of the CFP. International co-operation is particularly important for the management of highly migratory stocks, such as pelagic stocks. The current proposals do not address this issue adequately.

In summary, the RCWG call for Long Term Management Plans:

- With phased discard reduction targets

- With built-in incentives (and disincentives) to reduce unwanted catches

- Requiring full documentation, with standardised requirements for the data

- Containing a multi-species aspect as necessary

The plans will devolve the detail to regional bodies, so that discard reduction measures and targets can be adjusted to suit local conditions

- **Regionalisation**

SL explained that the current CFP proposal has no clear model for regionalisation. Client Earth are developing a plan for the implementation of a new CFP, characterised by multiannual plans set centrally and containing specific objectives, and ecosystem-based management that is strongly linked to the MSFD. The link with the MSFD is important because the requirements in the MSFD are for the achievement of “good environmental status” by 2020, and good environmental status has several descriptors that are directly or indirectly related to the health of fish stocks. The link is also important because the MSFD provides a framework for regions and member states to co-operate – an element that is currently lacking in the proposed CFP regulation – and fisheries management bodies will need a framework that mirrors the one in the MSFD. Much of the data that will need to be gathered to

document the requirements of the MSFD will be similar to the data required for the CFP.

Action: EP will report back the latest developments on regionalisation as and when they arise or through the next DAG meeting.

- **Data gathering**

PM presented a letter prepared by the DAG on data gathering. The main elements are:

- An emphasis on the need for coherence between legislation in order to satisfy the needs of multiple users of the data
- The need for data that is practical to collect and scientifically useable

MP mentioned that the Commission was interested in using universities in data collection and analysis. PM agreed that several UK universities were well placed to do this work.

5. The CMO proposal

JS gave some background on the current workings of the CMO. The CMO regulation gives rise to the establishment of Producer Organisations (POs). These have a responsibility to market product and to manage quotas. They have two intervention mechanisms at their disposal: carryover and withdrawal. Carryover allows for the storage of product that is not sellable at the market price, and the product is released to the market once the price rises. Withdrawal allows product to be taken off the market if a set minimum price is not reached. Withdrawn product goes to fishmeal or bait.

The CMO proposal is considerably toned down in all aspects. The CMO and CFP tones are not necessarily complimentary as CFP appears to be using the free market as a driver for change but CMO is still reliant on collective planning and control. Some aspects of the CMO proposal may give rise to discards:

- 1) The proposed CMO regulation has no provision for withdrawal. The remaining option, temporary storage, is not always useful because the storage mechanism – freezing and reintroduction – is not useable in all situations. This will encourage discarding.
- 2) The concept of compulsory TFCs has the potential to reduce the control of POs, as management of quotas is really the only method of control within UK. An example of this would be a ban on rounded haddock at times of the year when the market cannot absorb them, using the withholding of pool quota as a penalty for non-observance. In addition to this the CMO proposal does not make any reference to TFCs or quota management. The CFP proposal makes one reference to TFCs and POs.

- 3) The definition of 'commercial stocks' needs clarification as it could have unforeseen impacts on some of the current non-quota stocks, thus promoting discards.
- 4) The proposal does not bring uniformity to the minimum marketing and minimum landing (conservation reference) sizes (Article 39(2) of the proposed CMO Regulation). The proposal uses the word 'conformity', which does not mean that they will be the same. While it is understood that there may be circumstances where a larger minimum marketing size is prudent, the incentive to discard fish above the reference size because they may not be sold for human consumption is obvious.
- 5) In the new CMO proposal, member states may extend PO dominance. Currently it applies only to withdrawal price, but the proposal allows extension to the measures deployable under Article 8, and can be applied to a group of POs. This has the potential for positive results if POs can collectively influence the behaviour of the fishing fleet by encouraging a move away from certain species at certain times of the year and will by default have a positive effect on discarding.

6. Reducing cetacean by-catch

This item was not discussed.

7. Next steps

A document on the discard aspects of the proposed CFP and CMO regulations will be produced, circulated, agreed and sent to the Commission.

8. AOB and next meeting

There was no other business. The next meeting will be called as necessary.