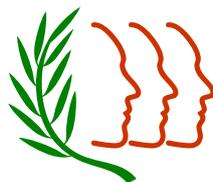


Ireland and the Common Fisheries Policy

**A Submission by
the People's Movement**



Ireland and the Common Fisheries Policy

There was no fisheries policy in the Treaty of Rome, although Article 38 under the general rubric of 'agriculture' provided that the 'Common Market shall extend to agriculture and trade in agricultural products' including 'the products of fisheries'. This said nothing about a 'common resource' or about production, management, conservation and access because they were not envisaged; the monstrosity which eventually emerged was not a treaty commitment. Indeed for many years there was no attempt to define any policy at all.

In 1970 the issue became urgent as Ireland, Denmark, Britain and Norway began entry negotiations. These new applicants would bring with them the richest and best conserved fishing grounds in Europe. Furthermore there was already international pressure for a major revision of the international law of the sea to extend national control of fisheries to 200 miles (or the 'median line' between two states). When this took place, the waters of the four applicants would contain well over 90 percent of western Europe's fish. These waters would bring a valuable resource to augment the over-fished waters off France, Holland, Belgium and Germany.

A government Green Paper laid before each House of the Oireachtas ('Membership of the European Communities – Implications for Ireland', April 1970) acknowledged the dangers: 'some difficulties could arise from any decision which might be adopted by the Community, within the framework of the proposed common policy for fisheries. In regard to access to fishing grounds within the exclusive fishery limits of the member States'.

But the entire political and business establishment of Ireland was so certain about the supposed benefits of EEC membership and were too desperate to bring the country into the EEC to allow such a minor matter to stand in the way of such a grand project.

The Six immediately rushed through a Common Fisheries Regulation designed to give them access to these rich waters. Stark and simple, it was calculated specifically for that purpose. Fish was to be a 'common' resource' – the only one. All members were to have 'equal access' to community waters, without discrimination. There have been well-justified doubts about the legality of the 'principle of equal access' from its very inception. Indeed subsequently, the CFP had to be written into the Maastricht Treaty in an attempt to give it a post-hoc legal basis.

The question as to whether the 'principle of equal access' was a basic policy or simply an opening negotiating gambit to put up to the four applicant governments is outside the scope of this submission but certainly the Irish government seems to have believed that it represented a negotiating position. This is evident by the statement made in the Dáil by the then parliamentary secretary at the Department of Agriculture and Fisheries, Mr. Jackie Fahey:

'As Deputies are aware, one vital aspect of EEC fisheries policy which came into operation on 1st February 1971, had been a cause of concern to all of us. This concern arose from that part of Community policy which provided for equality of access to and exploitation of fishery waters of each member State by the fishing vessels of other member States. However after protracted negotiations we have been successful in securing a satisfactory arrangement which has removed what we regarded as a serious threat to the livelihood of our fishermen and to the continued expansion of our fishing industry. This represented a major breakthrough, having regard to the position adopted by the Community earlier in the negotiations.' (Dáil Éireann, Vol. 258, 3 February 1972)

Not for the last time on the question of fisheries the Irish public was being seriously misled for this was in fact a gross misrepresentation of the situation. Ireland's Treaty of Accession to the EEC, signed just a few days previously on 22 January 1972, had in fact incorporated the principle of 'equal access'. The transitional derogation allowing Ireland to retain an exclusive six-mile zone and an outer six-twelve mile zone restricted to vessels which had 'traditionally' fished the area would expire on 31 December 1982, after which it could only be agreed by unanimous agreement. Irish boats would only have exclusive right to fish out to six miles, and control over access between six and twelve miles would be limited. Finally the government had given away the most important principle of all: namely the Community's power to control her fishing waters up to her beaches. Even within the six mile zone fishermen would still have to comply with Community's rules.

In February 1976 the Commission proposed that it should manage the fishing resources in all but inshore waters, these resources to be parcelled out on the basis of national quotas. Ireland and Britain had most to lose and protested strongly but the Commission pressed ahead. It came up with its proposals for a common 'conservation policy' at a meeting held in The Hague in November 1976. The seas around Europe would be divided into fishing areas. Every year the tonnage of each species of fish allowed to be caught would be fixed as the 'Total Allowable Catch' or TAC. This would then be allocated between member states on a quota basis.

These quotas were to be based on 'historic catches' measured over a specific 'reference period' This was modified by an additional allowance for areas which particularly depended on fishing for employment, known as the 'Hague preferences'. It was finally agreed that once a national share of the catch for each species had been established, member states should continue to receive the same proportionate share by a principle known as 'relative stability'.

Bitter squabbling as to how this could be implemented was to continue until 1983 but when this allocation key was applied to the 1982 TAC's for seven main commercial fish species, Ireland's quota share expressed as a percentage of cod equivalent amounted to 4.4 percent compared to 36.6 percent for the UK, 23 percent for Denmark, 13.4 percent for West Germany, 13.4 percent for France and 7.3 percent for the Netherlands. Thus, of the member states bordering on the

Atlantic, North Sea or Baltic, only Belgium at 2.1 percent had a smaller share. Despite the Hague preferences, an allocation key that was largely reliant on recent historic performance was bound to eventually militate against Ireland.

From a conservation perspective the principle of allocations by TAC's had/has fundamental flaws.

Firstly, there were/are annual bitter fights about the levels set for the TAC's. Ministers fighting for their national interests would push the TAC's higher than was dictated by scientific data.

Secondly although the rules were/are agreed centrally, their enforcement remain(ed) with the member states which meant that states that adopt(ed) a softly-softly approach would give their own fishermen a commercial advantage. Lack of enforcement and the severity of other systems became/are a constant source of friction.

Thirdly, dictating to fishermen the maximum quantities of each species ignored/s the most basic reality of fishing. When fishermen haul in their nets they often caught/catch a range of fish for which they have no quota. Since it is a criminal offence to land these, their only alternative was/is to return their 'illegal' catch to the sea, by which time the fish would be/is dead. The practice was to lead to an ecological disaster as fishermen were forced to discard billions of fish each year.

On 1 January 1977, most of the world's fishing nations, including the members of the EEC, adopted a new 200-mile fisheries limit after the Third United Nations Conference on the Law of the Sea (UNCLOS). The declaration of the 200-mile limits meant that vessels from Community member states would now be excluded from the rich fishing grounds of Norway and Iceland. 1975 had witnessed the height of the so-called 'Cod Wars' with British vessels being forcibly expelled from Icelandic waters by armed gunboats. In 1976 Iceland had successfully extended its limits to 200 miles. This had triggered the world trend that had been ratified by the Law of the Sea Conference.

Failure of CFP

The People's Movement disagrees with the principle of a Common Fisheries Policy and we believe that the Green Paper fails to justify why a common policy is an appropriate mechanism to manage fisheries. The CFP penalises the fishermen without conserving the fish. It leads to illegality and huge discards.

Supporters of the CFP claim that only such an international regime can guarantee proper conservation. In fact the CFP has produced a conservation crisis. The CFP's regime is supposed to produce harmony but has produced bitterness and division. The People's Movement recognises the need to manage stocks in partnership with other nations who share these stocks. Norway is able to manage its fisheries with great success outside the CFP. The same can be said of the Faeroe Islands and

Iceland. Each of these states engages in bilateral negotiations with the EU and is able to establish joint management of stocks based on equal partnership.

Its conservation record is the worst in the world. The Green Paper acknowledges that 88 percent of 'Community stocks' have been fished beyond Maximum Sustainable Yield (MSY); the equivalent figures for the US is 25 percent, 40 percent for Australia and 15 percent for New Zealand. Even more ominously, 30 percent are outside safe biological limits.

The CFP is a hybrid. All fish stocks are considered to be 'common' but the responsibility for policing is national up to the national limits. Policy is EU. Implementation is national. Out of that split, chaos is born. The CFP is a political policy not a fishing policy; it is a part of a political project which had nothing to do with the realities of fishing and nothing to do with proper management. The harsh consequences of this hybrid has fallen principally on member states with the largest fishing grounds.

The People's Movement regrets the refusal of the Commission to debate the quite legitimate option of repatriation of powers over fisheries management and fishing waters back to member states. Yet the CFP alternative is a political allocation system and a quota system that that is a travesty of fish management. Under the former, rather than deciding catches on scientific advice they are divided up in a political haggle – adding paper fish when all demands cannot be satisfied or ordering sudden cuts that are too large to carry out and which occasionally turn out to be unnecessary. Under the latter, stocks of fish for which vessels have no quota are largely thrown back dead. Discards rise as quotas fall.

The policy was flawed from the outset, with the principle of 'equal access' agreed in advance of Ireland and other maritime states joining the EEC creating a legacy which fisheries managers still struggle to address. The principle of equal access means incoming member states with big fleets but few fishing waters have to be found fish to catch. Some of the additional fishing comes from the purchase of quota and some has come from deals with developing countries. These latter arrangements have caused widespread resentment because of their rapacious methods. Alternative fishing for new entrants to the EU has come effectively from Irish and British waters.

Ireland cannot close fishing grounds in the spawning season, keep fishing effort out of specific grounds at crucial times, match minimum landing size of fish to area or insist on only one net for one trip to prevent opportunistic catching of anything going. EU macro-measures are usually crude and clumsy as if one rule can fit all its diverse conditions.

When first devised, the CFP sought to manage fisheries within a limited area but now the range of its application has expanded hugely, yet the CFP itself has been subject only to minor changes.

The CFP has failed to support biological and ecological sustainability. Achieving

sustainable economic growth through establishing and maintaining sustainable levels of fish stocks should be the fundamental aim of fisheries policy. Yet, as the Green Paper itself notes, 30% of EU stocks are outside safe biological limits and nearly 90% fished at levels beyond Maximum Sustainable Yield (MSY). Given these statistics it is not surprising that the CFP is held in such low regard.

The discarding of marketable fish is perhaps one of the best examples of the failure of the CFP. Discarded fish are a precious resource which the regulations of the CFP prevent skippers from landing. The vast majority of these fish are already dead when thrown back, representing a biological and economic loss.

The CFP has failed to match fishing capacity with fishing opportunities. The Green Paper notes that, in spite of capacity reduction targets and decommissioning schemes, on average, fleets have reduced capacity by only 2% a year.

As long as the CFP lasts there is clearly a onus on the Commission to clearly show that each member state is seeking to ensure that the impact of their fleets, in terms of catches rather than landings, is in line with available fishing opportunities. It has not discharged this onus to date.

It is unjust to require further capacity cuts from those member states that have genuinely sought to manage fleets responsibly if others have failed to take adequate measures.

The CFP has failed to establish clear and fair levels of compliance across EU. The control system is a hybrid, more political than effective. There are three methods of catch control: checking vessels at sea, landing at ports, and control over waters. The CFP is a little bit of the first, a bit of the third and not much of the second.

The CFP lacks legitimacy, given the real and perceived inequality in treatment between member states in their adherence to regulations as evidenced by the failure of some member states to reduce overcapacity, alleged poor compliance monitoring in certain fisheries and perceived disregard for regulations by some fleets.

This has led to accusation and counter-accusation, political mistrust and policy inertia.

The CFP has failed to engage with the industry to improve fisheries policies. The disconnect between fishermen and the centralised policy decision apparatus in Brussels means that fishermen have very limited opportunity to influence EU fisheries policies.

The effectiveness and influence of the Regional Advisory Councils introduced following the 2002 review remains limited.

Without a real say, many fisheries conservation measures are not considered

workable or desirable by the industry. As a consequence, there is often little buy-in for such measures. The decision-making process and the punitive regulatory approach of the CFP fails to positively harness the innovation and knowledge of fishermen in better managing fish stocks.

CFP – end or mend?

The People's Movement believes that, as a general principle, centralising more power in Brussels and further EU integration means less democracy and less say and control by Irish citizens; it follows that a democratic and stable Europe demands the reversal of EU integration and repatriation to the EU member states of powers already surrendered. This general principle has a clear relevance in relation to the future of the CFP. Fisheries are best managed by governments co-operating at a regional scale. Any regional model must restore genuine management and decision making powers to the member states.

This is because fisheries measures are best developed by those most familiar with the fisheries: the stock distribution, the fleets and gears, the marine habitats and climatic conditions. Thus measures need to be developed for individual fisheries if they are to succeed in achieving sustainability and eradicating discards.

The centralised approach of the CFP leads to general regulations being agreed at EU level. This has led to very detailed and complex regulation difficult for fishermen to follow and for enforcement agencies to ensure compliance. The body of regulations that emerge sometimes has more to do with a political project than with real fisheries management needs. That process will only become more complex still as the Lisbon Treaty gives additional powers to the European Parliament in fisheries matters.

The best scale at which to manage fisheries is the most appropriate ecological unit for the fish stock. For many of the demersal species within EU waters this could be at the scale of sea basins, such as the North Sea, the Baltic Sea and the Celtic Sea. For migratory stocks, such as mackerel, the scale is larger; while for more sedentary shellfish stocks the management unit may be more local.

A fully centralised, effectively policed fisheries management regime might work if ruthlessly managed and controlled by a huge policing operation. National regimes in Norway and Iceland have been shown to be effective. Yet the CFP represents the worst of both options.

The discarding of unwanted catches is a complex issue exacerbated by the Common Fisheries Policy. Inshore boats have smaller nets in which fish are not crushed tightly together; undersized fish can often be thrown back while still alive. The bigger the net, the more fish are thrown back into the sea dead. Yet as fish becomes scarce, vessels get bigger, more powerful and there is little incentive to use net types that minimise the level of discards.

More generally, it has long been accepted that involvement of fishermen in the design and implementation of fisheries management policies leads to more effective management measures and the use of incentives further aids acceptance and compliance. The rigidity of the CFP has stifled innovation both at national and individual scale.

This rigidity is a consequence of the centralising regulatory detail which is such a key component of the EU decision-making process.

Clearly, a policy that sought to reverse this centralisation, with the restoration of decision making to member states, will unbind blanket restrictions and lead to the development of regionally more appropriate management measures.

Response to some of the questions posed in Green Paper

How can the objectives regarding ecological, economic and social sustainability be defined in a clear, prioritised manner which gives guidance in the short term and ensures the long-term sustainability and viability of fisheries?

The People's Movement believes that the natural resources of Ireland's land and sea are a national asset and the heritage of all its people and should be managed and developed for the benefit of the country. Custodianship of marine resources rests with the state which can allocate rights to utilise the living marine resources, regulating this utilisation to ensure long-term sustainability and the maximum social and economic benefit of its people.

The principles of replenishment and restocking of resources are prime objectives to ensure maximum sustainable utilisation and the maintenance of biodiversity. Long-term resource management should ensure that the populations of harvested and other marine organisms are kept at levels consistent with their roles in the ecosystem.

Management of living marine resources should be based on the best available knowledge and research within a context of sustainable development.

There should be a holistic approach to fisheries and the utilisation of marine resources to include:

- increasing the long-term contribution of fisheries to the Irish GDP;
- increasing employment opportunities in the harvesting, cultivation and processing of living marine resources;
- investigating new resources and the enhanced utilisation of under-utilised resources;
- promoting the development of domestic and new markets and the expansion of value-added activities;
- the development of tourism and recreation in coastal areas;

ensuring a stable and internationally competitive industry.

In practice, the primary objective in fisheries policy is to ensure the long-term sustainability of fisheries: that is, the stock and marine environment, the industry and fishing communities. A sustainable marine environment and sustainable stocks are therefore central to fisheries policy objectives.

However, in articulating these objectives, recognition must be given to other social and economic objectives. But generally the Common Fisheries Policy seeks to re-establish stock levels within safe biological limits in the shortest time possible. Such short-term timescales leave little to no flexibility for member states to implement measures in a manner that is sensitive to economic and social conditions.

Annual, prescriptive and restrictive quota and effort allocations provide little or no leeway for fisheries managers to implement EU policies sensitively. This is a recognised failing of the centralised Common Fisheries Policy.

Could transferable rights (individual or collective) be used more to support capacity reduction for large-scale fleets and, if so, how could this transition be brought about? Which safeguard clauses should be introduced if such a system is to be implemented? Could other measures be put in place to the same effect?

We do not support the permanent transfer of fishing rights between member states.

Transferable rights may lead to reduced fishing capacity in the medium to longer term in some circumstances. Their use is, however, controversial. It is often smaller vessels which lose rights to larger, more profitable and financially more powerful operations. This pattern is evidenced in the experience of countries that have unilaterally introduced Individual Transferable Quotas (ITQs), the most common form of Rights-Based Management.

Consolidation has led to fewer but larger vessels dominating the fishing fleet, with associated adverse impacts on smaller fishing vessels and their dependent communities.

Rights-Based Management becomes yet more controversial where rights may be traded between nations, leading to a migration of fishing rights from one country to another.

Reductions in fishing pressure can be achieved through improved fisheries management.

How can overall fleet capacity be adapted while addressing the social concerns faced by coastal communities taking into account the particular situation of small- and medium-sized enterprises in this sector?

The People's Movement believes that it is the responsibility of governments to manage fishing impacts within prescribed thresholds so as to ensure that

commercial fishing operations are sustainable from both a stock and ecosystem perspective.

States have different levels of overcapacity. Within a state, specific fleet segments may be at overcapacity, at capacity or under capacity. Given this variance, we oppose a one-solution-fits-all approach to this matter.

It is however essential that the fisheries management arrangements keep fishing activity in line with available supply.

How can long-term management plans for all European fisheries be developed under the future CFP? Should the future CFP move from management plans for stocks to fisheries management plans?

The whole thrust of our approach is to replace EU-wide one-size-fits-all long-term plans with a series of regional policies based on the fisheries management needs of specific defined common areas.

A move to longer term, outcome-focused policy objectives will provide the impetus for the development of long-term management strategies at a regional level. These strategies should seek to manage fisheries, rather than single stocks.

Maximum Sustainable Yield? The best fisheries management systems? Discards. Transferable quotas?

There are numerous causes of discards and these must be tackled through measures addressing the relevant cause. All options are best considered in a regional fishery context. Achieving MSY simultaneously for all stocks in a mixed fishery is not possible, either practically or conceptually.

Discard bans, while superficially attractive, cannot alone stop discarding.

There are certainly logical arguments as to how an 'effort only system' could lead to reduced discards.

There are a number of important issues to be addressed before the proposal can be considered seriously.

How would effort be allocated? What measures could be used to prevent the targeting of the most valuable component of the fishery?

An alternative approach would be to agree multi-species quotas for mixed fisheries, perhaps allocating quotas through a catch value mechanism.

Other options could be implemented more speedily.

Avoidance of high areas of abundance of low-quota species has proved successful, with the adoption of Real Time Closures (RTCs) to facilitate cod recovery.

Seasonal closures are another means of avoiding large catches of scarce stocks and are better designed with fishermen's input. Fishermen are also ideally placed to develop gear measures that help reduce unwanted catches. These may only be regionally or locally appropriate. A regional approach to tackling discards provides the best approach.

How could relative stability be shaped to better contribute to the objectives of the CFP? Should it be dismantled or if not should it become more flexible and if so, how? How could such alternatives be set up?

Quotas are the basis of allocation in the CFP. They are frozen by the principle of 'relative stability'. This was designed to ensure that there would be no changes in relative shares and no overall increase of fishing effort within the EU 'pool'.

Such stability is in fact impossible. Each new EU entrant changes the balances as new fleets have to be fitted in.

The principle needs to be opened up for closer scrutiny and agreement sought that could allow resources to be reallocated to reduce discarding or in response to changes in fish stock patterns caused by climate change.

Executive summary

Ireland has a long historic tradition as a fishing nation. Its experience of the Common Fisheries Policy has not been a good one.

The People's Movement believes that the Common Fisheries Policy has been an expensive, cumbersome bureaucratic failure and that Ireland could manage Irish fisheries better without the Common Fisheries Policy.

The People's Movement proposes that the EU returns control of fisheries policy to the member States. Such a path is more radical than the Commission is willing to consider, and the People's Movement will continue to campaign for this option.

The People's Movement strongly believes that the CFP has failed to:

- support biological and ecological sustainability;
- match fishing capacity with fishing opportunities;
- establish clear and fair levels of compliance across EU;
- engage with the industry to improve fisheries policies.

The People's Movement believes that a successful fisheries policy should deliver:

- sustainable fisheries management arrangements that will bring an end to discards;

- co-management with industry and marine stakeholders;
- fisheries management arrangements which are aligned with marine environmental and marine planning objectives;
- fisheries policies which recognise and which are sensitive to the needs of fisheries-dependent communities.

In order to achieve these goals, fundamental reform is required at EU level.

Central to that reform is the repatriation of decision-making powers to member states and the establishment of a series of regional fisheries management arrangements between relevant member states.

Additionally, greater recognition of conservation measures, including discard-reduction measures, and closer engagement with marine fisheries will lead to improved policy.

The vision and objectives laid out provide the basis for addressing the most pertinent of the questions in the Green Paper.

31 December 2009

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