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The Progress of the Common Fisheries Policy

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NOTE: References in the text of the report are as follows:

(Q) refers to a question in oral evidence

(p) refers to a page of written evidence

(Para) refers to a paragraph of written evidence

The evidence received in the course of this inquiry is published in Volume II (HL Paper 146-II)

FOREWORD—What this report is about

The Common Fisheries Policy has one of the most dismal reputations of any European Union policy. On several counts, that reputation is warranted: the regulatory regime governing fisheries in EU waters is intricate and extensive relative to the size of the fishing industry, and yet around 88 per cent of fish stocks in Community waters are over-fished, compared with a global average of 25 per cent. Meanwhile many segments of EU fishing fleets experience poor profitability, rendering them vulnerable to increases in operating costs—fishermen’s recent protests over the rising cost of marine diesel illustrate the predicament.

In this report, we conduct a mid-term review of the 2002 reform of the Common Fisheries Policy, and examine ongoing challenges facing fisheries managers. We seek to draw lessons for current and imminent legislative proposals affecting fisheries, and identify what we regard as the most promising avenues for future reform of the CFP.

We conclude that on most indicators, the 2002 reform of the Common Fisheries Policy has failed: overcapacity in the fishing fleets of the Member States, poor compliance, uneven enforcement, and a stiflingly prescriptive legislative process all persist, while fish stocks remain depleted.

Our analysis suggests that the root cause of poor performance on biological and economic indicators has been Member States’ reluctance to bring the size of their fishing fleets into line with the available fishing opportunities—or even to allow market forces to do so. We therefore urge Member States to resist calls for subsidies to offset fishing vessels’ rising operating costs, and we oppose any relaxation of the state aid regime for this purpose. Public aid should in our view be channelled into attractive decommissioning schemes and the economic diversification of fisheries-dependent coastal communities instead.

We observe that the current, over-centralised and top-down legislative process has served to alienate stakeholders and stretched the Commission’s resources to the limit, and therefore advocate a change in emphasis in management style. We favour a division of labour in which strategic decisions continue to be taken centrally in Brussels, but decisions relating to delivery and implementation are delegated to regional bodies, subject to central auditing of outcomes.

The establishment of Regional Advisory Councils is a welcome step in this direction, and the most promising development to arise out of the 2002 reform of the CFP. It has delivered notable improvements in stakeholders’ engagement in the policy-making progress, which we regard as essential to improving both the quality of the regulatory regime, and compliance with its provisions.

We dismiss the prospect of withdrawing from the CFP as a credible policy option. Unilateral withdrawal from the CFP would be incompatible with membership of the EU, while negotiated withdrawal would require unanimous agreement to a treaty amendment by all Member States. Attention should instead be directed at improving and reforming the policy that exists, and that is the focus of our report.

The Progress of the Common Fisheries Policy

CHAPTER 1: INTRODUCTION AND FACTUAL BACKGROUND

Purpose and Scope of this Inquiry, Structure of this Report

1. Our intention in conducting this inquiry has been to carry out a mid-term review of the implementation of the 2002 reform of the EU's Common Fisheries Policy, with a view to drawing lessons for future reform of the CFP, and for other legislative proposals currently being drawn up at EU and national level.
2. Recent and imminent proposals affecting fisheries include the proposal for a Council Regulation on Illegal, Unreported and Unregulated fishing (COM/2007/602), the proposal for a Council Regulation concerning the conservation of fisheries resources through technical measures (COM/08/324), forthcoming proposals¹ to modernise and reform the control system applicable to the Common Fisheries Policy, and broader marine policy being formulated at the EU, national and sub-national level, such as the draft Marine Bill published by the UK Government on 3 April 2008.
3. While there appears to be considerable consensus on the failings of the Common Fisheries Policy, witnesses were also keen to remind us that those failings persist for good reason: fisheries management poses a number of singularly intractable challenges. Our report therefore begins with a brief recapitulation of some of these challenges, and a look back at the history and evolution of the CFP. We then move on to examine the main features of the 2002 CFP reform. We present the evidence we received on the impact of those changes (Chapter 2), and our witnesses' views on the ongoing challenges facing fisheries managers (Chapter 3). From that evidence, we draw our conclusions and recommendations, identifying what we regard as the most promising avenues for future reform.
4. The inquiry that led to this report was carried out by EU Sub-Committee D, whose Members are listed in Appendix 1. We received written evidence and heard oral evidence from a wide range of witnesses, who are listed in Appendix 2. We are grateful to them all for their contributions. We would also like to thank those who facilitated our visits to Peterhead and Brussels. We are particularly indebted to Professor John Pope, our Specialist Adviser on this inquiry. We make this report to the House for debate.

Managing Fisheries: Challenges

5. It is no coincidence that fisheries are often used to illustrate what economists call the "Tragedy of the Commons". The phenomenon arises in relation to the management of resources that are accessible to anyone (i.e. non-excludable) and competitive (rival) in consumption—such that what one person uses cannot be used by anyone else. Where a resource possesses these characteristics, it is rational for each consumer to consume as large a share of the resource as they

¹ A consultation paper was published by the Commission on 28 February 2008 and is available here: http://ec.europa.eu/fisheries/cfp/governance/consultations/consultation_280208_en.pdf

can, without heed for the consequences of everyone acting as they do. Restraint, it is assumed, would only benefit their less scrupulous peers.

6. In fisheries, this manifests itself as each fisherman facing a strong incentive to fish as intensively as possible, even if collectively this is likely to lead to the depletion of the stock that is being fished. Prudent harvesting by one fisherman, with a view to protecting the stock, will most likely only yield larger catches for other, less restrained, fishermen. The end result—the depletion of the stock—will be the same. Hence the incentive to grab one's share as quickly as possible while the resource is still available. Fishermen consequently face strong incentives to over-exploit the very resource on which their livelihoods depend.
7. The fundamental challenge for fisheries managers is to prevent this phenomenon from taking its natural course. A dramatic illustration of what happens when they fail was provided by the collapse of the cod stock off Newfoundland and the other Atlantic provinces of Canada in 1992. The depletion of that stock led to a fishing moratorium that deprived tens of thousands of people of their livelihoods. The stock has yet to recover fully.
8. Economic theory indicates that the solution to the Tragedy of the Commons phenomenon lies in assigning property rights to the resource. Fisheries, however, do not easily lend themselves to this approach. One complicating factor is that fish stocks are a renewable natural resource. Private ownership will therefore apply to the right to harvest (a proportion of) the resource, not to the resource itself, which is a public good. A further complication is that fish stocks are a mobile resource: shoals of fish can migrate across national jurisdictions. It is for this reason that fisheries management requires international cooperation, and international recognition of rights awarded.² Mixed fisheries—containing a range of species—create further difficulties, in that although ownership rights may be assigned on paper, it can be impossible in practice to target one species without also catching fish from another (so-called by-catch³). The demersal⁴ (sea-bed) fisheries around the UK, for example, are typically mixed fisheries.
9. Perhaps most challenging, however, is the enforcement of any type of rights-based management regime. In the EU, commercial fishing takes place over an enormous area, through tens of thousands of vessels, whose activities are difficult to monitor and costly to patrol.
10. Assigning rights to harvest a proportion of a given fish stock requires monitoring of the size of the stock itself from year to year. It is not possible to count every fish or to map in detail the distribution of fish stocks in national or EU waters. Management instead relies on scientific stock assessments, produced on the basis of surveys carried out by research vessels and catch data provided by the fishing industry. For some stocks, particularly non-commercial species, there is little specific information on stock levels or distribution available. Because managers want to decide on catch restrictions before fish are caught, scientists normally have to predict stock size one or two years in advance of the available data. Stock assessments prepared for EU waters are as thorough as anywhere in the world, but margins of error can still be as high as 40 per cent, and are amplified by misreporting of catches.

² Under the UN Convention on the Law of the Seas (UNCLOS), signed in 1982, Contracting Parties are obliged to co-operate.

³ By-catch refers to any organism that is caught in addition to the target fish.

⁴ Demersal fish stocks live near the bottom of the sea (e.g. cod, haddock, halibut). Pelagic fish stocks live in the upper layers of the sea (e.g. tuna, herring, mackerel).

11. This uncertainty is exacerbated by natural year-on-year fluctuations in the cohort of young fish entering the exploitable stock (“year-class strength”). Year-class strength is influenced by natural factors such as water temperature, food availability and the size of the parent stock. Climate change is expected to accentuate these natural fluctuations even further (Sir Alister Hardy Foundation for Ocean Science Memorandum, pp 5–6).
12. Fisheries managers also have to contend with what is known as “technology creep”: technological progress means that fishing vessels become more and more effective over time, so that the same number of vessels can catch more fish. This can result from faster or more powerful vessels being able to exploit a wider range of fishing grounds, or from the ability to locate and catch fish with greater ease due to improved technology.

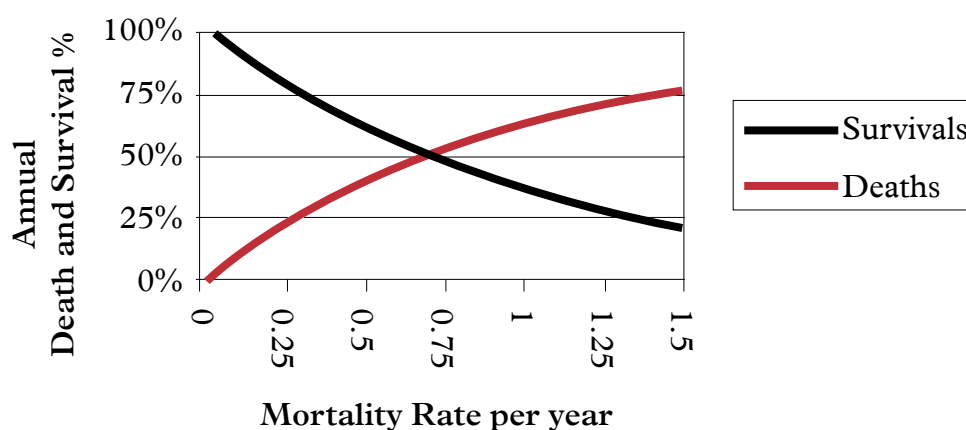
Managing Fisheries: Tools

13. A range of tools are available to fisheries managers seeking to restrict fishing activity to a level compatible with the sustainable exploitation of fish stocks, or to target fishing activity more selectively. Catch restrictions, in the form of Total Allowable Catches (TACs) or quotas are perhaps the best-known of these tools. Their intended effect is to limit fishing mortality (the number of deaths in a fish stock—see Box 1 below) by curbing the amount of fish of a particular species that a given individual or group can catch. Their main drawbacks are that they can be difficult for fishermen to adhere to, particularly in mixed fisheries; that they rely on high-quality stock assessments to measure the size of the stock and thus the proportion that can be caught; and that they are cumbersome to enforce, because they effectively require detailed record-keeping of fish caught and landed by individual vessels.

BOX 1

Fishing Mortality

Scientists measure the intensity of fishing through the fishing mortality rate. It is the variable that fisheries management seeks to control directly by limiting catches or fishing effort. The fishing mortality rate is related to the proportion of fish being killed in a year through a mathematical formula. It is a component, usually the major component of the total mortality rate on exploited ages of fish. Other components are caused by natural deaths, e.g. those due to predation or disease. The relationships of fish survivals and deaths in a year to total mortality rate are curvilinear; deaths progressively approach 100 per cent and survivals progressively approach 0 per cent as total mortality rate becomes large, as the graph below illustrates.



Were fishing mortality rate the only cause of death the graph would indicate the deaths it would produce over a year. However, since there are other causes the total deaths are prorated between those due to natural and to fishing causes. The virtue of using mortality rates as measures of fishing and other causes of death is that they are additive. Thus the fishing mortality rate might be expected to respond by the same proportion as changes in fishing effort (e.g. as total days fished) while the proportion killed would not.

14. Effort controls provide a second option. Their intended effect is to limit fishing mortality by curbing the number of vessels allowed to fish, or their power, or the amount of time (normally in days) that they are permitted to spend at sea. While they are in principle easier to adhere to and enforce, effort controls have their own drawbacks. One is that the relationship between fishing effort and fishing mortality cannot always be clearly defined, meaning that effort controls are a somewhat blunt instrument, particularly in mixed fisheries. A further difficulty is that if used alone, effort controls create an incentive to fish more efficiently, and to target the most valuable species in a given fishery, thus discouraging diversification and intensifying fishing pressure.

BOX 2

Discards

Discards occur when fish and other marine organisms are thrown back into the sea after being caught. Although a small proportion of fish of certain species survive the process, the vast majority are thrown back dead. Fishermen may throw fish overboard for a number of reasons, including:

- High-grading—when less valuable sizes of quota species are discarded so that the vessel can land a higher-value catch
- Unmarketable Species—when species of no commercial interest are thrown back overboard.
- Unmarketable Sizes—when immature fish below the minimum legal landing size are discarded.
- Insufficient quota—when species for which the fisherman has no quota, and therefore cannot land legally, are thrown back into the sea.

Discarding may thus be prompted by economic considerations or by regulatory factors. Whatever the cause, discarding undermines management by quotas, as the volumes of fish landed are not a precise reflection of the number of fish caught.

15. Technical conservation measures offer tools designed to target fishing activity more selectively, so that only the desired fish are caught and discards are avoided (see Box 2 above). This category includes direct restrictions on fishing gear (e.g. minimum mesh sizes designed to ensure that only mature fish are caught), and indirect incentives to use more selective types of fishing gear, such as minimum and maximum landing sizes for fish belonging to particular species. One drawback of technical conservation measures from the point of view of enforcement and competition is that they do not lend themselves to uniform, centralised imposition: different measures will be appropriate in different fisheries, but this can lead to an uneven playing field in terms of the restrictions placed on vessels fishing in different areas and for

different species. Moreover, compliance with technical measures normally has to be monitored at sea and is therefore expensive.

16. Fisheries managers may also choose to close particular sea areas to fishing activity. This can take a range of forms, for example the creation of marine protected areas, in which all human activity that may damage vulnerable marine habitats is prohibited, or be limited to temporary closures of nursery or spawning grounds that are important to the renewal of vulnerable fish stocks. Drawbacks of this type of measure include the need for detailed and reliable information on the location of such areas (which may change over time), and the risk of displacing fishing activity, creating intense fishing pressure in the waters immediately bordering a closed area, for example.
17. Owing to the drawbacks of each of these management tools, the general consensus is that fisheries managers need to have a “toolkit” of management measures at their disposal. This is the approach that has progressively been enshrined in the Common Fisheries Policy operated by the EU and its Member States.

The CFP: History & Evolution

18. The origins of the CFP lie in Articles 32 to 38 of the Treaty of Rome, which made provision for a Common Agricultural Policy explicitly encompassing fisheries, defined as “agricultural products” in Article 32. It was not until 1970, however, that the Council of Ministers adopted legislation establishing a Common Organisation of the Market in fisheries products, and established the principle of “equal access” for EC vessels to Member State waters, with the exception of a narrow coastal band reserved to local fishermen with a tradition of fishing in that area.
19. The accession of Denmark, Ireland and the United Kingdom—whose catches represented more than twice those of the six founding Members—to the EEC in January 1973 prompted a review of the principle of equal access. A ten-year derogation was introduced to extend exclusive national fishing rights to 6 nautical miles, and to allow other Member States’ vessels to fish in the 6 to 12 mile band only where this reflected historic access rights.
20. At that time, most of the world’s oceans were deemed to be high seas. International maritime law gave countries jurisdiction out to 12 nautical miles from their coastline, beyond which lay international waters. By 1976, however, international developments prompted Member States to lay claim to Exclusive Economic Zones (EEZs) of 200 nautical miles from their coastline. It was at this juncture that the European Community assumed responsibility for the development of fisheries policy within the EEZs of its Member States. Seven years of negotiations led to the adoption of a Council Regulation⁵ formally establishing a Common Fisheries Policy in 1983.
21. The 1983 Regulation organised the CFP around four components: market policy, structural policy, conservation policy and relations with third countries. Market policy was intended to establish marketing standards and stabilise markets, while taking into account consumers’ interests and the

⁵ Council Regulation 170/83 EC.

incomes of fishermen. Structural policy provided Community aid for investment in the European fishing fleet. Conservation policy was to allow for balanced exploitation of fishery resources. A menu of conservation measures that the Council could choose to impose were specified in the Regulation, including the option to set an annual TAC for a stock or group of stocks.

22. Member States' shares of the TAC were to be distributed "in a manner which assures each Member State relative stability of fishing activities for each of the stocks considered." Under this principle of relative stability, which underpins the CFP to this day, Member States are allocated a fixed share of the Total Allowable Catch for a given fish stock, based on their fleet's past record of fishing activity.
23. The 1983 Regulation also provided for a renewal of the ten-year derogation from the principle of equal access: Member States were to retain exclusive fishing rights within 6 miles of their coast, while between 6 and 12 miles other Member States' vessels would only be allowed to fish where they could demonstrate historic access rights.
24. It is the renewal of this derogation that has provided the occasion for subsequent reforms to the basic framework of the CFP. A first major reform took place in 1992, with the adoption of Council Regulation 3760/92. It attempted to address what had emerged as a serious imbalance between the fishing capacity of Member States' fleets and available fishing opportunities. The reform consequently prescribed a reduction in the size of the Community's fishing fleet, accompanied by structural measures to alleviate the socio-economic impact of such reductions. The Regulation also introduced the concept of fishing effort—referring to the product of a vessel's capacity to catch fish and its activity. Restrictions on fishing effort, and specifically, limits on the time vessels are allowed to spend at sea, were added to the menu of conservation measures available to the Council. The 1992 reform also obliged Member States to operate national licensing regimes designed to regulate access to fisheries.
25. By the late 1990s, however, it had become clear that the reformed CFP had failed to stem the decline in fish stocks in Community waters. Many were at critically low levels, and some—notably cod—on the brink of collapse due to intense and unsustainable fishing pressure. Declining stocks were in turn putting the long-term viability of the fishing industry at risk.
26. In a "roadmap"⁶ for the reform of the Common Fisheries Policy published in May 2002, the European Commission identified what had emerged as the main shortcomings of the CFP (summarised in Box 3 below) and presented its proposals for reform. Later that year, in December 2002, EU Ministers agreed on a second major reform of the CFP, consisting of a new basic Regulation and new arrangements for Community structural aid to the fishing sector.⁷

⁶ COM (2002) 181, 28 May 2002.

⁷ Council Regulation 2371/2002 and Council Regulation 2369/2002, respectively.

BOX 3**Main Shortcomings of the Common Fisheries Policy in 2002**

The alarming state of many fish stocks: the Commission noted that stock sizes and landings had declined dramatically over the previous 25 years. For many commercially important demersal (sea-bed) stocks, the numbers of mature fish had halved between the early 1970s and the late 1990s. The Commission warned that if these trends were to continue, many Community fish stocks could collapse.

Over-capacity in the fishing fleet: the Commission pointed out that the fishing capacity of Member States' fleets was far in excess of that required to harvest the available fishery resources in a sustainable manner. Scientific advice was indicating that the rate of fishing mortality in the main Community fish stocks needed to be reduced by between one-third and one-half (depending on the area and type of fishery) to reach a sustainable level of fishing.

Economic fragility of the fisheries sector: the Commission stressed that most of the Community fisheries sector was experiencing poor financial profitability and steadily declining employment. 66,000 jobs had been lost in the catch sector over the period 1990 to 1998, a decrease of 22 per cent. Over the same period, employment in the fish processing sector had declined by 14 per cent.

Uneven enforcement: the Commission noted that the control and enforcement arrangements in place had been insufficient to create a level playing field across the EU, and concluded that this was undermining the credibility of the CFP.

Non-inclusive governance: the Commission recognised that stakeholders had not been sufficiently involved in shaping policy, and suggested that this had undermined support for, and compliance with, the conservation measures adopted under the CFP.

27. The new basic Regulation set broader objectives for the CFP, laying down that the Community should take measures to protect and conserve living aquatic resources, provide for their sustainable exploitation, and minimise the impact of fishing activities on marine ecosystems. It called for the progressive implementation of an ecosystem approach to fisheries management, but also stipulated that the CFP should contribute to "efficient fishing activities within an economically viable and competitive fisheries and aquaculture industry, providing a fair standard of living for those who depend on fishing activities and taking into account the interests of consumers."⁸
28. The new Regulation sought to promote a longer-term approach to fisheries management, which had thus far been conducted in annual cycles, by introducing the possibility of adopting multi-annual recovery and management plans for particular stocks. Recovery plans were to consist of multi-annual strategies to recover stocks outside safe biological limits (Article 5). Management plans were to consist of multi-annual strategies designed to maintain stocks within safe biological limits where they were already at or within those limits. At the time, this Committee warned that the

⁸ Council Regulation 2371/2002, Article 1.

fatal weakness of the new legislation lay in the absence of deadlines for when recovery plans would have to be established, allowing negotiations to continue indefinitely.⁹

29. As part of the 2002 reform of the CFP, it was also agreed that the Multi-Annual Guidance Programmes that had previously provided a framework for reducing fleet capacity would be replaced by an entry-exit regime, designed to ensure that entries to each national fleet were matched by exits—see Box 4 below.¹⁰ National fleet references designed to impose a ceiling on the size of member states' fleets were established for this purpose, and responsibility for matching fishing capacity to fishing opportunities was handed back to each Member State.

BOX 4

Licensing of Fishing Vessels

The fleet references established under the 2002 reform of the CFP are designed to ensure that national fleets cannot grow in either tonnage terms or kilowatt terms overall. Each vessel has a licence for its tonnage and engine power without which it is illegal to fish commercially.

In the UK, no new fishing licences are issued, and so new entrants to the industry need to transfer a licence entitlement from an existing licence holder. There are different categories of licence for the exploitation of different stocks. There is no administrative charge for licences in the UK. Instead, their value is set by the market.

30. The previous system, whereby national fleets were sub-divided into segments, with capacity or effort reduction targets assigned to each, had proved cumbersome to manage and failed to tackle chronic overcapacity. While the new regime calls on Member States to adjust the fishing capacity of their fleets to the available fishing opportunities, it does not set overall capacity reduction targets.
31. The 2002 CFP regulation upheld the basic principle that Member States have primary responsibility for the enforcement of the CFP in waters under their jurisdiction. However, the new basic regulation did provide for a greater degree of co-ordination and co-operation among Member States with regard to enforcement activities in Article 28. This Article has subsequently been used as the legal basis for the establishment of the Community Fisheries Control Agency. Agreed in 2005 and operational since 2007, the Agency is charged with co-ordinating Member States' control and inspection activities under the CFP and organising the deployment of pooled national control and inspection resources, with the aim of improving the effectiveness and uniformity of enforcement.¹¹
32. A further notable innovation introduced in 2002 was the provision for the establishment of Regional Advisory Councils in Article 31 of the new basic regulation.¹² These bodies were intended to secure greater stakeholder involvement in the CFP, by offering interest groups a channel through which

⁹ Select Committee on the European Union, 25th Report (2002–03): *Progress of Reform of the Common Fisheries Policy* (HL 109) Paragraph 15.

¹⁰ See also the Community Fishing Fleet Register: <http://ec.europa.eu/fisheries/fleet/index.cfm>

¹¹ Council Regulation 768/2005 EC of 26 April 2005.

¹² See also Council Decision 585/2004 EC.

to provide advice to the European Commission and Member States on fisheries management in a given area. The bodies were to cover sea areas under the jurisdiction of at least two Member States, and to be composed of all parties with an interest in fisheries management in that area, including the fishing industry, environmental and consumer groups, regional and national authorities and the Commission. Since the reform entered into force, six Regional Advisory Councils have become operational, spanning the North Sea, Baltic Sea, North Western Waters, South Western Waters, Pelagic stocks across all areas, and Distant Water fisheries. A Mediterranean RAC is also in the process of being established.

33. Significantly, however, the 2002 reform preserved two critical aspects of the CFP: waters up to 12 nautical miles from the coastline continue to be exempt from the principle of equal access to Member State waters. Meanwhile fishing opportunities continue to be distributed among Member States according to the principle of relative stability, using a distribution key based on historic fishing activity.

The Distribution of Fishing Opportunities

34. Under the CFP, fishing opportunities are set in the form of a TAC for each of the main commercial species. TACs are set annually, in the December Council of Fisheries Ministers, on the basis of a Commission proposal. The Commission proposal is itself based on scientific and management advice received from the International Council for the Exploration of the Sea (ICES). For most stocks, this advice consists of an assessment of the state of the stock, and a consequent recommendation regarding the TAC for that stock.
35. Traditionally, the Commission has received ICES' advice in October each year, and published its own proposals on TACs, effort controls and other management measures for the year ahead by the end of November or early December. Stakeholders and Member States then have less than a month to analyse the Commission's proposals before they are considered, amended and adopted in the Council of Agriculture and Fisheries Ministers held in late December each year. Negotiations among Ministers tend to focus on the overall size of the TAC for a given stock and the effort controls to be imposed—in other words on the management advice to be drawn from the scientific assessment.
36. Once set, TACs are divided up among Member States using a distribution key based on the principle of relative stability. Annual negotiations among Member States are thus not over how fishing opportunities are to be shared out among countries (national quotas), but about the total number of fish to be caught (the overall TAC for a given species).
37. Once Member States have been allocated their share of the TAC, it is up to each government to distribute its quota allocation among national fishing interests as it sees fit. Different approaches prevail in different Member States, for example with regard to whether quotas are allocated to individual fishermen, producers' organisations or cooperatives, and whether fishermen can hire or purchase quota from other fishermen. In the UK, national quotas are distributed on the basis of "Fixed Quota Allocation" (FQA) units held by groups of vessels or producers' organisations. These FQA units are based on vessels' historic landings during a fixed reference period (1994 to 1996 for

most stocks). In practice, vessels and producers' organisations can arrange to swap and lease quotas from each other during the year.

38. Member States can also swap and lease quotas in-year (i.e. between December Councils). At the end of the year, however, the original distribution—based on the principle of relative stability—will prevail when TACs are set again for the following year.

The Fisheries Sector

39. Not least owing to the challenges identified at the outset, the regulatory regime in place to govern fisheries in EU waters is intricate and extensive relative to the number of people involved in catching and processing fish, and the economic significance of those industries. The fishing (catch) sector's contribution to the Gross National Product of EU Member States is generally less than 1 per cent. Despite this, the fishing industry has a symbolic importance much greater than its economic significance in maritime nations, not least due to its importance in coastal communities. The EU fishing industry also has a leading position in world markets, as Box 5 illustrates.

BOX 5

Production and Trade in Fish and Fisheries Products

The EU is one of the largest fish producers in the world, producing almost 7 million tonnes of fish from marine fisheries and aquaculture in 2005 (82 per cent capture fisheries and 18 per cent aquaculture). This amounts to around 4 per cent of the world total in that year.

EU Member States are net importers of fish and fisheries products: they exported over 2 million tonnes of fish and fish products in 2006, and imported a further 6 million tonnes.

This imbalance between imports and exports is replicated in the United Kingdom, where 416 thousand tonnes of fish and fish products were exported in 2006, while imports rose to 753 thousand tonnes. In net terms, exported fish species were mostly mackerel, herring and salmon, while cod, haddock, tuna, shrimps and prawns were predominant among imported species.

UK vessels landed 614 thousand tonnes of fish and shellfish in 2006, worth £610 million—this represented a decrease in volume, but an increase in value over the previous year. The Scottish fleet's share of these landings was 62 per cent, while the English and Welsh fleets accounted for 32 per cent of landings, and the Northern Irish fleet for the remaining 6 per cent.

40. A study¹³ produced for the European Commission in 2006 showed that the catch, processing and aquaculture sectors combined usually provide less than 1 per cent of total employment in each EU Member State. Fishermen in Spain, Greece and Italy accounted for almost 60 per cent of those working in the catch sector in 2002/2003, with France and Portugal each representing a further 10 per cent of the EU total. The fish processing industry employed the largest number of people in Spain, France and the United Kingdom, followed by Germany and Poland. Employment in aquaculture was highest in France and Spain.

¹³ http://ec.europa.eu/fisheries/publications/studies/employment_study_2006.pdf

41. At regional level, however, the fisheries sector can constitute a significant source of employment in coastal communities where there are few alternative economic opportunities. The most fisheries-dependent regions in this respect are to be found in Spain (Galicia), France (Bretagne, Poitou-Charentes, Basse-Normandie), the United Kingdom (North East Scotland), Portugal (Algarve, Azores), and Greece as well as in Estonia, Latvia and Poland among the new Member States.
42. In the UK, 12,934 fishermen were (self-) employed in 2006, down 32 per cent in ten years. Of these, 55 per cent were based in England and Wales, 40 per cent in Scotland and just under 5 per cent in Northern Ireland. More people were employed in the UK's fish processing industry, which registered 18,180 employees in 2006, across around 570 businesses.¹⁴
43. Box 6 outlines the size and structure of the EU and UK fishing fleets.

BOX 6

Size and Structure of the Catch Industry

The EU fishing fleet comprised around 87,000 vessels in 2006, with Greece, Spain and Italy contributing 52 per cent of the total. UK vessels made up just under 8 per cent of the EU total, while Portugal and France accounted for a further 10 per cent and 9 per cent respectively.

In 2006, the UK fishing industry had 6,372 fishing vessels—a reduction of 21 per cent compared to the size of the UK fleet in 1996. The majority of vessels (4,896) were under ten metres in length, down 13 per cent over the previous ten years. The over ten metre sector had shrunk by 40 per cent since 1996, to 1,476 vessels.

The inshore fleet has the smallest boats, many of them under 10 metres in length. The whitefish fleet—pursuing demersal (sea bed) stocks—is composed of boats of intermediate size, typically between 20 and 25 metres in length. The pelagic fleet—pursuing fish that shoal in the upper layers of the sea—boasts the largest vessels, most of which are over 50 metres long.

Earnings per vessel tend to reflect vessel size, even though the larger vessels catch the lower-value species.

¹⁴ Source: http://www.mfa.gov.uk/statistics/documents/UKSeaFishStats_2006.pdf

CHAPTER 2: THE PROGRESS OF THE COMMON FISHERIES POLICY SINCE 2002

44. As part of our inquiry, we invited witnesses to set out their assessment of the impact of the various elements of the 2002 reform of the CFP. In this chapter, we review some of the responses received, and present the conclusions we have drawn from them. With these findings in mind, we move on—in the next chapter—to an examination of ongoing challenges facing fisheries managers, and identify the most promising avenues for future reform of the CFP.
45. The 2002 reform of the Common Fisheries Policy addressed four main elements of fisheries management: the time-scale over which fisheries are managed, through the introduction of recovery and management plans; structural policy; control and enforcement; and stakeholder involvement, through the establishment of Regional Advisory Councils. Each is the subject of a separate section below.

Recovery and Management Plans

46. Under the new basic¹⁵ Regulation governing the CFP, EU Member States acting through the Council may choose to adopt multi-annual management or recovery plans for particular stocks (see Paragraph 28 above). This innovation was introduced in an attempt to promote a longer-term approach to fisheries management, avoiding dramatic variation (usually cuts) in TACs from year to year. The aim was to allow the industry to plan ahead, but also to take the political sting out of the annual Council negotiations on TACs, as it was anticipated that Ministers might find it easier to accept cuts in TACs if they formed part of an ongoing management strategy and therefore did not come as a surprise to national fleets.
47. Six years on, only four recovery plans (for certain cod, hake and nephrops stocks) and four management plans (for certain plaice, sole and cod stocks) have been adopted. A further management plan (for West of Scotland herring) is in preparation, and an international recovery plan for blue fin tuna is being implemented in the Mediterranean. Meanwhile TACs continue to be set for around 130 fish species every year.

Witnesses' Views

Adoption of Plans

48. Almost all of our witnesses, including representatives of the catch industry, were supportive of the concept of multi-annual management of fisheries (NFFO, Q 181; SFF Q131; European Commission Memorandum, Q 1; DEFRA Memorandum, Para 3). The RSPB emphasised the importance of long-term strategies in breaking “the vicious cycle of annual horse trading that goes on in the Fisheries Council” (Q 207).
49. However, there was frustration at the slow pace with which recovery and management plans were being adopted. Dr Joe Horwood, Chief Fisheries Science Adviser to the Government, noted that while the Common Fisheries

¹⁵ Regulation 2371/2002 is often referred to as the “framework” or “basic” regulation governing the CFP.

Policy stipulates that fisheries should be managed either under a recovery plan or under a management plan, “we are not quite there yet” (CEFAS, Q 9). The RSPB put it less delicately, pointing out that “precious few of the European fish stocks have been subjected to either of these—about 16 per cent in total” (RSPB, Q 207). The Joint Nature Conservation Committee also observed that the plans were taking “a very long time to put in place ... and have taken a fair bit of effort” (JNCC Q 300). Meanwhile the UK Government recognised that most species “are still managed on an annual basis” (DEFRA Memorandum, Para 3).

50. The Commission conceded that the number of recovery and management plans adopted had been “limited”, even if those in place did focus on the main species. Officials attributed this to capacity shortages on all sides, explaining that “the capacity of the Commission to produce these plans, the capacity of stakeholders within RACs to examine Commission proposals and the capacity of Member States to try to discuss and digest these plans are very limited” (Q 583). They added that while the consultation of stakeholders was “a major step forward” for the CFP, it does require time, not only from the Commission but also from the stakeholders themselves, thereby drawing out the process.

Results Delivered

51. Meanwhile, the results produced by the handful of recovery plans adopted since 2002 appear to be mixed (European Commission Memorandum, Q 1). The Commission noted that for most of the cod stock, fishing mortality did not decrease as expected and the stocks have yet to recover. The Northern hake stock has recovered—with the help of good recruitment—but the Southern hake stock remains subject to high fishing mortality.
52. The UK Government’s assessment that recovery plans “have delivered some results” was a little more encouraging. It emphasised that the Northern hake stock had recovered, and that after significant reductions in fishing effort, the first indication of a recovery in the North Sea cod stock was becoming apparent (DEFRA Memorandum, Para 3). Dr Joe Horwood, Chief Fisheries Science Adviser to the Government, agreed that fishing pressure on cod in the North Sea “has been reduced very considerably”, and that fishing mortality was at “its lowest level for 40 years”. Dr Horwood nevertheless emphasised that this had come “at a huge cost, we have cut back our northern white fish fisheries by 60 to 70 per cent which has been a massive problem for the people involved”. By contrast there was “very little evidence of progress in the Irish Sea and to the west of Scotland” under the cod recovery plan (Q 9).
53. Robin Rosenkranz, Fisheries Counsellor for the Swedish government, suggested that one reason that recovery plans had “not worked” was that the “European fishing fleet is way too big ... compared to the fishing resource we have” (Q 774). He argued that with this “huge overcapacity”, it would be very difficult to make recovery plans work “because we will have this pressure. We will always have the exceptions, we will always have these socio-economic concerns” (Q 775).
54. Other witnesses were less pessimistic, suggesting that most plans had not been in place long enough to reach a conclusive verdict on their efficacy. Dr Euan Dunn of the RSPB thus maintained that “it is too early to say, in

most cases, whether these long-term management plans or recovery plans are working. The jury is out” (Q 207).

Reviewing Recovery and Management Plans

55. This has not stopped existing plans from being “reviewed and improved” (European Commission Memorandum, Q 1). Some witnesses expressed reservations about this process. The RSPB noted that the “cod recovery plan has already been opened up to revision after really being in place for quite a short time” (Q 207). The UK Government pointed out that the effort management regime (days at sea) under the cod recovery plan has been amended significantly almost every year since it was introduced in 2003, in each case with no or minimal evaluation of the effects of the previous year’s changes (DEFRA Memorandum, Para 3). They were concerned that there appears to be “no clear monitoring of success, which may make it unclear as to which policies are effective”.
56. Witnesses nevertheless offered a number of suggestions for improving the efficacy of recovery and management plans. One recurring recommendation was that plans should be adjusted automatically, on the basis of pre-ordained rules. The RSPB identified a need to “lock as much of the December Council as we can into fixed harvesting rules, so that the ministers cannot play politics with these recovery plans” (Q 207). The Joint Nature Conservation Committee took a similar view, proposing that recovery and management plans “should be more or less automatic: we get the signal from this particular indicator saying the environment or the fish stock is in such a state ... and then there is an almost automatic output” (Q 300). The Chief Executive of the Scottish Fishermen’s Federation also advocated a more automated approach: “If you know that the rules state that if x happens, if the spawning stock of biomass rises above level y , then there will be a maximum of a 15 per cent increase in the TAC or likewise a match of 15 per cent down, it sort of de-stings the political process”, he argued (Q 139). The UK Government, however, cast doubt on whether EU governments would be prepared to surrender their discretion to the extent required. They pointed out that the “Council of Ministers has demonstrated that it is not prepared to make automatic annual 15 per cent cuts in days at sea” (DEFRA Memorandum, Para 3).
57. The UK was also one of a number of Member States lamenting the fact that management plans have been based “almost solely on the biological parameters and have taken little account of social and economic factors.” Impact assessments “have been absent or of poor quality” and yet “impacts need to be properly understood to be sure that policies are not giving rise to unintended consequences”, the Government argued. They explained that this did not mean that conservation measures should be watered down simply because they will have an impact on the fleets affected, but that the ways in which fishing businesses might react to restrictions (e.g. by intensifying other activities or moving into different areas) needed to be borne in mind (DEFRA Memorandum, Para 3). Dr Horwood of CEFAS offered an illustration, pointing out that effort controls are implemented “on a vessel-based system”, meaning that when days at sea (effort levels) are cut, fishermen “cannot just sell up one boat and put two half days on one vessel to increase their own efficiency because then they will lose their days entitlement” (Q 9). This was “an element of economic efficiency that is not addressed by the current [cod recovery] plan”, he suggested.

58. The Spanish government expressed a more general dissatisfaction based on the impression that management and recovery plans have “lent more weight to biological criteria than to socio-economic issues”. It noted that the plans put in place were “lacking in information with regard to the socio-economic repercussions of their implementation” (Spanish government Memorandum, p 181). It reminded us that the CFP makes provision for socio-economic considerations, and emphasised that “these should not be forgotten or relegated to the background”. Sujiro Seam, Fisheries Counsellor for the French government, echoed these concerns, explaining that “we believe that right now, the emphasis is much more on the biological aspects than on the socio-economic aspects, at least when it comes to the proposals from the Commission”. The French government’s “role and our behaviour afterwards in the negotiation process is to try to put the balance right”. In practice this means that when specific plans like recovery and management plans are under discussion, “we consider that the objectives should be set at a level which allows recovery of the stock or management of the stock but at the same time allows our fishermen to conduct their business in a profitable manner”, Mr Seam told us (Q 722).
59. Commission officials suggested that the need to prepare impact assessments was one of the factors drawing out the process of adopting recovery plans. They explained that the preparation of impact assessments “is sometimes a complex exercise in which we have to evaluate economic consequences, and data for these evaluations are not necessarily at our disposal” (Q 583). They went on to point out that the economic information required to carry out such evaluations often simply does not exist. The Commission is trying to remedy this, in part through the Data Collection Regulation, but although it can collect recent data, historical data is still missing because there is no tradition of collecting such information (Q 584). Commission officials also identified “a certain shortage of well-trained people on the economic side” to carry out the necessary analysis within the Commission.
60. A third set of suggestions for the future development of recovery and management plans centred on improving co-ordination across management measures. Dr Horwood argued that “it is not a lot of good having a management plan for haddock if it is not really well aligned with the management plan for whiting and for cod, so there is a lot more work to be done in understanding how to develop management plans for fisheries as opposed to a nice simple management plan for a fish” (CEFAS, Q 9). Aaron Hatcher, a Senior Research Fellow at CEMARE, suggested that this might be done by trying “within reason, to set quotas in more or less the proportion in which the fish are going to appear in the fisherman’s net” (Q 72). Dr Horwood also emphasised the importance of aligning catch restrictions and effort controls, explaining with reference to the cod recovery plan that because the process of setting effort levels and catch restrictions “went on in a quasi-independent way”, it had not proved possible “to reduce the fishing effort to the level which the targets implied, even though the quotas are consistent with the plans” (CEFAS, Q 9).

Committee’s Conclusions

61. We support the principle of multi-annual management of fisheries, and believe that—if properly designed—recovery and management plans

should facilitate both the industry and the regulators' activities. We recognise that capacity constraints and the need for consultation have held back the speed with which recovery and management plans can be adopted, but believe that the current glacial pace of progress is unacceptable and must accelerate. **We therefore urge the Member States and the European Commission to attach greater priority to the adoption of recovery and management plans, and deploy their resources accordingly.**

62. We fully concur with those witnesses who emphasised the need to co-ordinate across plans and management measures that affect the same fishery if recovery and management plans are to prove workable and deliver results. This may require adaptation in the working practices of the Commission and the Council, and benefit from the input of the Regional Advisory Councils. With appropriate resourcing, we believe that plans affecting the same fisheries could and should be developed in parallel. This approach need not, therefore, draw out the process of adopting recovery and management plans even further.
63. We concur with the UK Government on the need for impact assessments to be carried out before management and recovery plans are adopted. These should be based on the best available data. The practical implementation of a plan should in our view receive detailed—and insofar as possible, objective—attention before the proposal reaches the Council. If amendments are adopted in Council, impact assessments should be updated accordingly. The aim would be to make carefully considered adjustments that facilitate compliance without compromising conservation goals.
64. While we recognise that some degree of trial-and-error may have been inevitable in drawing up the first few recovery and management plans, we consider that yearly revisions to multi-annual plans undermine their very *raison d'être*. **Automatic adjustments to plans based on fixed harvesting rules should be used to deliver an element of responsiveness without sacrificing predictability—providing that Member States can agree to suspend rules only in genuinely exceptional circumstances.**

Structural Policy

65. Although Article 11 of the basic CFP Regulation¹⁶ establishes national fleet references designed to impose a ceiling on the size of Member States' fleets, no mandatory capacity reductions were imposed as part of the 2002 reform. Instead, Member States were charged with adapting the size of their fishing fleets to their fishing opportunities. Article 14 of the Regulation charges the Commission with the task of presenting a yearly summary of the results of Member States' efforts to right-size their fleets. Member States are in turn obliged to send a yearly report to the Commission outlining their progress in this respect. Key conclusions from the Commission's latest report¹⁷ are summarised in Box 7 below:

¹⁶ Council Regulation 2371/2002 EC.

¹⁷ COM (2007) 828; SEC (2007) 1703, 19 December 2007.

BOX 7**Member States' efforts during 2006 to achieve a sustainable balance between fishing capacity and fishing opportunities**

The majority of Member States' reports did not analyse their fleets in relation to fisheries, as required by the Regulation, but instead described their fleet management systems and trends in national fleet capacity. The Commission recognises that it may have to provide more detailed guidelines in this respect.

During 2006 the fishing capacity of the EU fleet continued its slow but steady reduction at an annual rate of between two and three per cent—the trend for the last 15 years. The Commission notes that this reduction appears too modest when compared to the big reductions in effort required for some major fish stocks, steady technological creep, and the poor economic performance of large parts of the fleet.

The impact of fishing effort measures on capacity reduction has generally been low. The approach adopted during the 2002 CFP reform—to use effort management as the main driving force for fleet adjustment—has not yet yielded the expected results, the Commission notes.

It urges Member States to provide better incentives for capacity adjustment, and stresses that in this respect, European Fisheries Fund Operational Programmes offer an opportunity that cannot be missed.

66. Since the 2002 reform of the CFP, a new structural policy for the fisheries sector has been put in place through Council Regulation 1198/2006, establishing a European Fisheries Fund (EFF) for the period 2007 to 2013. Community financial assistance is disbursed on the basis of National Strategic Plans and Operational Programmes (OPs) that Member States submit to the Commission. In their Operational Programmes, Member States propose to assign funding to activities across five “priority axes” defined in the EFF Regulation. Box 8 outlines the types of actions that are eligible for funding.

BOX 8**European Fisheries Fund Priority Axes****Priority Axis 1: Measures to adapt the EU fishing fleet**

(888 million euros, 26.9 per cent of total)

Financial assistance is made available to fishermen and vessel owners affected by measures to combat over-fishing or protect public health. For example, aid can be made available for capacity reductions, improvements in the energy efficiency of vessels (including new engines) or the selectivity of gear, for improving product traceability and quality, or for facilitating the entry of young people into the industry.

Priority Axis 2: Aquaculture, inland fishing, processing and marketing

(1056 million euros, 32 per cent of total)

Financial assistance is made available for purchases that reduce the impact of fishing on the environment, improve human and animal health and safety, or improve the quality of produce. For example, aid can be made available to increase production or improve quality and hygiene in small and medium-sized enterprises.

Priority Axis 3: Collective Action

(929 million euros, 28.2 per cent of total)

Financial assistance is made available to projects which contribute to the sustainable development or conservation of resources, to improving the services offered by fishing ports, to strengthening markets in fishery products and to promoting partnerships between scientists and the fishing industry. For example, aid can be made available for the protection of aquatic fauna and flora, for the development of new markets and promotional campaigns, or for the dissemination of best practice.

Priority Axis 4: Sustainable development of coastal fishing areas

(314 million euros, 9.5 per cent of total)

Financial assistance is made available to support initiatives aimed at diversifying and stimulating economic development in areas affected by a decline in fishing activity. For example, aid can be made available for the development of fishing tourism and ecotourism.

Priority Axis 5: Technical assistance

(112 million euros, 3.4 per cent of total)

Financial aid is made available for the implementation of the administrative and audit requirements imposed by the EFF Regulation. For example, funds can be made available to cover the costs of information dissemination and publicity.

67. The future of structural policy under the CFP may in part depend on the outcome of ongoing World Trade Organization negotiations affecting fisheries subsidies. On 30 November 2007, the Chair of the WTO Negotiating Group on “Rules” circulated a draft text¹⁸ on the subjects covered by the “Rules” chapters of the WTO framework agreement, which include fisheries subsidies. If adopted, that draft agreement would prohibit subsidies that encourage overcapacity, and may thus lead to over-fishing, while permitting subsidies that help to remove capacity in excess of available fish resources. It is proposed that subsidies be categorised into “red” (prohibited) and “green” (allowed) boxes accordingly.

Witnesses' Views*Capacity Reductions Since 2002*

68. In its written evidence to our inquiry, the Commission painted a discouraging picture. During the 5 years since the 2002 reform of the CFP entered into force, the total fishing capacity of the Community fleet has been reduced by approximately 2 per cent per year in terms of tonnage and power (European Commission Memorandum, Q 7). The reduction is “for the most part the result of public aid for decommissioning”, and the trend is “similar to the one observed during the previous 10 years ... when capacity reduction targets were in force.” In other words, handing back responsibility for

¹⁸ The November 2007 text is available here:

http://www.wto.org/english/tratop_e/rulesneg_e/rules_chair_text_nov07_e.htm

A note outlining the reactions of WTO delegations was published on 28 May 2008 and is available here:

http://www.wto.org/english/tratop_e/rulesneg_e/rules_may08_annexc_e.doc

reducing fleet capacity to Member States appears to have neither stemmed nor accelerated the rate of adjustment.

69. The Commission stressed that capacity reduction rates in the order of 2 per cent “are insufficient” because they do not compensate for technological progress “which is estimated to increase catching power at similar or higher rates” (Commission Memorandum, Q 7; Supplementary Memorandum, Q 6; JNCC Q 264; RSPB Q 234). “The harvest capacity of the fleet has therefore been stable at best, in spite of nominal capacity reductions” (Commission Supplementary Memorandum, Q 6).
70. According to the Commission, “a significant and permanent capacity under-utilisation and economic underperformance are commonly seen in most Community fleets, and these are clear signs of overcapacity” (Commission Memorandum, Q 7). It warned that “the result of continued overcapacity is excessive pressure on the resource base and strong economic incentives for non-compliance” (Commission Supplementary Memorandum, Q 6). This was graphically illustrated in the evidence given to us by the Swedish government’s Fisheries Counsellor, who explained that “it becomes a bit awkward” if vessels “can catch their annual quota in maybe 20 days, which is the case with the low quotas we have at the moment” (Q 791).
71. The Community Fisheries Control Agency’s Executive Director concluded that “the 2002 reform has not brought about an important reduction in capacity which is the most fundamental issue which we have to bring about” (Q 666). The Commission appeared to concur, pointing out that while the new system in place since 2002 ensures that nominal capacity cannot increase, “real reductions depend on the will of Member States to establish the balance between capacity and resources. We do not however see real political will among most Member States”. This was “indicated by the annual reports from Member States which in nearly all cases fail to analyse the relation between harvest capacity and resources” and by the low priority assigned to fleet capacity reductions in the EFF Operational Programmes submitted by Member States (Commission Supplementary Memorandum, Q 6).
72. Political reluctance in this respect may in part be attributable to a tradition of using fisheries policy “as an instrument of social policy in order to maintain levels of fishing employment”—a practice brought to our attention by Aaron Hatcher of CEMARE, (Q 161). Jürgen Weis, the German government’s Fisheries Counsellor, offered a more charitable interpretation, explaining that “over the last years ... we have agreed on reductions of [fishing] opportunities by 10 per cent or 20 per cent in certain fisheries and it is impossible to reduce the capacity at the same speed” (Q 719). Sweden’s Fisheries Counsellor also recognised that “after building up the fleet with taxpayers’ money for 30, 40, 50 years, suddenly we had to change the policy and cut it down to what it was 20, 30, 40 years before.” He acknowledged that this “is quite difficult for politicians if they come from coastal regions which have large fishing interests” (Q 780).
73. The UK Government presented a more upbeat assessment of capacity reductions since 2002, insisting that the Commission’s overall view that there is an excess of fishing capacity was “somewhat simplistic”, because it “looks at the position in the round and does not reflect the variety of results.” The

Government pointed out that the UK has “delivered a more than 60 per cent reduction in effort in its whitefish trawling fleet, and has reduced overall capacity by 11 per cent in tonnage terms and 8 per cent in engine power from January 2003 to January 2007” (DEFRA Memorandum, Para 43). They also emphasised that “all but two” Member States were operating within the overall fleet capacity limits set for them (DEFRA Memorandum, Para 41).

74. The Commission did recognise the existence of “some exceptions”, including the decommissioning that had taken place in the Scottish whitefish fleet. It suggested that while this had been “a painful exercise for those fishermen that decided to leave the industry and take the decommissioning premium, it has proven a successful move overall” (Supplementary Memorandum, Q 6). The Scottish Fishermen’s Federation appeared to share this assessment. Bertie Armstrong, Chief Executive of the SFF, explained that after two rounds of decommissioning that took out about 65 per cent of the capacity of the white fish fleet, “we are now seeing—and I offer this as evidence of right-sizing—a degree of optimism in the fleet: people are now making enough money to consider fleet renewal” (Q 161).
75. Decommissioning of vessels in the catch sector, together with lower TACs and stricter effort controls, has had a knock-on effect on the processing sector. Cliff Morrisson, Chair of the Food and Drink Federation’s Seafood Group and Technical Adviser to Foodvest, told us that there is no longer enough cod landed in the UK to make bulk processing economically viable (QQ 373–374). Throughout the EU, block producers (who produce fish blocks from which fish fingers, among other products, are made) have thus largely disappeared. Fish blocks are now more likely to be produced in China, we were told (Q 373). Andrew Charles of the Scottish Seafood Processors’ Federation testified to the decline in the processing industry in Scotland, and explained that what remains of the industry now “thrives on the back of farmed salmon” (Q 904).
76. The National Federation of Fishermen’s Organisations pointed out that “it would be entirely false to think that decommissioning has only taken place in the UK, there have been substantial decommissioning schemes elsewhere”—for example in Ireland, the Netherlands, Spain and Denmark (NFFO, Q 199). At least one Member State claims not to have a problem with overcapacity at all: the German Fisheries Counsellor told us that “at the moment our capacity is hardly sufficient to make full use of our fishing opportunities” (Q 718).

Prospects for Decommissioning

77. The Commission emphasised the importance of Member States making it “attractive for fishermen to leave the industry by putting in attractive and recurrent decommissioning schemes” (Commission Memorandum, Q 7). The European Fisheries Fund offers financial assistance for such programmes, but several witnesses emphasised that the sums available could not bring about the magnitude of change required. The RSPB explained that the “same pot of money” inherited from the Financial Instrument on Fisheries Guidance—the precursor to the EFF—will have to be distributed “across a hugely enlarged European Union”, resulting in “a cake which is going to have to be sliced much more thinly than its predecessor and that

literally means we are going to be able to do an awful lot less with it” (RSPB, Q 236). A further feature of the EFF is that it “gives much more subsidiarity to Member States on how they deploy the money”, meaning that it is up to Member States to choose whether to put EFF money into decommissioning (RSPB, Q 237). The Commission’s assessment was that Member States are not making sufficient use of this option (Supplementary Memorandum, Q 6). Commissioner Borg explained that on average, only 20 to 25 per cent of the funds available under the EFF were likely to be used to provide public aid for decommissioning, “and it took some convincing” (Q 650).

78. Other witnesses raised reservations about the efficacy of subsidised decommissioning programmes. The Joint Nature Conservation Committee, for example, warned that “the difficulty with subsidised capacity reduction is that there are quite a lot of vessels sitting around not doing a great deal, waiting for the subsidised capacity reduction to come along”. This means that “as soon as you get a subsidised capacity reduction you get a reduction in the available capacity rather than the used one” (JNCC Q 293). The NFFO, however, insisted that “decommissioning does work. It is not one-to-one but the reduction in the English fleet from 1993 onwards and in the Scottish fleet from 2001 ... has been a major contributor to the reduction of fishing mortality on cod” (NFFO, Q 199).
79. The attractiveness of the decommissioning schemes on offer may be affected by the availability of other subsidies that reduce vessels’ operating costs. The RSPB pointed out that the EFF “can be used to replace engines on fishing vessels” and argued there were “all sorts of ways of using that as a smokescreen to introduce a more efficient engine” (Q 235). It also identified *de minimis* state aid¹⁹ as “a de facto subsidy for fuel costs in the fishing industry”, and insisted that “if you are funding fuel, you are fuelling over-fishing” (Q 239). A different interpretation was offered by the French government, which insisted that France does “not have fuel subsidies”, but had instead put in place “a whole package” of subsidies designed to address the general situation of the sector, aiming to bring it back “to a reasonably profitable situation” (Q 724). France’s Fisheries Counsellor explained that in a second phase, the French government intended to introduce a “huge decommissioning plan” alongside modernisation subsidies focused on energy efficiency (Q 724). This had been prompted by an awareness that “with the currently high costs of the operation of fishing vessels and the limited stocks to fish we have too many boats” (Q 755).
80. A number of witnesses anticipated that energy prices would offer “a big incentive to reduce capacity” (Jürgen Weis, Q 708). Mr Weis, Germany’s Fisheries Counsellor, even suggested that this could “maybe change the conditions so much that it will be much easier to have a fundamental change of the European policy in the end” (Q 708). Sweden’s Fisheries Counsellor also identified “a huge change within the fishing fleets around Europe”, explaining that “with fuel prices and lack of resources there are probably more fishermen asking for decommissioning money than before” (Q 804). The Commission corroborated these observations, noting that increasing fuel

¹⁹ Community state aid rules for the fisheries sector allow Member States to grant companies up to €30,000 of aid over 3 years without requiring advance clearance from the Commission. See Regulation 875/2007 EC. At the time of writing, consideration was being given to whether the €30,000 ceiling should be applied per vessel, rather than per firm, with the cap on aid to firms raised to €100,000. See Commission Memo 08/415 of 17 June 2008.

prices had led to a situation where “for the first time we find ourselves in a situation where the industry is asking for adaptation and for decommissioning plans to be offered and the governments hesitate to take action” (Commission Supplementary Memorandum, Q 6).

81. A number of our witnesses expressed concern that ongoing WTO negotiations could limit Member States’ ability to grant aid to the fisheries sector, whether under the EFF or through national programmes. The Commission warned that the WTO proposals published in November 2007 “could prevent public authorities from granting support to the fishing sector to ensure the transition to a sustainable state”, such as aid to restructuring (Commission Memorandum, Q 9). Furthermore, “the proposed exceptions (‘green’ box) seem insufficient to allow for the implementation of cleaner technologies, including the replacement of engines, in order to limit emissions harmful for the environment.” The Spanish government expressed even stronger reservations, pointing out that under the draft text, “practically all the subsidies for developed countries are banned”. It too regarded the proposed exceptions as insufficient, noting that no exceptions had been proposed for artisanal²⁰ fishing and fishing for shellfish (Spanish government Memorandum, p 185). Dr Euan Dunn of the RSPB explained that “one of the hot issues in the WTO draft at the moment is looking at the extent to which small-scale fishing around the world should be seen as a special case.” The position defended by the European Commission in WTO talks is that the European Union’s fleets are made up of “something like 75 to 80 per cent small vessels, so they have been arguing to have the same rules applied to them as to developing countries.” He took the view that “this is a nonsense really”, and argued that there should be no special pleading in that respect for inshore fisheries (RSPB, Q 239).

Measuring Overcapacity

82. A separate problem identified by witnesses is the measurement of overcapacity. The UK Government pointed out that the Commission was “unable to state the extent of the reduction in capacity that might be needed”. Nor had it yet stated “how exactly Member States are to judge the balance between fishing opportunity and fishing capacity” (DEFRA Memorandum, Para 42, 44). Indeed the Government suggested that this “lack of guidance was a contributing factor to the UK report [on progress in achieving a balance between capacity and opportunities] being submitted late in 2007” (Memorandum, Para 45). Other Member States did appear to have a sense of the level of capacity reductions that might be required. The Swedish Fisheries Counsellor told us that the Commission’s assessment was of “about 40 or 50 per cent overcapacity” (Q 778). He also used profitability as an indicator, noting that “we have maybe eight per cent profitability ... why could we not have a profitability of 40 or 60 or 70 per cent like they have in New Zealand or Canada or Australia?”
83. The Commission did acknowledge a need to “establish methodologies to objectively determine what the adequate fleet size is, so that Member States

²⁰ Artisanal fishing is a term used to describe small-scale commercial or subsistence fishing, particularly when based on traditional techniques.

have common guidance for their analysis and reporting, and to enable the Commission to argue in favour of concrete capacity reductions” (Commission Supplementary Memorandum, Q 6). It went on to suggest that if “fleet overcapacity is clearly and openly displayed, Member States will be better motivated to take action.”

84. Aaron Hatcher of CEMARE expressed scepticism with regard to this endeavour, suggesting that “it is very difficult to see how that is going to produce anything worthwhile”. He insisted that “what really matters is the level of exploitation, the catches. If we can measure capacity according to output, which is what we mean by capacity, if we can really measure and control that, we can enforce a TAC, in which case there is no need to measure and enforce the capacity” (Q 86). Indeed he went so far as to argue that “over-capacity is really a symptom of the problem rather than a cause. It is ineffective management that allows capacity to get too big.” He thus maintained that “if you can control the level of outputs, then market forces will decide on the right level of capacity” (Q 89).²¹
85. The Commission recognised that “effective enforcement is one way to make overcapacity visible and reduce the economic incentives to maintain overcapacity.” Rather than waiting for Member States to summon the political will to reduce the size of their fleets, it could therefore “take action to better monitor and enforce compliance”, and “watch that rules on fuel subsidies are respected in order to avoid maintenance of fleet capacity which would no longer be able to operate economically” (Commission Supplementary Memorandum, Q 6).

Committee’s Conclusions

86. The 2002 reform of the CFP—which handed responsibility for adapting fleet size to fishing opportunities back to Member States—has clearly failed to stimulate the fleet reductions that permanent under-utilisation of capacity and low levels of profitability indicate are required. **We note with dismay that the Commission still detects scant political will among Member States to align the size of their fleets to the available resources.**
87. It may thus be left to the market to precipitate exits from national fleets—notably through fuel prices. **It is imperative that Member States should resist the temptation to offer subsidies that keep uneconomical businesses afloat. We are concerned that state aid rules are being misused in this regard and oppose any relaxation—whether temporary or permanent—of the *de minimis* regime.**²²
88. **Public aid should instead be channelled into attractive decommissioning schemes designed to ease the transition. We urge Member States to heed the Commission’s call for a greater emphasis to be placed on fleet capacity reductions in EFF Operational Programmes—this includes seizing the opportunity to re-programme allocations across axes.** In our view, EFF funds

²¹ Note that for market forces to work in the way envisaged by Mr Hatcher, fishing rights would have to be transferable.

²² At the time of writing, consideration was being given to whether the €30,000 ceiling on *de minimis* state aid should be applied per vessel, rather than per firm, with the cap on aid to firms raised to €100,000. See Commission Memo 08/415 of 17 June 2008.

should primarily be targeted towards decommissioning and the diversification of employment opportunities in coastal regions. We see no role for taxpayer-funded modernisation of the fleet, even where it results in greater energy efficiency, as the economic advantages (reduced operating costs) of modernisation programmes should be sufficient to stimulate private investment in a profitable industry. **To the extent that it would enshrine these principles, we would welcome a WTO agreement on fisheries subsidies along the lines proposed in November 2007.**

89. **We support the Commission's efforts to develop consensual methods of measuring overcapacity in the hope that this will prompt greater peer pressure, but are concerned that this endeavour should not be seized on as an excuse to postpone action.** Member States do not need the Commission to tell them which sectors of their fleets are characterised by under-utilised capacity or poor profitability.
90. While we recognise that more effective control and enforcement mechanisms could bring fleet size into balance through the operation of market forces, it is equally clear that overcapacity exacerbates enforcement problems. For that reason, we believe that the two must be tackled in parallel, not in sequence.

Control and Enforcement

91. The present CFP control regime has been in place since 1993. The legislative instrument that underpins it (Council Regulation 2847/1993) has been amended on a number of occasions in the intervening period, but it has not been subject to a comprehensive review. The control regime continues to rest on the basic principle that primary responsibility for enforcing the CFP's provisions lies with the Member States. The Commission can, however, bring infringement proceedings against Member States for failing to exercise their control obligations.
92. The Community Fisheries Control Agency (see Paragraph 31 above) is the main institutional innovation affecting the enforcement of the CFP introduced since the 2002 reform of the CFP. The Agency has been operationally active since January 2007. A further two legislative initiatives affecting control are currently in preparation. One is the draft Regulation establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated (IUU) fishing.²³ The Commission has also announced its intention to present a legislative proposal for a new Control Regulation—replacing the 1993 instrument—in October 2008, with a view to its adoption by the summer of 2009. This overhaul of the CFP's control system has in part been prompted by a withering report from the European Court of Auditors on the control, inspection and sanctions systems relating to the rules on conservation of Community fisheries resources—see Box 9 below.²⁴

²³ Political agreement on the IUU Regulation was reached at the Agriculture and Fisheries Council of 23/34 June 2008.

²⁴ European Court of Auditors' Special Report No. 7/2007.

BOX 9**European Court of Auditors Report on control, inspection and sanction systems**

The European Court of Auditors is the “independent guardian” of the EU’s financial interests. It produces a number of Special Reports each year focusing on specific areas of EU spending. Its 2007 Report on control, inspection and sanctions relating to the CFP was timed to assess the control of the CFP five years after the adoption of the basic regulation in 2002, and to assist the Commission in recasting the control regulation.

The Court assessed systems in place in the Commission and in the six principal fishing Member States: Denmark, Spain, France, Netherlands, Italy and the United Kingdom (England and Wales). It concluded that:

- Catch data are neither complete nor reliable, due mainly to weaknesses in the Member States;
- The inspection systems do not provide assurance that infringements are effectively prevented and detected;
- The procedures for dealing with infringements are such that not every infringement is followed up and, even when they are, they do not always attract penalties (in the UK, 90 per cent of infringements identified in 2005 were not pursued through the Courts and led only to warnings)
- The deterrent effect of penalties is, on the whole, limited
- The Commission has insufficient instruments at its disposal to take action against Member States for failure to apply Community legislation
- Overcapacity detracts from the profitability of the industry and incites non-compliance.

It recommended that the present control, inspection and sanction systems must be strengthened considerably if the CFP is to achieve its objective of sustainable exploitation of fisheries resources.

Witnesses’ Views*Challenges and Deficiencies*

93. The fundamental challenge of enforcing the CFP was put to us most succinctly by Cephas Ralph, Director of Operations at the Scottish Fisheries Protection Agency (SFPA), who explained that “the job of catching fish generally takes place on a fishing vessel out at sea unobserved by anybody and, like most types of human activity, if it is unobserved by anybody then rules are theoretical rather than practical.” He suggested that the CFP had originally been devised “from a naïve scientific view of how quotas on fish stocks could be managed. It did not really give any thought to how the rules could be enforced and over time, when faced with wholesale breaking of the rules, the CFP has responded with more technical and complex rules” (SFPA, Q 547).
94. The Commission was equally unforgiving in its assessment, judging that the present control system “is inefficient, expensive, complex” and “does not produce the desired results” (Commission Memorandum, Q 5). However, it took the view that this was largely due to overcapacity and the fact that

harvest capacity is much larger than legal catch opportunities, creating “very strong economic drivers for illegal behaviour” (Supplementary Memorandum, Q 4). Better compliance could consequently only be achieved by “simultaneously removing the strong drivers for non-compliance ... and strengthening control and enforcement.”

95. According to the Commission, “national [control] systems are largely ineffective” and there are limited means at its disposal to put pressure on Member States to take their control obligations seriously (Commission Memorandum, Q 5). The result is uneven enforcement, which was identified as a concern by most of our witnesses, who emphasised the importance of “consistency in the effectiveness of control and enforcement across the Community” (DEFRA Memorandum, Para 32; SFF Memorandum Para 6). The UK Government accepted that this was primarily the responsibility of individual Member States, but saw a role for the Commission in “pursuing vigorously instances of Member States failing to exercise proper controls.” Meanwhile the SFF called for a level playing field across the Member States, arguing that “inequitable treatment exists not only in the field of regulation and compliance but also in very different treatment of past transgressions. This is one area where one size must be seen to fit all” (Memorandum, Para 6).

Current and Recent Initiatives

96. Although most of our witnesses identified serious deficiencies in the enforcement of the CFP, some more promising developments were also brought to our attention. The Commission noted that there had been certain progress, for example in strengthening cooperation among Member States, introducing a satellite monitoring system for the European fleet, and adopting electronic reporting of catches (Commission Memorandum, Q 5). The UK Government saw indications that the Commission had been performing its role in pursuing Member States that failed to exercise their responsibilities “increasingly effectively in recent years” (DEFRA Memorandum, Para 32). Harm Koster, Chief Executive of the Community Fisheries Control Agency, explained that the Commission had brought infringement proceedings against France, Spain and the UK in cases deemed “symbolic of the non-application of the Common Fisheries Policy” (CFCA, Q 665). Because France had already lost a similar court case in 1991, the Commission was able to request that a penalty be imposed by the European Court of Justice. France was thus fined around 80 million euros for failing to enforce rules on minimum landing sizes for hake (Q 665). Meanwhile the Spanish government emphasised that “the aspects mentioned in [the] European Court of Auditors’ report refer to the situation existing in 2005”. It pointed out that “three years after the verification mentioned in the report was made, some improvements have been made in the control systems, at least as far as the Spanish Administration is concerned, which are not reflected” (Spanish government Memorandum, p 184).
97. We were particularly encouraged by the evidence we saw and heard on a visit to Peterhead in North-East Scotland. Cephas Ralph, the SFPA’s Director of Operations, explained that Scotland had had “a very significant historic problem with black fish²⁵ which relatively recently we have been able to

²⁵ The term “black fish” refers to fish landed illegally.

overcome” (Q 530). He attributed that success to the confluence of several factors. A major decommissioning scheme had “removed the over-capacity in the fleet, so that removed the financial imperative on many of the operators to land illegal fish.” This was reinforced by legislation requiring the registration of buyers and sellers of first sale fish, which “for the first time ... put an onus and responsibility on the person buying fish to account for it in a way that we could come in and audit” and ensured that purchasers were “unable to claim ignorance of the source”. According to Mr Ralph, “that pretty much removed the demand side completely for black fish”. Cliff Morrison, Chair of the Food and Drink Federation’s Seafood Group, also hailed the registration of buyers and sellers as a success, while noting that the legislation had been 13 years in the pipeline: the relevant Directive was adopted in 1992, but it was not until 2005 that the registration of buyers and sellers was made compulsory in the UK. Even now, “not all Member States have yet put this legislation in place ... or are policing it as effectively as we are now” (Q 370).

98. By prompting reductions in the level of illegal activity, these two developments in turn paved the way for the introduction of targeted enforcement techniques. Mr Ralph explained that “if the vast majority of a population are breaking the law then targeting does not really work because essentially everyone is at it, but when you come down to a more normal situation where the majority of people are sticking to the law then you can begin to introduce tried and tested police targeting techniques” (Q 531). The SFPA was thus able to focus its efforts to “further reduce the levels of illegal activity”.

Culture of Compliance

99. Mr Ralph was not alone in emphasising the importance of capacity adjustments and demand-side measures in developing a culture of compliance. The CFCA’s Chief Executive stressed with reference to Scotland that “if there had not been the decommissioning of an important number of vessels it would have been impossible to create a culture of compliance because one of the elements of it is that a fisherman should have a viable living and must have the legal quantities to support a viable living” (Q 666). He also pointed out that when the Commission had brought infringement proceedings against the UK, it had issued a press release estimating “that about 50 per cent of the cod landed in the UK was black.” Large retailers’ response to the press release was to ask their providers to certify that they were only supplying legal cod, Mr Koster explained, creating “a big panic in Scotland because no supplier wanted to sign that he was only selling legal fish.” Since then the Scottish industry and authorities had done a very good job in fostering a culture of compliance, he added (Q 666).
100. Mr Ralph emphasised that the best indicator of this is that “in many of the cases where we have detected illegal activity it has been fishermen themselves who have come to us and told us that they have suspicions about some operators in particular, and that is an extremely healthy sign” (Q 532). He suggested that this could be ascribed to “those that are left ... demonstrating that they are aware that they have a huge stake in this industry” (Q 542). Sweden’s Fisheries Counsellor also told us that any number of control policies and controllers would never be as efficient as social control by the fishermen themselves (Q 782). He explained that the Swedish authorities had compiled statistical evidence on the number of unreported landings by

the Swedish fleet, and used that to adjust quotas downwards to factor in illegal landings: “we cannot prosecute anyone, but we are collectively penalising them by diminishing the quota” (Q 785). The intended effect would be to incite fishermen to control each other, as those who misreported their landings would incur a collective punishment that affected everyone. Mr Rosenkranz noted that the Polish authorities were trialling a similar experiment (Q 786).

BOX 10

The Scottish Conservation Credits Scheme

In February 2008, the Scottish Executive launched a Conservation Credits Scheme. In return for respecting a system of real-time closures and for signing up to conservation measures such as using more selective fishing gear, Scottish fishermen can receive the same number of days at sea as they received in 2007 (that is, avoid cuts in their days at sea). They can also use their days at sea allowance more flexibly, operating under hours at sea rather than days at sea, which allows them to conserve fuel and run their operations more efficiently.

101. Two other initiatives that attempt to realign fishermen’s incentives were brought to our attention by the Scottish Executive and the National Federation of Fishermen’s Organisations. The Scottish Executive is introducing a “Conservation Credits Scheme” (see Box 10 above), operating as part of the Cod Recovery Plan, which aims to achieve reductions in cod mortality “in ways other than blanket cuts [in days] at sea” (Q 469). Officials told us that the principle underpinning the scheme is to “reward people for doing the right thing, credit for your conservation measures”, by giving “people their 2007 days [at sea] back—so they are not getting a cut—in return for [observance of] real-time closures and selectivity measures. In due course we hope to give more days to people who have more selective gear ... we want to give a carrot for outcomes” (Q 469). Meanwhile the NFFO is advocating “Cod Avoidance Plans” (see Box 11 below) that “seek to optimise the fishing activities of the vessel by changing fishery, gear, place and period in order to avoid catching cod, thus contributing towards the Cod Recovery Plan. In exchange, the vessel, or vessels, will obtain a degree of freedom with respect to effort control” (NFFO Memorandum, p.41; NFFO Supplementary Memorandum).

BOX 11

Cod Avoidance Plans

The NFFO explains that the Cod Avoidance Plans it is advocating are designed to address the problem of fishing for species that are not subject to a recovery plan in mixed fisheries that also contain a recovery stock, in this case cod. It envisages that individual vessel operators could volunteer to prepare a Cod Avoidance Plan, demonstrating how it will fish for its allocated quota while avoiding catching cod above quota. The methods incorporated in a plan could include spatial avoidance, temporal or seasonal avoidance, and selective gear. If approved by the Member State authorities, the vessel would be exempt from effort restrictions for the year to which the plan applies. Vessels found to breach their targets would be obliged to revert to the normal effort regime and barred from submitting a Cod Avoidance Plan in the following year.

The Community Fisheries Control Agency

102. When asked to comment on the performance of the fledgling Community Fisheries Control Agency, most of our witnesses took the view that it was too early to assess the contribution it had made (e.g. Commission Memorandum, Q 5; SFPA, Q 555). The UK Government stressed that the Agency was still in its infancy and has a very strictly defined remit. It pointed out that “to date, only one joint deployment plan has been agreed and implemented, that for North Sea cod”, and added that while the results of the first exercises had been encouraging it was “too early to assess the impact of those exercises on control systems generally” (DEFRA Memorandum, Para 31). The CFCA’s Director, Harm Koster, agreed that it was “a little bit early” to have a full assessment of the operation of the Agency (Q 659).
103. Mr Koster nevertheless identified a number of ways in which joint operations and pooled resources appeared to be adding value. Taking Germany as an example, he explained that its territorial waters stretch into a tiny part of the North Sea, in which little cod fishing takes place. If the Cod Recovery Plan is to be implemented properly, he argued, it makes more sense to deploy Germany’s two inspection vessels in the northern North Sea, where most cod fishing takes place (Q 659). Mr Koster also pointed out that in joint operations, vessels operate across national borders, which “gives the industry much more of a feeling of a level playing field.” For an individual Member State this also has political advantages, he suggested, “because they will not have their own fishermen on their back who say, ‘Yes, but you are much more strict than your neighbour’, because this is a joint operation”.
104. The CFCA’s Director also identified areas for improvement. In the Baltic, he explained, “the sea campaigns which we do are not good enough”, because “the main problem is the landing inspections”. The Agency is thus asking Member States to exchange more inspectors to reinforce landing inspections, notably in Poland (Q 659). Meanwhile the SFPA’s Director of Operations pointed out that the Control Agency’s restricted mandate means that “it can only set up a joint deployment programme for stocks which are designated recovery stocks for which a specific recovery programme has been implemented by the EU.” Sometimes this can have “a big impact” in making countries work together for the first time, but in Scotland’s case it has largely formalised existing co-operation with Denmark and Norway, “so I think it would be very hard to measure any additional benefit for us”, he concluded (Q 555).

Review of the Control Regime

105. The Commission envisages that the review of the Control Regulation will result in “an extended mandate” for the CFCA, to include the development of cooperation between Member States and the Commission, extended responsibilities for the coordination of inspections on land, and cross-checking of data (Commission Supplementary Memorandum, Q 4). The Agency’s Director explained that extending the CFCA’s remit to include inspections on land needed to be considered because controls at sea were very expensive and not necessarily the most efficient way of controlling fisheries (Q 659). Meanwhile the SFPA’s Director of Operations suggested that the CFCA “should be allowed to set up joint deployment programmes across any species. It should not be limited to recovery stocks” (Q 557). Others were more cautious about

extending the Agency's mandate as part of the overhaul of the Control Regulation. The Spanish government, for example, took the view that "we will have to observe how it tackles the tasks that it is undertaking before thinking of assigning it further tasks and duties" (Spanish government Memorandum, p 184).

106. Among the Spanish government's priorities for the new control regime, by contrast, was a perceived need to "unify, to codify and simplify all the control legislation currently in force" and "lighten the workload", paying more attention to the "quality rather than quantity of data" (Spanish government Memorandum, p 184). The Commission accepted that the current regulatory framework is "fragmented and obsolete", and explained that it was aiming to "increase the cost-efficiency of the control policy, with a view to reducing administrative costs at the level of operators and at the level of administrations" (Supplementary Memorandum, Q 4). Other witnesses, however, had reservations about the extent to which this could be achieved. The German government's Fisheries Counsellor pointed out that "you can always cut red tape and say, 'I do not control any more and I trust you and the fishermen to do the right thing', but that will not solve the problems" (Q 708). Meanwhile Mr Koster conceded that "the rules are complicated" but insisted that "there are also very deliberate infringements" which could not be attributed to misunderstandings (Q 659).
107. As part of its overhaul of the CFP control regime, the Commission intends to "contribute to the development of a common culture of control through harmonised proportionate sanctions" (Commission Supplementary Memorandum, Q 4). The UK Government accepted that the level of financial penalties applied across the Community can vary widely, even within individual countries such as the UK.²⁶ But they saw this as a "reflection of the fact that decisions about the level of criminal penalties are a matter for the Courts and not one of Commission competence." By contrast, the Government did acknowledge that there could be "a place for the use of dissuasive administrative sanctions, including financial sanctions, within the controls system" (DEFRA Memorandum, Para 33). The French government's Fisheries Counsellor was more bullish, explaining that "we are in favour of more deterrent sanctions, even though we are very much aware of the difficulties of harmonising sanctions throughout the Union" (Q 727). He outlined the system of administrative sanctions that France had developed in response to the fine it had received in the undersized fish case, and noted that the Commission "considers that this system is more responsive and addresses infringements more adequately" (Q 730).
108. Other witnesses pointed out that the overhaul of the control system would only work if it formed part of a multi-pronged strategy to improve enforcement. The CFCA's Director, for example, noted that "the Commission will now propose again a reinforcement of control but we also need to work on other issues, such as capacity" (Harm Koster, Q 666). The SFPA's Director of Operations warned that "some of the

²⁶ By way of example, a Commission Report revealed that, in 2005, the average fine for fishing without a licence was €26,532 in France, €2,480 in the UK and €42 in Sweden. Communication from the Commission: Reports from Member States on behaviours which seriously infringed the rules of the CFP in 2005, COM (2007) 448 25.07.2007

