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Ms Maria Damanaki
Commissioner for Maritime Affairs and
Fisheries
European Commission
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3 November 2011

Dear Commissioner

Reform of the Common Fisheries Policy

- **COM (2011) 425 Proposal for a Regulation on the Common Fisheries Policy**
- **COM (2011) 416 Proposal for a Regulation on the Common Organisation of the Markets in Fishery and Aquaculture Products**
- **COM (2011) 424 Communication on the External dimension of the Common Fisheries Policy**

It was a pleasure to welcome you to the House of Lords on 28 October. Both Lord Carter and I valued the opportunity to meet you and to discuss the Common Fisheries Policy reform package with you.

Our EU Sub-Committee on Agriculture, Fisheries and Environment – chaired by Lord Carter – is in the course of scrutinising the documents relating to reform of the Common Fisheries Policy (CFP) and would wish to offer you some initial reflections in relation particularly to the three documents cited above.

We very much welcome the clear intention of the Commission to pursue a fundamental reform of the CFP with the long term sustainability of fish stocks and the fishing industry at its heart. Broadly speaking, we can support the methodology chosen by the Commission, but we consider that further details and clarifications are required.

First, the proposed **ban on discards** is welcome as an ultimate aim, but discards will not end unless sufficient effort is put into a reduction of them. Ultimately, the CFP as a whole must provide the incentives and regulatory framework to drive the necessary changes in fishing activity and behaviour. It is clear from experience in the UK, such as the very successful Project 50% in South West England, that fishermen themselves are well placed to decide how to avoid discards.

As you have acknowledged, there is still work to be done on working out the details regarding the implementation of a ban, including both industry involvement and the economics of such a ban. We note that the Proposal for a Regulation on the Common Organisation of the Markets in Fishery and Aquaculture Products (the CMO Regulation) is pertinent to this issue, particularly as one of the objectives of fishery producer organisations should be to handle unwanted catches of commercial stocks. We have sympathy with your innovative idea of distributing landed products free of charge to philanthropic or charitable purposes although clearly this must be as a last resort, where no other market can be found, and not an objective in itself. Our fear would be that it might become entrenched as a policy in its own right, requiring purchases from the market in order to meet the expectations of charitable organisations, a change which is becoming a feature of a similar EU scheme in the agricultural sector. We would emphasise above all that the economic reality of such a policy, including compensation to the industry, must also be clear.

We are still reflecting on whether, and if so how, the CMO Regulation might more effectively be used to set an economic framework that encourages the landing of all catches. It may be that, through Producer Organisations or through the system of Transferable Fishing Concessions, it would be possible for vessels either to swap quota or to buy additional quota to cover some or all of the excess catch landed. This is an extremely complex area as it is closely linked to consumer behaviour in terms of driving demand for alternative species, an issue on which we comment later. We would find it useful if you were able to set out more clearly how you see the economic drivers underpinning a discard ban.

The provisions on **regionalisation**, giving Member States the right to work together in adopting provisions appropriate to their own vessels fishing shared stocks in shared waters, are welcome. There is insufficient detail on how this would work, but we welcome your commitment to clarify this very soon. We place particular emphasis on the need to involve the Advisory Councils. These bodies have, in our view, been the success story of the 2002 reform, and must be encouraged, recognised and sustainably financed.

While we acknowledge the legal limitations that prevent formal management powers being granted to the Advisory Councils, we nevertheless see no barrier to a presumption that Advisory Councils devise management plans that are then subject to audit and possible revision or rejection by the Commission or pertinent Member States. Alternatively, you noted that such a presumption might be placed on plans produced by Member States. If that model were to be the case, we would like to see an obligation on Member States, within the Regulation, to consult the Advisory Councils.

With regard to both regionalisation and, more specifically, to the use of the Advisory Councils, we consider that inspiration might be drawn from the **Marine Strategy Framework Directive (MSFD)**. That Directive clearly lays down a regional and sub-regional sea structure and a requirement for Member States to cooperate, using existing regional institutional structures where practical and appropriate. Naturally, alignment of the MSFD structures and work with implementation of the CFP would assist with **integrating fisheries policy and EU environmental legislation**.

On **multiannual plans**, we welcome a long-term approach, aiming to meet **Maximum Sustainable Yield (MSY)** by 2015 where possible, although we emphasise that the complexities of mixed fisheries must not be ignored when striving to meet MSY. Where the proposal is unclear is on the level of detail to be included on the one hand in a Union-level multiannual plan, and on the other in the corresponding regional-level multiannual plan devised by relevant Member States. This confusion applies also to the adoption of rules on technical measures. We are concerned that the current text would allow too much detail to be adopted at the Union level. Improvements to Part III of the Regulation would be desirable to ensure that the responsibilities of each level of governance are clear. To take one example, it appears from the text that technical measures to tackle discards should be included in a Union-level multiannual plan (see Article 11(e)), an approach that would clearly run counter to the experience of Project 50% cited above.

In our 2008 report on the Progress of the CFP, which we mentioned at our meeting on 28 October, we regarded further moves towards rights-based management at a national level as highly desirable. Clearly, such management should improve the economic efficiency of the industry and remove excess capacity, the most urgent change required in the CFP. We therefore support the mandatory introduction of **Transferable Fishing Concessions (TFCs)** across the EU, designed at the appropriate level and including necessary safeguards against concentration of ownership and decline of small-scale coastal fisheries. To us, it seems essential that all vessels are included in the scheme, or at least have access to the scheme, a possibility which is optional at the level of the Member State in the proposal as drafted.

While it is appropriate for each Member State to establish the detail of its own system, the Proposal might usefully give clearer guidance on the nature of the detail required. To function effectively, the methodology for allocation and/or sale of the concessions must be clear, as must any conditions placed on ownership of a concession and the nature of the enforcement regime for monitoring compliance with those conditions.

As noted above, one of the reasons for introducing TFCs is to bring the **capacity** of the EU fleet into line with fishing opportunities. It is therefore surprising to us that Member States may request the Commission to exclude fishing vessels subject to a system of TFCs from fishing capacity restrictions established under the Regulation. We would welcome any explanation that you are able to offer on this exclusion.

The relative paucity of **data** on EU fish stocks is a problem on which we touched in our discussions. Part VI of the Proposal, on the science base for fisheries management, contains robust requirements on Member States to collect a range of data. Methodology for the collection of data is not, however, included and it seems to us that this might either be included or developed at a later stage through secondary legislation. Your views would be welcome. We would add that, for some Member States at least, resource implications may be a very significant constraint in relation to data collection and analysis.

On the promotion of **aquaculture**, we consider that, given the growing importance of aquaculture as a source of fish products, mandatory action plans at the national level might well be a useful discipline, recognising that any stronger EU action is not appropriate as responsibility for much of the pertinent regulation lies at the national, regional or local levels. We would not, however, wish to see this helpful idea, and the inclusion of aquaculture within the general objectives of the CFP under Article 2, leading to substantial new subsidies delivered through the new European Maritime and Fisheries Fund.

It is welcome that the concept of “**sustainable fishing agreements**” has been introduced into the text of the framework Regulation. Rather less convincing is the insistence that conditions can only be placed on part of the financial contribution made by the EU – i.e. the proportion directed towards improving the governance framework. Lacking, we believe, is a requirement for recipient countries to provide an audit trail of how all funds paid are spent.

We are firmly of the view that Article 41 (on the principles and objectives of Sustainable Fisheries Agreements) needs to be substantially strengthened, to incorporate into legislation some of the content of the non-legislative **Communication on external policy**. In that Communication, for example, the Commission suggests that respect for human rights should be a necessary condition for conclusion of Agreements. We are clear that this should certainly be the case and that the condition should be included in the text of the Regulation.

Control and enforcement is another central part of the policy, which is mentioned in this draft Regulation and is already the subject of a dedicated legislative instrument. We were particularly pleased to read the explicit reference to a “culture of compliance”, which we recognised to be key in our 2008 Report. The **Community Fisheries Control Agency** is pivotal, we consider, to the success of the system for controlling and enforcing the Common Fisheries Policy. We would welcome your views on whether there should be a reference to the Agency in the Regulation, a reference which would serve to boost its prominence, recognise its key role and strengthen the case for improving its performance.

In relation to the **Proposal for a Regulation on the Common Organisation of the Markets in Fishery and Aquaculture Products**, we are not convinced that a producer organisation should be required to submit a production and marketing plan to the competent national authority. We also have reservations about the provision for private storage aid, allowing Producer Organisations to finance the storage of products where a buyer has not been found at a trigger price. This seems to us to be a retrograde step in seeking to align the fishing industry more closely to the needs of the market, thus driving down excess capacity in the sector. It may, however, have a role as a transitional measure in the move towards a discard ban.

Finally, and also in relation to the CMO Regulation, **consumer information** is central to a sustainable fisheries policy: it is crucial that consumers have access to comprehensive, clear and comprehensible information. It seems to us that this Regulation would be an opportunity to introduce an EU labelling scheme for the sustainability of fisheries products, a scheme which would assist consumers when purchasing products. Your view would be welcome on whether this might be included or, alternatively, how the proposal as drafted could improve consumers’ understanding of fish sustainability issues.

We trust that you find these comments helpful and look forward to your response.

I am copying this letter to Mr Richard Benyon, MP, Parliamentary Under-Secretary of State in the Department for Environment, Food and Rural Affairs.

Yours faithfully
John Roper

The Rt Hon the Lord Roper
Principal Deputy Chairman of Committees