CHAPTER 4
THE ROLE OF PARTNERSHIPS IN THE GOVERNANCE OF FISHERIES WITHIN THE EUROPEAN UNION

TONY HAWKINS
Chairman of the North Sea Commission Fisheries Partnership
University of Aberdeen, Department of Geography, St Mary's, Kings College, Aberdeen, AB24 3UF

Abstract

There is a lack of confidence in the ability of the European Union (EU) to solve outstanding and urgent problems, and there is criticism of its institutions and distrust of the way power is exercised. The loss of faith is especially strong over the management of fisheries. After 30 years of the Common Fisheries Policy (CFP), those fisheries are in a state of crisis. Emergency measures have been imposed following years of management failure. One of the most obvious flaws has been the failure of the Commission to involve stakeholders in shaping fisheries policy and delivering fisheries management measures. Yet people often give of their best when they are brought together to resolve problems and take decisions themselves, with experts serving as advisers and facilitators. Within the North Sea Commission Fisheries Partnership (NSCFP), fishers have recently been working together with scientists and technical experts to resolve some of the difficulties in assessing the state of the North Sea fish stocks. Soon, a new organisation – the North Sea Regional Advisory Council (NSRAC) – will be formed to take this initiative further and provide advice on fisheries management directly to the Commission. The new Council will require a significant change in working culture on the part of all those involved, and especially by the European Commission.

4.1 Introduction

Within the European Union (EU), there is a perception that government is increasingly remote from the people and from democratic structures. A recent White Paper on governance within the EU (EC 2001a:3) has pointed out that "many people are losing confidence in a poorly understood and complex system to deliver the policies that they want. The Union is often seen as remote and at the same time too intrusive". The creation of the EU has involved the joining together of countries with very different political cultures. Inevitably, the system of governance is a compromise and has been arrived at through political expediency rather than administrative efficiency or democratic principle.

Administration of the EU's affairs has been largely delegated to civil servants within the European Commission, aided by technical experts. The Commission initiates legislation, implements community policy, manages the EU's budget and is responsible for the Union's relations with outside countries. Day to day management of the Union's affairs is essentially carried out by the Commission. Yet the Commission is made up of

T. S. Gray (ed.), Participation in Fisheries Governance, 65–83.

an un-elected college of Commissioners, appointed by the governments of Member States and led by a President adopted as a result of discussions behind closed doors between the Member States. Much of the work of the Commission is intended to be directed by Councils of Ministers on which all the Member States are represented. However, deep divisions between Member States often render the Councils ineffective, especially where far-reaching strategic decisions must be agreed and implemented. There is a tendency for the Councils to argue about points of detail and issues of equity in the treatment of individual Member States. As for the European Parliament, it lacks the legal power to hold the Commission accountable for its actions, and is able only to comment on proposals and develop overall strategy. The Parliament's Fisheries Committee has shown little willingness to grapple with the complex issues of fisheries management. The close scrutiny of public affairs by elected representatives, which takes place within many of the Member States themselves, is, therefore, seldom achieved within the EU.

The Commission has identified the reform of European governance as one of its strategic objectives, and leaders of the Member States have agreed a new Constitutional Treaty for the EU (EC 2004). This Treaty reforms the EU to make its institutions more transparent, more accountable, more efficient and better able to meet the challenges of the 21st century. It also spells out that the EU is a union of nation states, and has only those powers that Governments have chosen to confer upon it. However, the Treaty is still regarded as controversial and it has yet to be ratified by Member States.

Remarkably, the conservation of marine biological resources under the Common Fisheries Policy (CFP) is one of only five areas of exclusive competence within the proposed new Constitutional Treaty for the EU (EC 2004). In this respect, the CFP stands alongside the major areas of customs union, competition rules for the internal market, monetary policy and common commercial policy. This extraordinary elevation of marine conservation reflects the complexity of fisheries management within the EU. Symes *et al* (2003) have pointed out that not only is the European coastline highly fragmented and deeply indented, with distinctive regional seas, but responsibility for management is divided amongst large numbers of coastal states

However, loss of faith in governance – by which I mean the manner of governing or regulating – is especially apparent in the field of fisheries. After 30 years of the CFP, the fisheries of the EU are in a state of crisis. Strong emergency measures, with adverse consequences for fishers, and the industries and communities which depend upon them, have been imposed in the Baltic Sea, Irish Sea and North Sea, following years of management failure. Fishing effort is progressively being curtailed and catch limits reduced, at great cost to coastal communities in some Member States; so far without significant improvements to the fish stocks. At the same time, the fishing fleets of other Member States continue to receive subsidies which enable them to expand their fishing power. In these circumstances, the whole system of governance is in question, together with the competence to govern of the Commission, the Council of Ministers and their advisers.

The CFP and its current administration exemplify many of the wider deficiencies in governance that exist within the EU. The Policy itself lacks clear strategic objectives, contains many contradictions, and it is administered through a centralised command-

and-control system, where decisions are made at the top, by the Commission and Council of Ministers, and then imposed, not always effectively, upon the fishing industry. The system of governance is a hierarchical one. The measures adopted are devised behind closed doors by the Commission, aided by a narrow selection of technical experts, the majority of whom work for the governments of Member States. The decisions themselves are often draconian, with major effects upon coastal communities.

For any decision-taking body to produce sensitive and responsible decisions, it is necessary that it should be accountable to those affected. The Commission, in managing the fisheries of the European Commission, is accountable neither to voters nor to the fishing communities. Fishermen, fish buyers and sellers, boat builders and the institutions which support them play no part in management, although they have to live with the consequences of the decisions taken.

This chapter considers, first, the inherent flaws in the governance of fisheries within the EU, focusing particularly on the narrow basis of its scientific advice, and the top-down nature of its governing structure. Second, the chapter explains an attempt by stakeholders to address these flaws through the formation of a fisheries partnership – the North Sea Commission Fisheries Partnership – which is currently engaging with the European Commission and concerned Member States to establish a Regional Advisory Council for the North Sea, to provide advice on the management of fisheries. The chapter's conclusion is that, in the future, such Councils may facilitate greater participation in the governance of fisheries by those most affected.

4.2 The contradictions of the Common Fisheries Policy

The Commission has admitted the failure of the EU's policies on fisheries, most notably in its Green Paper on the Future of the CFP (EC 2001b). The Green Paper discusses the weaknesses and challenges of the Policy. It points out that the CFP has not delivered sustainable exploitation of fisheries resources and will need to be changed if it is to do so. The shortcomings of the CFP can be expressed in conservation, economic and political terms.

So far as conservation is concerned, the Green Paper stresses that many stocks are outside safe biological limits. They are too heavily exploited or have low quantities of mature fish, or both. The situation is particularly serious for demersal fish stocks such as cod, hake and whiting, and if current trends continue, many stocks will collapse. At the same time, the available fishing capacity of the Community fleets far exceeds that required to harvest fish in a sustainable manner. In economic terms, the fisheries sector is characterised by fragility resulting from over-investment, rapidly rising costs and a shrinking resource base. Politically, stakeholders do not feel sufficiently involved in the management of the policy and many believe that there is no level-playing field in terms of compliance and enforcement.

There are also inherent contradictions within the CFP. Its main objectives, derived mainly from the Common Agricultural Policy, are to:

- Increase productivity;

- Ensure a fair standard of living for fishermen;
- Stabilise markets;
- Assure the availability of supplies;
- Supply consumers at reasonable prices;
- Ensure there is no discrimination across Member States;
- Protect the environment, according to the precautionary approach;
- Provide for rational and responsible exploitation on a sustainable basis.

However, in a number of respects these objectives are contradictory. They aim to:

- Conserve fish stocks, but they promote fishing activities;
- Modernise the fleet, but they limit fishing effort;
- Implement measures centrally, but they require Member States to enforce them locally;
- Maintain employment, but they reduce fleet capacity;
- Ensure a good income for fishermen, but the supply of fish is declining;
- Prohibit discrimination, but they discriminate on access to fishing.

Although the Commission has diagnosed the deficiencies of the CFP in its Green Paper, significant reform has yet to be achieved. The Commission's 'Roadmap' on the reform of the CFP, published in 2002 (EC 2002a) following a period of consultation on the Green Paper, emphasises the need for stronger conservation measures and controls. It preaches the need for better governance, including the principles of openness, participation, accountability, effectiveness and coherence. However, so far, the Commission and Council of Ministers have done little to secure the necessary improvements.

4.3 The small cadre of expert advisors

At the heart of fisheries management is the need for expert advice. Scientific advice is required on the state of fish stocks and the impact of fishing upon them. In addition, ecological advice is needed on the state of marine ecosystems, the interactions between fish stocks and other key species, and the impact of fishing upon non-target species and the wider environment. The advice required is not limited to scientific questions, however. It is also important for fisheries managers to have advice available on the appropriateness and practicality of management measures, and, in addition, on the economic and social impact of those measures upon fishers and fishing communities.

In the management of the fisheries of the Community, advice comes from a relatively small cadre of experts. These are mainly biological scientists employed by governments within national fisheries laboratories. In addition to providing advice directly to the Member States, these scientists also come together within the International Council for the Exploration of the Sea (ICES), an old-established body which is contracted to provide advice to the European Commission. They also meet within the Scientific, Technical and Economic Committee on Fisheries (STECF), a body set up by the Commission itself to provide advice on scientific, technical and economic issues.

The pre-eminence of government scientists in providing advice on fisheries management, and the virtual exclusion of independent scientists and those with practical experience of fishing, may have originated in the requirement for expensive facilities and official backing to carry out fisheries science. Landing statistics and details of the fishing fleet must be obtained from the different ports in each country. Sampling of fish landings is necessary to determine the length, age and condition of the fish. Voyages on commercial fishing vessels by scientific observers must be carried out to monitor the fish that are caught (many of which may be discarded). Research vessels must conduct surveys of the abundance of fish. Most of these activities can only be carried out within large, well-equipped fisheries research institutes. Such facilities have been established within all the littoral Member States and are funded directly by their governments.

There is also the possibility that Member States prefer scientific advice to come from organisations under their control. The position of government scientists has always been ambiguous. As individuals, they may strive to be objective and independent, but the work that they engage in, the funding for their research and their ability to speak out on controversial issues, is constrained by the fact that they are government employees who cannot be seen to contradict their political masters.

Because fish resources are shared between Member States, and the fish themselves are often mobile, it is necessary to bring together results of research and monitoring from many countries in order to assess the state of fish stocks properly. ICES, which has had its headquarters in Copenhagen since 1902, long pre-dates the formation of the EU. ICES serves both as a repository of data and the organiser of working groups which carry out fish stock assessments, and it is the body responsible for providing scientific advice to the Commission and adjacent non-EU states like Norway, Iceland and the Faeroe Islands, through its Advisory Committee on Fishery Management (ACFM). It also serves as a forum in which scientists can discuss and debate the main issues of fisheries science, through its many study groups and symposia, its journal (the *ICES Journal of Marine Science*) and its Annual Science Conference. ICES operates in a wider context than fisheries science. It co-ordinates and promotes marine research across the whole of the North Atlantic, and acts as the prime source of advice on the marine ecosystem to the governments and international regulatory bodies within the North Atlantic Ocean and adjacent seas.

ICES has carried out a valuable role in providing independent scientific advice on fisheries for over a century. However, it has been slow to adapt to changing conditions and to the heavy demands placed upon it. It is symptomatic of the problems within ICES that the organisation shows a strong interest in its own history (Anderson 2002), a liking for ceremony and an aversion to change. The current wider debate within Europe on the role of experts, and the need for openness and transparency in rendering advice, has passed ICES by. There is an urgent need for the reform of the ICES structure and procedures. The skills required to handle the complex fish stock assessment models are in short supply. The scientific data on which fish stock assessments are based are largely incomplete and are inaccessible to independent experts. The scientific working groups which carry out assessments have generally remained closed both to independent observers and to stakeholders affected by the assessments. ACFM itself, which assembles the scientific advice and forwards this to the Commission, has been completely closed. ICES has underestimated in the past the capacity of fishers to

participate in the collection of data on the fish stocks, and has neglected the wishes of fishers to understand and question the advice provided.

The manner in which ICES operates, with government scientists from different Member States expected to play an independent role, does provide it with some protection from political pressures. However, this does not necessarily guarantee the independence of the scientific advice offered up. The absence of any peer review and the lack of openness in its activities mean that internal pressures acting against independence can remain hidden and protected from scrutiny. The precautionary and limit reference points for the fish stocks, established under the precautionary approach adopted by ICES, and which greatly influence management advice, are set internally and are not subjected to wider discussion. There is little participation in the process by fishery managers, let alone fishers. Indeed, the participation of non-scientists is regarded within ICES as likely to compromise the integrity of the organisation.

Even more seriously, ICES is unable to provide advice on economic and social aspects of fisheries. It is constituted in such a way that it cannot look at the consequences of its advice, or weigh the benefits of conserving fish stocks against the impact of the conservation measures upon fishers and fishing communities. Indeed, this restriction is often seen as one of ICES' strengths, rather than a weakness. Moreover, ICES lacks expertise on the practicalities of applying management measures, whether these involve adjustments to fishing gears, reductions in fishing capacity, or restrictions in catches. Many of the measures introduced as a result of ICES advice have proved difficult to implement in practice, and have underestimated the ingenuity of fishers to circumvent them.

There is another source of expert advice to the Commission. The STECF is the European Commission's own scientific, technical and economic advisory body on fisheries. The committee is made up of experts chosen by the Commission from those nominated by Member States. It is composed of biologists, economists and fishing gear technologists. The STECF is asked by the Commission to examine the advice it receives from ICES and to comment on that advice. In addition, the Commission often convenes STECF sub-groups or independent expert groups to address specific issues. The deliberations of STECF are not carried out in public and cannot be subjected to query or debate before advice is provided to the Commission. Its membership tends to be drawn from the same institutes represented within the ICES committees, which limits its independence and its ability to peer review the ICES advice. Technical experts from the fishing and fish processing industries are absent from the committee. The Commission has been slow to encourage STECF to develop and extend its economic expertise. Social scientists do not play any role. As a consequence, it has not been possible for STECF to provide full and independent advice to the Commission on the validity of the scientific advice, the practicality of the management measures proposed, or the likely effects of those measures upon the fishing industry, associated industries, and fishing communities.

The systems for providing expert advice, which include not only ICES but also the national fisheries institutes and the Commission's own STECF, thus essentially involve the same narrowly-based group of mainly biological scientists with its own culture and

attitude. The advice is centred on the assessment of fish stocks. More broadly-based advice on the state of the ecosystem, and the effects of fishing upon it, is largely lacking. Little use is made of the expertise of fishers in deciding upon management measures. Moreover, very little attention is paid to the provision of economic and social advice. It is important in managing fisheries to look at the costs, as well as the benefits of management measures. Those costs must include weighing up the adverse effects of any action, both in advance of the measure being adopted, and after the event. That has not been the practice of the Commission or of the Council of Ministers, which directs the Commission.

4.4 The narrow basis of the scientific advice

The main advice provided to fisheries managers is in the form of assessments of the state of individual fish stocks in different areas. These assessments involve examination of the catches, and of the changes that take place in the age composition of fish over time. The data are slow to be collated and analysed and the assessments require long data series. The assessments are inherently long term, and their ability to project the future state of fish stocks is limited. Although there is a progressive increase of confidence in the assessments after years have elapsed, there is always uncertainty about the current and future state of the stocks. This uncertainty poses particular problems in assessing the effects of management measures. Currently, the effects of major changes to the management regime cannot be assessed until three or four years have elapsed. Often, new measures are introduced before any assessment has been made of the efficacy of previous measures.

Stock assessments would benefit greatly from improvements in the capacity for collecting data from the fishery and analysing it immediately. The assessments would also be improved by the incorporation of up-to-date information from fishers themselves on their recent catches and on changes in the behaviour and distribution of the fishing fleets. There is a need for ICES to consider new paradigms for the more rapid and up-to-date assessment of fish stocks. New and independent assessments made using different methods would help to validate those obtained by the current methods. They would also enable more prompt evaluation of the efficacy and impact of management measures.

Currently, there is also a lack of attention paid to multi-species factors. Each fish stock is evaluated separately, although it is recognised that different species interact with one another in a complex way. For example, cod are predators of herring, sandeels and Norway lobsters. Conversely, sandeels are eaten by a wide range of other fish species. Changes in one fish stock do affect other stocks. Moreover, fish are part of a wider ecosystem containing predators (like seabirds and sea mammals) and also providing prey as food for fish. The wider ecosystem may be affected through changes to the fish stocks. For example, seabirds may be deprived of food through heavy fishing on their prey, and charismatic organisms may be affected directly by fishing activities, such as the destruction of deep-sea corals by trawls, or the incidental capture of cetaceans in drift nets. The growth of predator populations such as seals, may have an effect upon fish stocks. It is now widely accepted that there must be a move towards an ecosystem-based approach to fisheries management, but there has been a paucity of ideas on how this should be achieved, and little progress has been made towards achieving it.

Fish stocks are also affected by changes in the environment, although these changes are not taken into account in the assessments. The latter assume that the biological reference points for the stocks remain stable with time. Recent changes in ocean climate, and observed changes in species composition within an area like the North Sea, have drawn attention to the effects of environmental change upon fish stocks and the need to take this into account in setting biological reference points. There is little point in setting, say, a target for spawning stock biomass based on a past level, which is unlikely to be reached under the prevailing climatic conditions.

An array of management measures has been imposed upon the fisheries within the North Sea in recent years. Chief amongst them have been controls on fishing outputs, including catch limits and minimum landing sizes. Various technical measures have been introduced to improve the selectivity of fishing gears for particular species and sizes of fish. These have proved difficult to apply and enforce in the mixed fisheries of the North Sea where several species of differing size are being caught simultaneously. Discarding has been prevalent, where fish are caught and brought on to the deck but then thrown back into the sea without being declared as landings. This practice, which is seen by fishers as wasteful, has undermined support for the management measures. The imposition of closed areas and closed seasons has received some attention, but has not been applied consistently or efficaciously. Controls on fishing effort have been introduced, limiting the numbers of vessels, their size and fishing power. Most recently the numbers of days-at-sea have been regulated. There have been problems in enforcing all these management measures, and different Member States have differed in the attention they have paid to enforcement. One result of this lack of control has been that landings data cannot be trusted and do not provide a sound basis for the stock assessments carried out by scientists.

It is in the area of selecting, operating and enforcing management measures that advice from fishers would be especially valuable. Fishers are aware of the deficiencies in the different measures and know how the imposed controls may be circumvented. Fishers are themselves responsible for the large discrepancies between actual and recorded landings, and their estimates of the magnitude of these differences are needed. Before their aid can be enlisted in assessing the stocks more effectively, however, fishers need to be persuaded that there is a level playing field, and that their views are being listened to. They need to be full and trusted participants in the management of the fisheries, alongside other stakeholders.

There is growing distrust by fishers both of the stock assessments and the scientific advice given to management. This distrust may arise in part from the different perspectives of fishers and scientists on the abundance of fish and on the factors that control the abundance of fish. Fishers are very aware of natural fluctuations in the abundance and distribution of fish, although their own knowledge is local and personal. They distrust the simple models employed by scientists, and question the validity of the data collected. They tend to resist any suggestions that fish stocks are over-exploited and are reluctant to accede to further restrictions upon their abilities to fish. Fishers maintain that for some species and areas, the information available to them is better than the information available to scientists. The lack of any means for incorporating fishers' knowledge and experience into the traditional scientific advice is certainly a major

disadvantage. Moreover, the unwillingness of scientists and fishery managers to address these concerns of fishers presents a serious barrier to future progress.

4.5 Dealing with uncertainty

There is often great uncertainty in assessing the state of fish stocks. Some key species like the monkfish are hardly assessed at all, and provisional or precautionary catch limits are set, often based on previous landings. The data on which the assessments of even the most important species are based are often known to be inaccurate because of undeclared and misreported landings. Moreover, scientists admit that their knowledge of the dynamics of fish populations is often very limited.

The role of uncertainty is now recognised as an important one in decision-taking. Increasingly, both experts and politicians have been persuaded to adopt a 'precautionary approach', especially with respect to environmental risks. There are differences of opinion over the exact meaning of the term 'precautionary approach', but essentially it proposes that potential risks should be dealt with by the imposition of constraints, even in the absence of scientific certainty. This approach is regarded by its proponents as a more sensitive and cautious way of dealing with potential threats than waiting for hard scientific proof as a prerequisite for decision taking. The problem is, of course, that it may lead to a decision being taken which is risk averse and which may subsequently prove to be inappropriate. There are already pressures, acting within ICES, which tend to make the scientific advice cautious and conservative. ICES and the scientists who participate within its working groups and committees will be severely criticised if fish stocks fail and they may be under pressure to place restrictions upon fishing.

It is, therefore, important that the precautionary approach should retain a dimension of reversibility, as the advance of knowledge could show a particular decision to be no longer justified. The action taken should be commensurate with the risk, and there should be consistency in the way the approach is applied. It also has to be recognised that evidence on a particular issue can be gathered from many sources. It is not only the evidence of scientists that is relevant. An uncertain scientific assessment may be validated by seeking information from other sources, including fishers. There is a need for more dialogue between scientists, politicians and the public over the precautionary approach and how it is applied.

4.6 The role of the European Commission

The European Commission plays a key role in both managing the fisheries of the EU and deciding upon future fisheries policy. It has a small number of experts of its own but, by and large, it is composed of non-specialist civil servants, either seeking a career within the Commission, or seconded from Member States. Its decisions are meant to be taken to meet the requirements of the Council of Ministers but it is often called upon to undertake management on a short time scale. Dissent within the Fisheries Council and an inability of Member States to agree on strategic issues, often gives the Commission control over decisions.

The Commission and Council of Ministers take advice from ACFM and STECF, but they have also established an Advisory Committee on Fisheries and Aquaculture (ACFA), made up of stakeholders, to comment upon proposals. The Commission tends to operate by producing a consultation paper or draft recommendation, fully worked-out, and then asks for comments from ACFA, often at short notice. ACFA itself is very large, and on it sit stakeholders from all the Member States, representing different interests and holding very different views. It is not a body that can reach a consensus on any issue, or participate in decision taking. All it can do is ensure that a diversity of comment is presented to the Commission on its proposals.

As we have seen, the top-down style of management exercised by the Commission has failed to meet important biological, economic and political objectives for the governance of fisheries. It is time to consider more open ways of proceeding. I believe that openness and accountability should be the guiding principle of all management, but especially management in a crisis. Stakeholders and the general public must be told in advance of any risks and of any steps needed to resolve the crisis. The Commission must take account of the views of an informed public. Stakeholders' concerns must be dealt with if management decisions and measures are to be complied with. Those concerns are exacerbated within the EU by the complexity of decision-making, which takes place between different countries with different interests. There is a fear by stakeholders that decisions will be taken as a result of compromise between Member States, or by trading one interest off against another within the Fisheries Council, rather than through a fair and objective assessment of the issues. Some countries place fisheries high on their list of priority interests, while others are more inclined to give way on fisheries issues in the expectation that they will gain in some other area. The danger is that management decisions may be taken which are perceived to be unfair by fishers. These decisions may then be difficult to implement. The suspicion of Commission actions, which has developed amongst fishers, has had severe consequences. Many of the management measures imposed have been subverted by fishers, while policing is uneven and not always able to prevent breaches of the regulations. Fish may be landed illegally; catches may be attributed to areas other than those where they were taken; and fishing gear regulations may be avoided. One unfortunate result of these practices is that the data available to scientists are then unreliable and unable to support the need for objective advice.

4.7 The need for wider participation

There is widespread and growing public distrust of experts and the role they play in public affairs. This distrust has been fuelled, especially within the United Kingdom, by some pronounced deficiencies in scientific advice, such as in the control of animal diseases, and the preparation of forensic evidence assessing the impact of biotechnology and promoting human health. Expertise in a narrow field of science does not necessarily convey an ability to take decisions in a wider context, especially where social and economic factors are important. As Mary Midgley (2001) has pointed out, the learned are often importantly foolish. There is also concern about the way expert advice is used

to support political decisions. There is suspicion that political decisions come first, and that scientific advice from government employees is subsequently used to justify those decisions. It is, therefore, important in all areas of governance that expert advice is presented in an open and transparent way. The information on which decisions are based must be available to others, and any uncertainties must be pointed out. Peer-review of the science is essential, and expert advice must be subjected to close scrutiny and critical assessment by others. Even if the scientific advice is valid, other wider considerations have to be taken into account; scientific recommendations have to be balanced against other factors in deciding public issues. Practical aspects of implementation and economic and social factors are also important.

Currently, the Commission is accountable only to itself. There must be changes in the way the fisheries are managed. There is a particular need to change the way that advice on the fish stocks and management of the fisheries is provided. There must be wider participation in the process of assembling and then producing expert advice. Participation by outside experts, by stakeholders and by the public, should not be considered as unnecessary or inconvenient but rather as a way of extending and enriching the process of gathering information. Fishers and other stakeholders now want to know how decisions are taken. They want to be able to pose questions, hear answers directly, and present their own views, rather than simply accept advice given from behind closed doors.

In addressing the problems of fisheries governance, it is evident that the provision of advice to the Commission should not be confined to a narrow range of experts. New institutional arrangements are needed which will ensure a multidisciplinary approach; greater participation by those affected by Commission decisions; greater independence of the decisions; and less dominance by the bureaucrats responsible for imposing regulation. Assessment of potential threats should take account of all costs and benefits – direct and indirect, social and economic. Ignoring these other factors inevitably results in poor decision-taking.

Public inputs to policy debates are not merely ‘opinions’, but provide other forms of knowledge and experience, and other values, as well as raising questions that scientists and bureaucrats have neglected. There needs to be a long-term process of mutual learning between the public, important stakeholders, and those who formulate expert advice. This interaction will necessarily involve new institutional relationships and new, more participatory, forms of governance. People often give of their best when they are brought together to solve problems and take decisions themselves, with experts involved in a subsidiary position as advisers and facilitators. The principle of a partnership is to share risks and benefits. There is a need for such partnerships for the governance of European fisheries. I suggest that such partnerships would be able to promote sustainable fisheries through a common vision and consensus, with fishers and other stakeholders fully involved in policy-making, decision taking and operational management. This is the thinking behind the founding of the North Sea Commission Fisheries Partnership.

4.8 The North Sea Commission Fisheries Partnership

A conference at Haddo House Aberdeenshire in 1998, considered how best to deal with

the differences of opinion which arose between fishers and scientists over the state of fish stocks. The main outcome was a proposal that a standing forum should be established for fishers, scientists and others to develop and implement improvements in the assessment of fish and shellfish stocks and in the regulation of fisheries. The forum would promote more sustainable management of fisheries by bringing together those with the strongest interest in fishing.

A partnership between fishers and scientists was established as a pilot project in 2000 by Aberdeenshire Council and the North Sea Commission. The North Sea Commission is an alliance of regional and local governments from around the North Sea. It includes Norway, as well as regions from the Member States of the EU that are heavily dependent upon fishing and fish processing. Funding was initially provided by the European Community PESCA Initiative. Subsequently, the North Sea Commission Fisheries Partnership (NSCFP) successfully applied to the Interreg IIIb North Sea Programme (a European Regional Development Fund) for funding to develop its work for a further three years.

The Partnership includes representatives of fishers and scientists from eight countries around the North Sea. Fishers are drawn from the national organisations representing fishers. Scientists are drawn from the main government fisheries research institutes. The objectives of the Partnership are to:

- Improve the exchange of views between fishers and fishery scientists;
- Promote dialogue between fishers from different countries around the North Sea;
- Further develop scientific advice on the state of fish stocks, making better use of information held by fishers;
- Evaluate the costs and benefits of different fisheries management measures and develop consensus views on these;
- Progressively involve other stakeholders, including fishery managers, fish merchants, processors and conservation groups in discussions of the management of the North Sea fisheries;
- Work for the implementation of new and more sustainable management measures, taking full account of biological, economic and social factors.

This Partnership has already gone a long way towards developing greater trust between fishers and scientists. Some of the initial difficulties in communicating have already been overcome. It has proved possible for the Partnership to discuss sensitive and controversial subjects, without the trust that is developing between the partners being breached. It has also achieved improvements in the process of assessing North Sea fish stocks.

The Partnership has made particular progress in reforming the system for obtaining and presenting scientific advice. In 2000 and 2001, ICES scientists made the results of their preliminary assessments available to the Partnership at an early stage, allowing comments from fishers to be fed back to scientists. In 2002, 2003 and 2004 this process was extended by the Partnership employing independent scientists from outside Europe to review the ICES Working Group assessments of demersal stocks in the North Sea. Discussions took place between the Chairman of the ICES Working Group, the

independent scientists and members of the Partnership. Though these discussions did not lead to a consensus on the state of the fish stocks, they did lead to greater understanding of the problems of assessing fish stocks by all parties. Fishers were able to provide information on the way the fisheries were prosecuted, and in the case of one species, this resulted in a better understanding by scientists of the problems of assessing saithe, with adjustments being made to the assessment.

This process of reform has not yet gone far enough. In 2002 and 2003, the Partnership sought permission to attend, as observers, the meeting of ACFM, which produces the definitive advice on the fish stocks. Subsequently, at the ICES statutory meeting, some ICES delegates remained firmly opposed to the introduction of further transparency in the preparation of advice on the stocks. It was argued in support of the exclusion, that fishers would attempt to influence the assessments unfairly, and that fishers' representatives would be unable to keep silent about the conclusions of ACFM until the duly appointed date for releasing them. The European Commission and other regional management bodies advised by ICES have supported these arguments against the inclusion of fishers as observers. However, the Partnership has continued to seek observer status on ACFM, and in 2004 the ICES Secretariat permitted an observer from the Partnership to sit in on part of the ACFM deliberations. The exclusion of fishers from ACFM in the past has generated suspicion and distrust over the way the ACFM advice is arrived at. The future may well see a different approach.

Cooperation between fishers and scientists has also resulted in the development of an annual survey of fishers' views on the state of fish stocks in different parts of the North Sea. Since 2001, surveys have been jointly organised between the Partnership and Europêche, an organisation representing fishers' representative bodies. Questionnaires are sent out to fishers seeking their views on the state of the main North Sea stocks, and the results are then collated and presented to the appropriate ICES Working Group, to assist with preparation of the subsequent scientific advice.

In 2002, 2003 and 2004, the Partnership organised a joint Study Group on Fishers' Information with ICES. Discussions between fishers and scientists within the Study Group have been wide ranging, but several central themes and issues have emerged. Of particular importance and interest to all was agreement on the need to reform the management structure operating within the European Community. The fishing industry wished to be more closely involved in the decision-making process. The scientists wanted better and more accurate data, for example on actual catches, for stock assessments. It was not explicit in the discussions, but it became clear that it will only be possible to collect accurate landings data when trust and cooperation between fishers and scientists has improved. It has been emphasised that this will take time and good will on both sides. Positive action is required to take forward initiatives that bring fishers and scientists in contact and provide incentives for them to work constructively together. Common projects, and the funding to underpin these, were considered a good means of building up trust and understanding.

The Study Group recommended the development by ICES of generic documents, describing the principles of stock assessment, the methods for formulating management advice and the development of recommendations on TACs. It called for non-technical summaries of the state of each stock at the beginning of each stock assessment report and in each section of the ACFM report. It suggested that sea-going scientists should be

fully briefed on the outcomes of recent stock assessments and should communicate more effectively with fishers. It recommended that national meetings should be held between fisheries assessment scientists and the fishing industry to discuss the stock assessments. Data should be collected in collaboration with the fishing industry and joint strategies should be developed for improving data quality. ICES should use the most up-to-date information on catch and landings in assessments and stock projections. Working Groups should explicitly test alternative assessment models and modify their existing models. Information on major changes in fishing patterns should be provided by fishers for discussion with scientists before the stock assessments. Regional and/or stock specific project groups should be set up jointly by scientists and fishers to assist the stock assessments and improve their transparency. Greater use should be made of commercial Catch-per-Unit-Effort (CPUE) data in the assessments, and scientists and fishers should work together to evaluate survey strategy and design, and develop working procedures for joint abundance surveys, involving both fishing vessels and research vessels. Finally, the results of the North Sea Fishers' Survey should be more fully evaluated by scientists, and the results should be compared with those from other sources.

Fishers' organisations and fisheries research institutes from every country around the North Sea have committed themselves fully to the Partnership. Both ICES and the European Commission have sent representatives to meetings and have given their support. Interest in the work of the Partnership has been expressed by the Fisheries Committee of the European Parliament. The Ministerial Declaration of the Fifth International Conference on the Protection of the North Sea draws attention to the value of the work done by the Partnership.

In looking at the progress made by the Partnership, and the difficulties it has experienced, it is possible to identify some of the factors that have ensured its success. The partners themselves have had a common picture of the purpose of the Partnership, and how its aims can best be achieved. The individual partners have worked well together, and have developed a degree of mutual trust. Such trust can be especially difficult to sustain as both scientists and fishers have to defend their particular positions in other fora, and cannot always resist the temptation to criticise other parties outside Partnership meetings. There are problems with ensuring continuity of membership, and problems over the language used. Much work is sometimes necessary outside the formal meetings by the co-coordinators and facilitators to ensure that all views are taken into account. Funding opportunities have to be seized, and a great deal of administrative work and entrepreneurial skills exercised outside the actual Partnership meetings. However, realisation by all the parties involved that it is important to make progress, and to achieve consensus views on how to manage the North Sea fisheries, has acted as a stimulus for the work of the Partnership.

4.9 Regional Advisory Councils (RACs)

From the very beginning, discussions between scientists and fishers within the NSCFP focused on the suggestion that a fisheries management council should be established for the North Sea to provide a wide group of stakeholders with the opportunity to

participate in governance of the fisheries. This idea was not new, but followed a suggestion in the Green Paper on reform of the CFP (EC 2001b) that there was a need for greater stakeholder participation in fisheries management.

In its 'Roadmap' on the reform of the CFP (EC 2002a) the Commission indicated its wish to make decision-taking more effective and participative, by the establishment of Regional Advisory Councils for fisheries management (RACs). This initiative was subsequently taken forward in a new Regulation on the conservation and sustainable exploitation of fisheries resources under the CFP (EC 2002b). RACs are intended to ensure greater stakeholder involvement at the regional and local level. Interestingly, rather than the RACs consisting of appointed individuals reflecting different national and sectoral interests, membership is based upon organisations representing the fisheries sector and other interests. In this respect, the RACs will differ substantially from other regional management bodies

RACs will be able to:

- Submit suggestions, of their own accord or at the request of the Commission or a Member State, on matters relating to fisheries management to the Commission or the Member States concerned;
- Give an opinion on Commission or Member State proposals on conservation and management dealing with a fishery relevant for the region concerned;
- Comment on and recommend improvements in the implementation of the Community legislation in the region concerned;
- Conduct any other activities which are necessary to fulfil their functions.

Although the Commission and Member States will not be bound by the recommendations of the RACs, they will have to explain how they dealt with the opinions provided. It is very unlikely that the Commission would ignore a consensus opinion given by a competent RAC.

The procedures for establishing a RAC have been set out within a Decision from the Fisheries Council (EC 2003). A group of interested stakeholders may submit a proposal for a RAC to the concerned Member States, who may agree the proposal and then pass it to the Commission for implementation and funding. The North Sea Commission Fisheries Partnership has taken the lead in formulating a RAC proposal for the North Sea. The Partnership established a RAC Development Working Group, which included a wider range of stakeholders, including environmental organisations. Advice was sought from administrators from the Member States. The Partnership then produced a draft prospectus and rules of procedure for a North Sea RAC and forwarded this to the Commission and to the North Sea Member States. Progress has been rapid. Member States and the Commission have accepted the proposal prepared by the Partnership, and the North Sea RAC will shortly begin its work.

The specification for the RACs set out in the Council Decision has not entirely met with the approval of the potential participants. The role of the RACs is purely advisory, whereas fishers would like them to play a direct role in fisheries management. The design of the RACs laid down by the Commission is unduly restrictive, with the stakeholders carefully defined and even the number of participants tightly specified. Choosing the membership of the RAC is the responsibility of Member States, rather

than the RAC itself. Moreover, only limited funding has been allocated, and that funding is to be steadily reduced through the life of the RAC. There is a fear amongst fishers that too many environmental and other secondary stakeholders have been given membership of the RACs. On the other hand, environmental bodies do not like the fisheries sector being awarded two-thirds of the seats on the RAC. Nevertheless, the RACs represent an important step forward in involving stakeholders in providing advice on fisheries management.

The RACs also represent a first step towards introducing a regional element to the management of the fisheries of the EU. Previously, the Commission, greatly influenced by those Member States that benefit from the principle of open access embedded in the CFP, has resisted the introduction of regionally based fisheries management. Countries like Spain have been suspicious that regional management might exclude its wide-ranging fishing fleet from attaining effective rights to fish in areas like the North Sea. There are still sensitivities on this issue, and the definition of 'concerned Member States' for participation in a RAC is carefully phrased as 'a Member State having a fishing interest in the area or fisheries covered by a RAC'. This broad definition allows virtually any littoral Member State to participate in any of the RACs, thus partially undermining the regional element.

It is proposed by the Commission that a RAC should be established for each of the following areas:

- Baltic Sea;
- Mediterranean Sea;
- North Sea;
- North Western waters;
- South Western waters;
- Pelagic stocks;
- High seas/long distance fleet.

There is little interest in establishing a Mediterranean RAC, because of the preponderance of countries within that area which are not members of the EU and therefore ineligible to be members of a RAC.

Each RAC will consist of a large General Assembly, which will meet once per year, and a smaller Executive Committee, which will produce advice on behalf of the RAC. It is not yet clear how well each RAC will function. Large numbers of interested parties will be represented within the RACs, and there is the possibility that these will continue to act independently, resulting in a diversity of opinions rather than a strong consensus emerging. It will be important for the RACs to assume some of the characteristics of a partnership, with the participants assuming joint responsibility for the advice that emerges. If such a partnership can be achieved, then the RACs may make it possible to go beyond the narrow boundaries of the existing bureaucracy to establish new management bodies, which are both more inclusive and more effective than existing bodies.

4.10 Further devolution of management powers

Inevitably, there will be opposition within the EU to any further handing down of management powers and responsibilities to stakeholders, who may be seen by some as the unelected representatives of special interest groups. Opponents will argue that members of fishing communities are already adequately represented within the EU through their democratically elected representatives, either within their Member States or through the European Parliament. Further devolution would surely require evidence of a democratic deficit. I would argue that there is such a deficit. First, elected representatives on the European Parliament play no direct role in the management of fisheries. Neither the Parliament nor its Fisheries Committee are able to initiate legislation or to introduce fisheries management measures. Their role is restricted to commenting on proposals coming from the Commission and Council. Second, the Commission, which in practice has proved to be the most influential force in fisheries management, is not elected and is responsible only to a college of unelected Commissioners. Although, through the Council of Ministers, it is possible for the Ministers of Member States to influence decisions, the process is one of haggling and trade-offs. The key meetings of the Council are accompanied by furious lobbying by fishers and other interests, a process that is both expensive and unseemly. There is indeed a democratic deficit.

It is now important to widen consultation and to take stakeholders' views into account in many areas of decision-taking by the EU. Stakeholders cannot take over the roles of politicians and civil servants, but they do have an important contribution to make within a more participatory system of governance. In the area of fisheries management, there is a strong case for allowing stakeholders to participate directly in decision-taking. At present, the Commission and Council of Ministers are required to take short and long-term management decisions, which will have immediate effects upon fishers and upon fishing communities. They are doing so informed only by the narrow and unrepresentative advice provided by ICES and STECF. Advice is lacking on the wider economic and social perspectives, and on the impact of management measures upon the operation of the fishing fleets. Those affected by the decisions are not part of the process, leading, as we have seen, to a disinclination to follow instructions. There is no sense of ownership of the decisions taken.

The Commission also lacks advice on the ecosystem implications of the fisheries management measures they adopt. Environmental scientists and ecologists are poorly represented on the scientific advisory bodies, and stakeholders with an interest in conservation and the environment are not involved in management. More widely, the onshore industries dependent upon fishing, like boat builders, net makers, fish buyers and fish processors, also need to have their say. Consumers of fish also have a valid stake in the management of the fisheries. In these circumstances, there is a clear case for involving all the stakeholders to a much greater extent, both in terms of seeking their technical help and advice, and in terms of giving them some responsibility for taking decisions.

It is not yet certain how the proposed RACs will contribute in practice to improvements in the governance of fisheries. Some stakeholders wish to see the RACs as powerful bodies with a wide mandate, able to participate directly in the regulation of the fisheries. Others believe that there will be strong constraints placed upon their role, and that they

may simply provide advice on technical matters. Much will depend upon the abilities of the participants to work together.

Involving stakeholders more fully in fisheries management will bring its own problems. There may be difficulties in obtaining adequate representation of particular stakeholders. There will be inevitable difficulties in reconciling opposing views, and consideration will have to be given to ways of promoting trust and achieving consensus. New mechanisms will need to be developed for doing this: the establishment of RACs is only the first step towards achieving a more participatory form of governance.

4.11 Conclusion

The complexity of the current problems in fisheries management means that many organisations and individuals must be involved in their resolution. There is a particular role for partnerships in resolving the current difficulties. Eventually, fisheries management will have to move away from the traditional hierarchical command-and-control form of decision-taking towards a more collective approach in which tasks and information are shared openly. In particular, stakeholders must be allowed and encouraged to participate in decision-taking and to assume ownership of the system of management. This involves a significant change of working culture on the part of all those involved, including scientists and other technical experts, administrators, fishers, representatives of other industries dependent upon fishing, environmental interests and consumers.

The trend towards public questioning of management decisions should be seen as a positive development by managers and those who advise them. It will provide new opportunities, and also new forms of responsibility, which require discussion and development. Indeed, by introducing new systems for managing fisheries the Community may be developing new, more participatory forms of governance, which can be applied elsewhere in other, more important, contexts.

References

Anderson, E (ed) (2002) '100 years of science under ICES' *ICES Marine Science Symposia* 215

EC [European Community] (2001a) *European Governance*, A White Paper COM (2001) 428, Brussels, European Commission

EC [European Community] (2001b) *The Future of the Common Fisheries Policy*, A Green Paper COM (2001) 135, Brussels, European Commission

EC [European Community] (2002a) *Communication from the Commission on the Reform of the Common Fisheries Policy* ('Roadmap'), COM (2002) 181, Brussels, European Commission

EC [European Community] (2002b) Council Regulation (EC) No 2371/2002 of 20 December 2002 on 'the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy' *Official Journal of the European Communities*, L 358/59 31.12.2002, European Commission

EC [European Community] (2003) *Proposal for a Council Decision establishing Regional Advisory Councils under the Common Fisheries Policy*, COM (2003) 607 final, Brussels, European Commission

EC [European Community] (2004) *Draft Treaty Establishing a Constitution for Europe,* Conference of the Representatives of the Governments of the Member States, CIG 86/04, Brussels, European Commission

Midgley, M (2001) *Science and Poetry,* London, Routledge

Symes, D, Steins, N and Alegret, J-L (2003) 'Experiences with fisheries co-management in Europe' in DC Wilson, JR Nielson and P Degnbol (eds) *The Fisheries Co-Management Experience,* Dordrecht, Kluwer