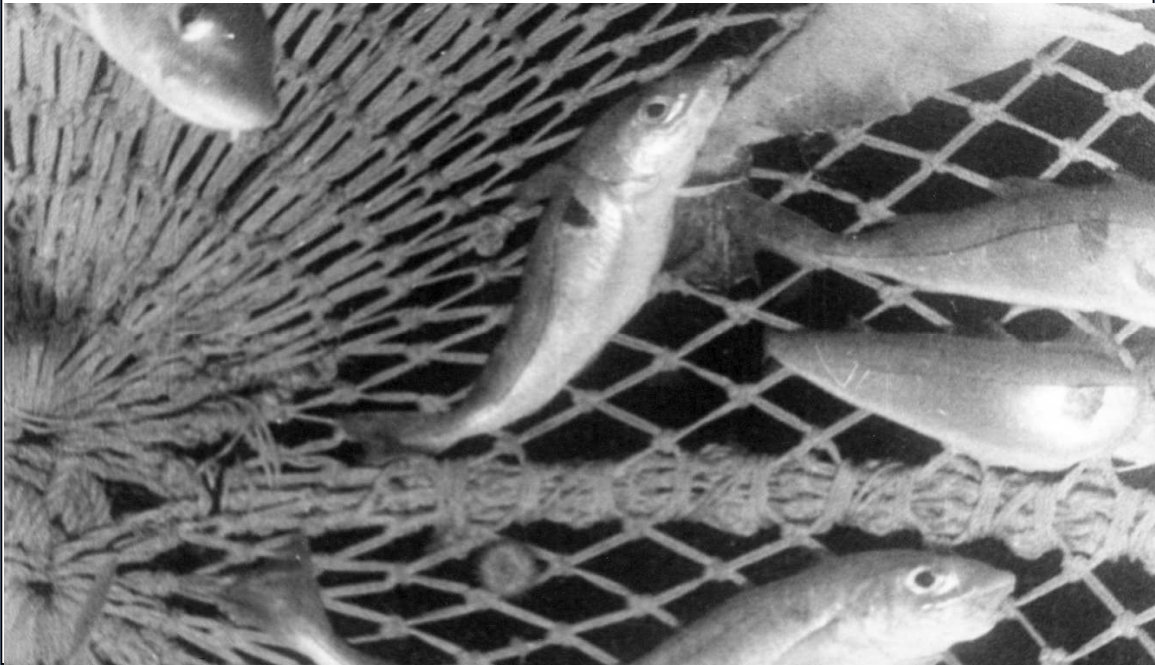


# **CONFERENCE ON CONTROL & COMPLIANCE**

**Organised by**

**The North Sea Regional Advisory Council  
The Scottish Government  
The Community Fisheries Control Agency**

**Peterhead  
21<sup>st</sup> and 22<sup>nd</sup> February 2008**



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## **Executive Summary**

1. A Conference was organised by the North Sea Regional Advisory Council (NSRAC), the Scottish Government and the new Community Fisheries Control Agency (CFCA) to discuss and debate control and compliance within the Common Fisheries Policy (CFP). In setting-up the Regional Advisory Councils (RACs) the European Commission had recognised that stakeholders should engage in discussion of key aspects of fisheries management. This meeting took an important step in that direction by offering stakeholders the opportunity to discuss with the Commission and others how a culture of compliance could be achieved.
2. Commissioner Joe Borg emphasised that improving control and compliance was now the highest priority for the Commission. Control had to be strengthened to make it fit to deliver the core goal of the Common Fisheries Policy; a sustainable European fishing industry. If we did not act now we would see the continuation of the vicious circle of false catch declarations, leading to weak scientific assessments, leading to poor advice, resulting in lower respect for the rules, leading to unsustainable fisheries, ending up with loss of jobs in coastal areas and putting the whole CFP into question. The Commission would be proposing to Member States that enforcement had to be more effective, whether it was sea-based or land-based. Moreover, sanctions need to be properly applied to deter misbehaviour and reassure honest fishermen that all was well. Commissioner Borg described how the public were being consulted on a new Control Regulation which was intended to put things right. A meeting with stakeholders would be held by the end of April 2008 and that would lead to a proposal for a new Council Regulation in October. In discussion, Commissioner Borg underlined that the different fishing fleets all expected a level playing field.

3. Mary McAllan said that improving compliance went to the core of the CFP. She described how one country, Scotland, had established a new management framework for improving control and compliance. In emphasising that control is the key to delivery she said it was very important that fishers observed the regulations but that was not enough in itself. Seeking common purpose and shared goals had proved critical. The industry was made up of many small businesses sharing a common resource. Improving compliance could only be achieved through mutual respect and genuine dialogue. Compliance had to become the normal way of doing business with a strong element of trust in all transactions between fishers and fishery managers. Those fishing legitimately had to be assured that the few breaking the rules would be identified and dealt with effectively. In the ensuing discussion Mary emphasised that in preparing its new control regulation the Commission needed to be aware that dialogue with industry was a necessary part of achieving a culture of compliance.
  
4. Xavier Vázquez outlined the main problems of control in the North Sea from the Commission's standpoint. In addition to the report from the European Court of Auditors the Commission's own analysis had identified problems with the transport of fish; an absence of respect for technical measures; deficiencies in the systems of control in Member States; and problems over the provision of sanctions against those failing to comply with the regulations. The key proposals coming forward from the Commission on control and compliance were:
  - Harmonisation in the preparation of legal texts, their interpretation, and the definition of a standard methodology
  - Simplification of the rules and procedures, including administrative sanctions
  - Strengthened cooperation and assistance;
  - Better, more cost effective controls;
  - Development of a culture of compliance;
  - Greater use of modern technologies.

One current problem was that the control rules were being interpreted differently. Some Member States had still not complied with the long established measures for cod recovery. There were differences in inspection quality across Member States which could perhaps only be resolved by applying standard inspection procedures.

5. Johán Williams, Director General of the Norwegian Department of Marine Resources and Environment, said that fishing provides economic opportunities and we should not forget that. The challenge for fisheries management was to strike a balance between fishing and damage to fish stocks and ecosystems. He went on to consider the role of closed areas in protecting marine biodiversity and vulnerable marine ecosystems. His colleague Bjarne Schultz described measures taken in the Barents Sea to avoid the capture of juvenile fish. There were particular difficulties in ensuring compliance with

area closures. Much of the time of the Norwegian Surveillance Service was spent creating trust between inspectors and fishermen.

6. Harm Koster described the role of the new Community Fisheries Control Agency. The agency had been set up to help Member States work together to contribute to a level playing field in control and compliance. Resources would be pooled, information would be exchanged, and Member States would be encouraged to co-operate with each other and with third countries. There would be operational coordination of controls and inspections by Member States. Resources like protection vessels would work together through joint deployment plans. The Agency would promote the harmonised application of rules. Harm Koster emphasised the role that RACs could play in simplifying the regulations. We had to cooperate with one another to create a culture of compliance. Only by working with those being regulated could we achieve regulations and policies which were fit for their purpose.
7. Several stakeholders presented their views on '*reality, then and now*'. Cephas Ralph, Director of Operations at the Scottish Fisheries Protection Agency, described how, by matching expected landings to observed landings it had been possible to see the scale of the problem of non-compliance and obtain the resources to take effective action. Illegal marketing of fish could quickly overtake all efforts to control it. The drivers for change had been:
  - Reduced fleet capacity
  - Legitimate quota trading
  - Tamper proof VMS
  - Highly targeted enforcement
  - Requirement for buyers to account for fish
  - Consumer concerns over sustainability
  - Accreditation
  - Peer pressure
8. John Buchan, Skipper of the MV '*Fairline*' presented a fisherman's viewpoint. The industry had gone through a dramatic period, caused by over-capacity. Fishermen had been forced into illegal fishing by instability, lower quotas and poor financial conditions within the fishery. Policies were required to prevent that ever happening again by ensuring that fishing was economically sustainable. Achieving a level playing field was especially important. Fishermen had to compete on equal terms.
9. Danny Couper, of Couper Seafoods, was a fish processor. He was concerned at the direction the CFP had taken. There had been an inability on the part of the administration to find a management strategy which would ensure the right balance between the exploitation of fish stocks and their preservation. There had also been an inability to establish objective criteria for national rights of access to marine resources.

The result had been factories closing and loss of skilled labour in the industry despite order books being full. Circumstances had now changed for the better in Scotland. The introduction of sellers and buyers legislation had brought improvements in compliance. Decommissioning had taken place and curtailments in days at sea had reduced fishing effort. There was increasing recognition that management should be devolved to particular geographic areas. Fishermen had now changed from hunters to harvesters and they were working hard towards sustaining the fish stocks and accepting responsibility for their actions. Here in the North Sea we had some of the finest seafood resources in the world. Processors, standing between the catcher and the retailer, must be able to sustain their costs and overheads if they were to achieve their aim of producing high quality affordable products.

10. Pim Visser, President of the European Association of Fishing Ports and Auctions, stressed that ports and fish auctions played an important role in ensuring fair and open prices for fish within a secure and properly regulated hygienic environment. They offered the first link between ships and the shore. The auctions were the focus for the registration of fish quantities and the recording of transactions. They also provided a link to traceability; which had the potential to lead to much greater compliance by fishermen. The EU must seriously level the playing field and join forces to bring all Member States to an acceptable level of compliance. Measures to resolve illegal, unreported and unregulated fisheries had a proven and positive effect on prices in the marketplace. The role of the auctions should be explicit in a revised Control Regulation. The Commission needed the help of fishers, processors, and ports & auctions to take control and compliance forward and solve the outstanding problems.
11. The meeting had broken up into three workshops. These had provided a valuable input on:
  - ***The introduction of real-time area closures.*** Real time closures needed to be part of a tool box of pre-agreed measures. The closures should not exceed what was necessary to protect the vulnerable stocks. All Member States with fishing interests within a zone should speak to one another and become involved in closure measures.
  - ***Technical measures.*** Technical measures had to be made more practical, understandable and effective. There had to be better understanding and therefore response to serious offences. It was important in developing new measures to ensure that experts, including fishers themselves, were involved, leading to better quality legislation, buy-in to the measures, a higher rate of compliance and hence greater effectiveness. The RACs offered a forum which could bring together the right expertise.

- ***Influencing behaviour.*** A culture of compliance could best be attained by involving fishermen and inspectors in the design of more sensible rules and regulations. We could live with less tailored measures provided they were practical, applicable and enforceable. It was important to understand that compliance was linked to the profitability of the fleet. It was necessary to bring the fleet into balance with fish resources and create stability in providing fishing opportunities.
12. The views of the different sectors on control and compliance were presented. The message from Alan Coghill, of Orkney Fisheries Association, was that the Commission should listen to fishermen, not only over the state of fish stocks, but also when framing regulations. Here in Scotland fishermen were enjoying working with officials to make fisheries management a success. They would like to have a similar relationship with the Commission. The involvement of fishermen at the planning stage of any new regulation was important.
  13. Guus Pastoor, President of the The European Fish Processors' Association, emphasised the need for control both at the beginning and end of the supply chain. We had to monitor trans-shipments of fish, and we should be seeking certification of fish supplies. However, certification should be kept simple and cost-effective. We should avoid creating barriers to trade, and we should be concentrating on the areas of highest risk.
  14. Jan Willem Wijnstroom, of the European Anglers' Association, said that this joint initiative of the NSRAC and the Scottish Government had proved the importance of stakeholder involvement in fisheries management as well as in control and compliance. He noted that overcapacity was the root cause of much non-compliance. The overhaul of the CFP Control Regulation was the Commission's number one priority for 2008. The action points referred to by Commissioner Borg in his keynote speech needed maximum support from all those involved in the CFP. Jan Willem pointed out that the NGOs had strongly supported fishermen's initiatives in implementing voluntary closures to protect spawning and juvenile cod. They thought that reduction of discards should be given priority but recognised that there was no quick and easy fix for achieving this.
  15. Karsten Hoydal, of the North East Atlantic Fisheries Commission, emphasised that measures to improve control and compliance had to involve the fishing industry, and not just the capture sector but all sectors. In general, systems which did not have the support of industry did not work.
  16. Harm Koster of the Community Fisheries Control Agency thought that this conference was the start of working together to improve the culture of compliance. We should now try to define shared goals. We should be seeking incentives to improve compliance at all levels of the industry.

17. Ian Hudghton, a Member of the European Parliament, noted that the report of the European Court of Auditors had highlighted failures in control and compliance. The CFP had not been a shining example of success and if we were to go forward we had to provide incentives for fishermen to comply with the regulations. There were two important aspects; the greater involvement of stakeholders and the adoption of a more regional approach. We also needed to clarify the objectives of the CFP.
18. In summing up the conference Ichiro Nomura, Assistant Director General of the UN Food and Agriculture Organisation (FAO), commented that the current control and compliance system within the EU was not reliable, not being supported and not very effective. The conference had supported the proposal of the Commission to develop a new Control Regulation and to move towards a new culture of compliance following the establishment of the new Community Fisheries Control Agency. It was also clear that the conference wished stakeholders to participate more fully in the decisions to be taken on control and compliance. The conference had shared the view that a full culture of compliance could only be nurtured through mutual trust. It had emerged that there was a general wish for stock assessments to be improved and for mutual agreement to be reached on the state of stocks. Fishers often had important additional information, which should be used.
19. In reviewing the outcome of the conference, Anthony Hawkins, of the North Sea Regional Advisory Council, said that much stress had been placed on the need for a level playing field; for a greater sense of ownership; and for more dialogue to remove the barriers which were preventing greater compliance from being achieved. It had been emphasised repeatedly that the problems could only be solved through collaboration and engagement of all the interested parties. There had also been strong support for the concept of rewarding behaviour through pilot projects. It was evident that there are many different ways of achieving better compliance:
  - Clearer, simpler rules, with provision for swiftly dealing with any anomalies. Complexity was a drag on both businesses and administrations.
  - More incentives for fishers to comply with the regulations. The use of carrots as well as sticks. Testing through pilot projects.
  - More effective use of technology. Greater use of VMS and electronic log-books would make things simpler. Catch comparisons and the use of 'intelligence' would help root out offenders.
  - Certification and better traceability could play an important role. Consumers' views were important and influential.
  - Higher quality, more responsive and up-to-date science was crucial. The stock assessments needed to be validated by fishers, and fishers needed to be involved to a much greater extent in the provision of information on the stocks.
  - A prosperous and economically sustainable fishing industry, with the right balance between fishing capacity and the size of the resource, was essential if

there was to be strong compliance. Fishers and processors must be in a position to make a profit.

- There had to be equity of treatment across Member States and beyond. Any perception that the system was unfair would create problems with compliance.

One recurring theme had been the need for stronger dialogue between all the interested parties. For too long, fishers, processors, fishery managers and the enforcers had kept themselves at arms' length from one another. The Regional Advisory Councils had already shown the benefits of working together. The complete turn-around of control and compliance in Scotland had confirmed the benefits of all parties sitting down together to resolve their problems. The Commission now had to move forward. It had to turn away from its command and control approach and start engaging with stakeholders. A second recurring theme had been the need for a level playing field. There had to be a transparency of approach by the Commission, a willingness to deal with offending Member States and deliver equality of treatment. The European Court of Auditors and the Commission itself had shown that it was possible to measure compliance. Those breaking the rules could and had been identified. It was now time to take action.

20. In closing the conference, Hugo Andersson, Chairman of the North Sea Regional Advisory Council (NSRAC) pointed out that this was the first time we had gathered together to discuss control and compliance. It was the beginning of a debate not the end. The Commission, the CFCA, Member State Enforcers and Stakeholders needed to develop the new Control Regulations together, not in isolation. He thanked all those that had taken part.

# **CONFERENCE ON CONTROL & COMPLIANCE**

## **Proceedings of the Conference**

### **Welcome**

#### **Hugo Andersson, Chairman of the North Sea RAC**

Hugo Andersson opened the Conference on Control and Compliance. He welcomed all those attending and introduced Commissioner Joe Borg, who would give the keynote speech and Ichiro Nomura from FAO, who would act as Moderator.

The Conference had been organised by the North Sea Regional Advisory Council (NSRAC), the Scottish Government and the new Community Fisheries Control Agency (CFCA). Control and compliance were not usually discussed at conferences like this, but they were an important aspect of the Common Fisheries Policy and deserved closer discussion and debate. He looked forward to stakeholders playing an important role in the conference.

### **Keynote Speech**

#### **Commissioner Joe Borg, EU Commission Fisheries and Maritime Affairs**

Commissioner Borg thanked the North Sea Regional Advisory Committee, the Scottish Government and the CFCA for organising the Conference. This was a timely moment. Only last week he had met with the Ministers of Member States to discuss control and compliance and the topic would be the highest priority for the Commission during 2008. In November, the European Court of Auditors had produced a Special Report on fishing in Community waters. Its key findings had been that catch data were unreliable, inspections were of limited effectiveness, systems for following up infringements and imposing sanctions had often been inappropriate; all this in the context of fleet overcapacity which jeopardised compliance with the rules.

The Commission itself had carried out its own analysis of data from some Member States. The analysis revealed that VMS<sup>1</sup> equipment was being tampered with, with no follow up by some Member States. There was systematic under-declaration of catches affecting the reliability of catch registration. In some cases there were few cross-checks on the data resulting in false catch declarations being sent to the Commission. The current control system was not reliable. If we did not act now we would continue the vicious circle of false catch declarations, leading to weak scientific assessments, leading to poor advice, resulting in lower respect for the rules, leading to unsustainable fisheries, ending up with loss of jobs in coastal areas and putting the whole CFP into question.

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<sup>1</sup> Vessel Monitoring Systems (VMS) provide up to date and accurate knowledge of the movements of fishing vessels

A new policy framework was required which would be:

- Simplified
- Harmonised
- Cost effective
- Able to promote a culture of compliance
- Capable of ensuring controllability and traceability

The Commission's new objectives would be to:

1. Develop a new approach towards inspection and control
2. Rationalise and standardise rules
3. Reinforce the capacity of Commission to ensure compliance with the rules
4. Introduce harmonised and deterrent sanctions
5. Strengthen co-operation and assistance
6. Develop a culture of compliance
7. Use modern technologies
8. Increase cost effectiveness
9. Broaden the mandate of the Control Agency

The role of Member States would be to:

- Direct control and inspection
- Improve data collection and the data bases
- Reduce the operational cost of control: with more shore inspection and cross checking methods
- Develop a culture of compliance
- Increase sanctions

In the medium term the Commission would launch a reform of control policy, establish a task force on control policy, organise meetings with control experts from Member States and adopt a Commission proposal in October 2008.

In the short term the Commission would seek to improve the VMS system, implement electronic logbooks, improve the Member States' and Commission data bases, start a generalisation of cross-checking methods and harmonise the level of sanctions.

The CFCA would:

- Ensure uniform and effective application of the CFP rules
- Contribute to a level playing field in Community fisheries
- Promote a culture of compliance
- Combat illegal, unreported and unregulated (IUU) fishing

During 2008, the CFCA would coordinate control and inspection activities on:

- Blue-fin tuna fishing
- Cod fishing in the Baltic Sea
- Cod fishing in North Sea area

- NAFO<sup>2</sup> fisheries
- Provide technical assistance to combat IUU fishing

A conference organised by the Baltic Sea RAC had already contributed to a greater understanding of control and compliance problems there.

The involvement of the RACs would enable the Commission to look at local and regional realities. We had no time to lose. We had a lot to do, and the Commission would be relying on the support of stakeholders.

*In response to questions on the current lack of equality in enforcement Commissioner Borg underlined that the different industries all expected a level playing field. Discrepancies created difficulties. We should all behave as we expect others to behave. The Commission will be proposing to Member States that enforcement has to be effective, whether it is sea-based or land-based. Moreover, sanctions needed to be properly applied to deter misbehaviour and to reassure honest fishermen that all was well. Fairness was important not just within the EU but also in relation to IUU fishing wherever it took place. One area where RACs could have an input would be in the setting up of pilot projects where we could reward those who fished as they should.*

## **Scene Setting**

### **Ichiro Nomura, Assistant Director General UN Food and Agriculture Organisation (FAO)**

Ichiro Nomura had been delighted to be asked to act as moderator for this conference on control and compliance. This was not the first time he had visited Scotland. He recalled from his notes at a previous conference in Shetland that there had been unanimous disagreement and frustration with the application of the CFP in North Atlantic waters. It had come as no surprise that the North Sea RAC was the first RAC to be established. He hoped, however, that by the end of the conference we would have helped to promote the ‘culture of compliance’ mentioned by Commissioner Borg. We should have a better idea of what that culture meant and how we could achieve it.

## **Building a Culture of Compliance**

### **Mary McAllan, Scottish Government Marine Directorate**

Mary McAllan was pleased that control and compliance was now at the top of the Commission’s agenda, and that this conference with the RACs was taking place. The Scottish Government was very supportive of the RACs and welcomed RAC members to Peterhead. Responsibility for fisheries in the UK was devolved. The Scottish Government was responsible for fisheries controls within one of the largest zones in Europe. It had the

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<sup>2</sup>The fisheries regulated by NAFO take place in the portion of the NAFO Convention Area outside the coastal 200 mile Exclusive Economic Zones (EEZ). NAFO manages most of the offshore fishery resources of the Northwest Atlantic.

same control responsibilities as Member States in the sense of having to meet all community legal obligations in our role as CFP regulators. The culture of the Scottish Seafood Industry was not homogeneous; the industry was made up of different sectors and fleets operating beside one another. The industry was not uniform in its approach to compliance and even when compliance problems had been at their height there had still been many fishers who stayed within the rules. However there was one common feature; the industry was made up of many small businesses sharing a common resource. Compliance was a choice. The challenge was to find ways to encourage the right choice.

Until July 2005 there had been a real problem with black fish landings in Scotland. We had recognised that compliance was wider than black landings, even in a technical sense, but illegal landings were a particular difficulty. They undermined both the legitimacy of the regime itself and the economics of the industry within and across Member States. A package of approaches had been needed to make progress and tackle the problem.

The seafood sector was important to Scotland both economically and socially. Our vision was an industry characterised by a virtuous self-reinforcing cycle of sustainability, supporting long term profitability and underpinned by good management. We wanted to work with all interested parties to create the conditions for improved stocks, better economic returns and simplified but effective management. We needed to make the industry more attractive to young people and to create both private and public or social value. Overall, we wanted to work with the industry to deliver the prospect of a better future.

At first, we wanted to tackle control and we wanted to move forward on stock conservation and improving profitability; but we also recognised the need to improve stakeholder relationships as a precondition of progress. All stakeholders were very much involved in identifying and driving priorities.

A new management framework had been put in place since the coming into office of the new Scottish Government in May 2007. At the centre of the new framework was a Scottish Fisheries Council. What we had now was closer to co-management. The Council brought together all of the key interests, from the catching sector across the supply chain to processors and retailers. It included non-governmental organisations and conservation advisers to Government such as Scottish Natural Heritage, government and industry economic development bodies such as Seafood Scotland, the Seafish Industry Authority, Scottish Enterprise and Local Authorities, the banks and industry financiers, the Scottish Fisheries Protection Agency and Scottish Government Marine Directorate officials.

Compliance monitoring and control was a priority. We had increased the level of resource dedicated to enforcement. Risk assessment was built into the day to day approach of the Scottish Fisheries Protection Agency (SFPA), so that resources were targeted where they were needed most. VMS has been developed to world leading standards. Controls across the land sea interface were routine. SFPA colleagues had applied these tools and techniques in various types of investigatory activity. We were not complacent but we believed that our compliance monitoring and control strategies now reached best practice. We had complemented this by maintaining dialogue with the whole industry; working with them to develop inspection protocols for factories or in welcoming the Seafish Industry Authority sponsored 'Responsible Fishing Scheme'; awarded to those who could demonstrate continuous good practice in respecting control requirements. The SFPA had also stepped up

efforts to explain its approach and methodologies to the industry in Scotland through road shows and through briefings to Scottish Fisheries Council working groups.

We had also looked at the industry's attitude to compliance as a complement to the work on technical control. A survey had been carried out by social researchers between September and October of 2006. More than 600 working fishermen and processors were interviewed. The findings were that awareness and understanding of regulations was generally high; lack of understanding was not a primary barrier to compliance. The reasons for non compliance cited were economic, unwillingness to discard, over-complicated regulations and lack of a level playing field with fishermen elsewhere in Europe. There was agreement that levels of compliance were much higher than they were 5 years ago and pragmatic acceptance that regulation was necessary.

There was a lack of understanding about the role of science. This was a concern because science is so critical to the whole management regime. Our aim was now to develop partnerships between fisheries scientists and fishermen at the operational and strategic levels, with greater stakeholder involvement in the process of turning scientific data into management decisions. Other initiatives included a science industry partnership which encouraged joint working between scientists and industry on scientific studies.

On the economic front, two earlier and very painful rounds of decommissioning had brought fishing opportunities broadly into line with stock levels. Following the registration of buyers and sellers the price for whitefish had risen. Significant work by the industry had improved the quality of landings. There had been a focus on achieving added value and joining up the supply chain. One of the most interesting developments was a growing focus on traceability and accreditation by the industry. Almost half the stocks fished in Scottish waters were now being assessed for accreditation by the MSC<sup>3</sup>. Branding initiatives at vessel level were also beginning to emerge. Taken together these developments meant that good management practice was now part of business planning. Compliance was no longer just a factor in fisheries control. It was now an essential part of normal business practice.

The Scottish industry had demonstrated considerable foresight. It was clearly determined that Scottish seafood would take its rightful place as part of Scotland's high quality offering to the world food market place.

Our next step would be to maintain the effectiveness of control. Those fishing legitimately could be assured that the few breaking the rules would be identified and dealt with effectively. This was absolutely essential not just because of our legal obligations under the Common Fisheries Policy, but also to ensure the system had legitimacy in the eyes of those affected by it. Buy-in was hugely important. It was also important to stress the benefits of compliance in other ways. Scotland had been particularly affected by cod recovery. Challenging issues arose when mixed fisheries took place on stocks of differing abundance. Discarding took place - which the industry in Scotland found morally unacceptable. This had led to industry demands to tackle cod avoidance and a willingness to work closely with Government to achieve this. That was why in close collaboration with the catching sector we had introduced real time area closures. One of the most interesting aspects of this from a compliance perspective was that the industry was avoiding the various closed areas on a

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<sup>3</sup>The Marine Stewardship Council (MSC) is an independent non-profit organisation that promotes responsible fishing practices.

voluntary basis. The Scottish Fisheries Protection Agency was very much involved in establishing those closed areas and observing activity but the closures were also to a large extent about self policing and harnessing the power of peer pressure.

The importance of achieving a level playing field within and between Member States was self evident. We believed this was now established in Scotland but we were less sure that this was the case across Europe. Disaffection with the regulatory framework and a feeling of injustice had the power to undermine everything that had been achieved. The Scottish Government was determined to do all it could to see this issue tackled decisively.

In Scotland we had tried to develop a new management framework for improving control, building up the role of science and ensuring profitability of the industry. Common purpose and shared goals were critical. There must be scope for flexibility and adaptation which could take account of local circumstances. Building a culture of compliance was a journey not a destination. It involved shared purpose, mutual respect and genuine dialogue.

*In the discussion following the presentation by Mary McAllan it was pointed out that closer contact with the industry in Scotland had already brought great improvements in compliance. The Commission needed to be aware in preparing its new control regulation that dialogue with industry was a necessary part of achieving a culture of compliance. Development also needed to take place on a local level or regional level. Commissioner Borg replied to this challenge to the Commission by drawing a distinction between fisheries management and control. Fisheries management had to be tailor made to meet local conditions. One size did not fit all. For this reason the Directorate General of Fisheries and Maritime Affairs was being reorganised on a regional basis, with directorates for the different regional seas. On control, however, a level playing field was especially important. There should not be different standards in different areas. A common approach was needed.*

## **Review of Technical Control Measures**

### **Francisco-Xavier Vázquez Alvarez, EU Commission**

Xavier Vázquez outlined the main problems of control in the North Sea from the Commission's standpoint. There were problems of a general nature that the North Sea fisheries shared with fisheries in other areas. There were particular problems related to the implementation of cod recovery and other effort management schemes in the area. There were specific problems linked to protected areas, especially concerning the current definition of management areas and the future network of protected areas under Natura 2000. Finally there were initiatives being taken with respect to discards and real-time area closures.

The more general problems had been identified from the Commission's own analysis, carried out before the Special Report of the Court of Auditors had been published. The problems identified concerned the transport of fish; an absence of respect for technical measures, particularly use of attachments to nets; deficiencies in the systems of control in various Member States bordering the North Sea; and problems over the provision of sanctions against those failing to comply with the regulations. A new technical measures regulation was being prepared. It would not consist of a complex series of specific regulations, as in the past.

Rather, it would lay down an overall framework, outlining the main principles, within which regional solutions could be sought.

There were a number of specific problems related to cod recovery. Effort displacement had taken place and could be increasing effort upon cod. Effort management was a problem. Transfers of effort were taking place. There was a lack of balance between effort and quotas, with quota being left over as a result of effort restrictions. The control rules were being interpreted differently - some Member States had still not developed rules for conforming to the long established measures for cod recovery. Finally, there were differences in inspection quality across Member States which could perhaps be resolved by preparing standard inspection procedures for fisheries where a stock was subject to a recovery plan or multi-annual management plan.

Protected areas in the North Sea would require special arrangements. The methods for management of protected areas remained to be defined. There would need to be rules of access. The future network of Natura 2000 zones might pose special difficulties.

On discards, there might be a progressive reduction of discards which would require parameters to define progressive measures. A start might be made with pilot fisheries. The plaice and sole beam trawl fishery might be a suitable one to serve as a pilot. One problem was deciding what to do with the fish which are not to be discarded.

With real-time closures we needed to decide how to implement the closures. Measures would need to be proportional and non-discriminatory. Unless there was agreement between all the Member States fishing in an area it might be difficult to implement such closures from a legal point of view.

The key ideas coming forward on control and compliance were:

- Harmonisation in the preparation of legal texts, their interpretation, and the definition of a standard methodology
- Simplification of the rules and procedures, including administrative sanctions
- Better control, which was less expensive and more focused
- More control?

The Commission would be produce a proposal for a new common fisheries policy control Regulation during the second half of 2008.

*During the subsequent discussion Señor Vázquez was asked where the suggestion that the plaice and sole beam trawl fishery should become a pilot fishery for a discard ban had come from. Dutch fishers' representatives had recently discussed progress in reducing discards with the Commission but the Commission had not announced that it was singling out the fishery for a discard ban. In reply Sr Vázquez said that the beam trawl fishery was simply a candidate as a pilot fishery for a reduction of discards. Several other fisheries were also being considered including the mackerel fishery to the west of Scotland and the hake fishery in the Mediterranean. No firm decision had yet been taken. Nathalie Steins, of the Dutch Fish Products Board, who had put the question, hoped that the Commission would consult those engaged in the candidate fisheries before the final decision was taken.*

*Fred Normandale, of the National Federation of Fishermen's Organisations, pointed out that in addition to the mismatch between effort allocations and quotas observed by Sr Vázquez there was also a misbalance between scientists' stock assessments and the actual state of the stocks. The assessments were often seriously out of date, and there was a need to involve fishermen much more in the design and preparation of the assessments. Sr Vázquez said that the Commission drew on two sources of advice: ICES<sup>4</sup> and STECF<sup>5</sup>. The advice was the best that the Commission could obtain. In addition, any decisions taken by the Commission had to go to the Fisheries Council. Mr Normandale responded that the assessments of cod in the North Sea were just not good enough and until the assessments were properly carried out the industry would not agree with the quotas being set.*

*A French fisherman was concerned about the low margin of tolerance in measuring fish quantities. There had to be room for errors in measurements. Young fishermen, in particular, did not always understand the complex regulations and were being harshly penalised for very small errors. Xavier Vázquez replied that control was the responsibility of the Member States, and that any criticism should be directed towards them. The Commission was seeking to harmonise the interpretation of the rules of inspection so that the same standards were applied in all Member States.*

*Niels Wichmann of the Danish Fishermen's Association drew attention to the mismatch between quotas and effort under the cod recovery plan. Although division of the quotas was done within Member States the effort allocations were made by the 27 Member States. Why had there been such problems in allocating effort appropriately? Sr Vázquez believed that some Member States had not calculated effort correctly. In addition, there were several cod recovery zones and transferring effort between them was complex.*

## **Closed Areas or Marine Protected Areas**

**Johán H. Williams, Director General, Department of Marine Resources and Environment, Norway**

Johán Williams began by pointing out that the main objectives of the management of deep sea fisheries<sup>6</sup> were 'to promote responsible fisheries that *provide economic opportunities* .....'. We should not forget that fishing does provide economic opportunities.

Priority was currently being given both to protecting marine biodiversity and to protecting vulnerable marine ecosystems. 'Marine and Coastal Protected Area' meant any confined area within or adjacent to the marine environment, together with its overlying waters and associated flora, fauna and historical features, which had been reserved by legislation or other effective means, including custom, with the effect that its marine and/or coastal biodiversity enjoyed a higher level of protection than its surroundings. NGOs had been calling for added protection for some time, and the United Nations General Assembly had called upon States to

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<sup>4</sup>The International Council for the Exploration of the Sea (ICES) is an intergovernmental organisation concerned with marine and fisheries science.

<sup>5</sup>The Scientific, Technical and Economic Committee for Fisheries (STECF) is an EU body which supplies scientific advice on fisheries

<sup>6</sup>from first FAO Technical Consultation on the International Guidelines for the management of Deep-Sea Fisheries in the High Seas

take action immediately, individually and through Regional Fishery Management Organisations, and consistent with the precautionary approach and ecosystem approaches, to sustainably manage fish stocks and vulnerable marine ecosystems, including seamounts, hydrothermal vents and cold water corals, from destructive fishing practices, recognising the immense importance and value of deep sea ecosystems and the biodiversity they contained.

The problem remained, however, who would do this? Fishing was a worthwhile activity and the challenge for fisheries management was to strike a balance between fishing and damage to fish stocks and ecosystems. Some protection needed to be provided in order to protect fish stocks themselves. Both juvenile fish and spawning fish might require some protection. In addition, protected areas might be required for wider ecological reasons. While fisheries managers had considerable experience of the former they had no tradition of closures to protect resources other than fisheries.

Problems over how to handle ecological closures were now becoming very apparent with various initiatives being taken within the EU. There was a proposal from the Dutch branch of the WWF<sup>7</sup> to close parts of the Mid-Atlantic Ridge. If OSPAR<sup>8</sup> confirmed this closure then NEAFC<sup>9</sup> would have to decide on necessary measures to control fishing. Why was the WWF working with OSPAR rather than NEAFC? It may have been because fisheries management organisations had not shown any interest in protecting vulnerable ecosystems.

If applied correctly, closed areas could provide a valuable tool for use both in fisheries management and for protecting the environment. However, their introduction required careful consideration.

## **The Surveillance Service in the Barents Sea**

**Bjarne Schultz, Department of Marine Resources and Environment,  
Norway**

In the Barents Sea measures had to be taken to avoid the capture of juvenile fish. Those fish might be taken in the deep sea shrimp fishery, which used 35mm mesh or in the cod fisheries themselves. Areas were closed and opened depending on what was being caught and mechanisms had been in place since 1984 for achieving this. The basic principles were that the closing and opening of areas should be based on scientific research approved by the Institute of Marine Research in Bergen. The vessels used to assess catch rates had to be representative of the vessels fishing in the area and this was achieved by chartering commercial vessels with independent crews. Those vessels monitored the minimum sizes of fish and their by-catch in the purse seine and shrimp trawl fisheries and the intermixture of fish and shellfish under minimum size in the trawl, Danish seine, purse seine and long-line fisheries. The vessels were paid through quotas set aside for scientific purposes. The

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<sup>7</sup>The WWF or World Wildlife Fund is an independent conservation organisation.

<sup>88</sup> The 1992 OSPAR Convention is the current instrument guiding international cooperation on the protection of the marine environment of the North-East Atlantic. The work under the convention is managed by the OSPAR Commission.

<sup>9</sup> The North East Atlantic Fisheries Commission was formed to recommend measures to maintain the rational exploitation of fish stocks in the Atlantic and Arctic Oceans

inspectors on board had knowledge as fishing skippers, mates or inspectors from the Coastguard. Subsequently, equal treatment was given to both Norwegian and foreign vessels.

Much of the time of the Surveillance Service was spent creating trust between the inspectors and fishermen. A precautionary approach was adopted, with worst case thinking. Future challenges would include consideration of changes in the stocks, and the development of new gear technology including grid sorting systems, square mesh panels and T90 trawls.

Future goals for the Surveillance Service were to obtain the best possible monitoring of stocks and the maintenance of sustainable harvesting, the cost-effective use of personnel and the provision of better information to the community. There would be more active use of the Internet and the Service would aim to provide full transparency on collected data and information used for closing and opening areas. The intention was to place all information regarding closure and opening of areas on a real time basis on the website. The philosophy was to make all information used for closing and opening areas available to the industry and media.

## **Control and Joint Deployment**

### **Harm Koster, Executive Director of the Community Fisheries Control Agency**

The Community Fisheries Control Agency (CFCA) was a new European Union body established in 2005 to organise operational coordination of fisheries control and inspection activities by the Member States. It aimed to help Member States to cooperate so as to comply with the rules of the Common Fisheries Policy. The CFCA would have its official seat in Vigo, Spain, but was now located temporarily in Brussels, Belgium. The Agency had also to ensure effective and harmonised application of the CFP rules, ensure a level playing field in Community fisheries and combat illegal, unreported and unregulated (IUU) fishing. The Agency had been operational since the beginning of 2007.

Harm Koster, the first Executive Director of the CFCA asked whether the Agency could ever resolve all the problems over control and compliance. Its real role was to facilitate Member States working together to contribute to a level playing field in control and compliance. Resources, including the means for carrying out inspections, would be pooled, information would be exchanged, and Member States would be encouraged to co-operate with each other and with third countries. There would be operational coordination of controls and inspections by Member States. Resources like protection vessels would work together through joint deployment plans. The Agency would promote the harmonised application of rules.

In practice the work of the Agency would take place mainly through joint deployment plans. All the data on fishing activity would be analysed. It would be plotted on charts, and then a campaign would be planned in an area where there was a risk on non-compliance. In 2008 there would be joint deployment plans in the following areas:

- Cod recovery in the North Sea and adjacent waters
- Long term management plan for Baltic cod
- NAFO fisheries
- Blue-fin tuna fisheries

- IUU

A coordination centre would be established for each operation, operated by a lead Member State. Landing teams would include inspectors from different Member States.

During 2007 the serious infringements detected included:

- Illegal gears and other devices
- Uncompleted logbooks
- Undersized fish
- Non-separation of cod
- Exceeding the margin of tolerance in catch recording
- Refusing to allow an inspection to take place
- Minimum landing size for cod
- VMS requirements not met

There is no doubt that fishermen were frustrated with the complex rules being applied to fisheries. However, they shared a desire to reduce discards and wished to operate on a level playing field. The RACs could play a particular role in simplifying the regulations. We also had to cooperate with one another to create a culture of compliance.

*In the ensuing discussion the topic of weighing fish was raised. There were particular difficulties when the fish were packed in ice and conversion factors had to be applied. It was pointed out by a Scottish fisherman that the conversion factors were different in different areas. Mr Koster agreed that conversion factors should be consistent.*

*Dr Peter Breckling of the German Fishermen's Association believed that we should be aiming for a culture of compliance but we also needed to correct the mistakes which had been made in setting the regulations. Under the cod recovery plan fishermen received fewer days at sea if they were using larger meshes in their nets – giving fishermen incentives to move to smaller meshes. That error had proved difficult to correct. Weighing fish and ice was a problem at sea and the smaller vessels could not afford expensive weighing equipment. Why did small vessels fishing for non-quota species need to have electronic log books? Mr Koster agreed that simplification of the regulations was needed. The separation of DG Fisheries into smaller Regional Directorates would enable the Commission to engage more fully with the Regional Advisory Councils on this issue. It had taken too long to learn this lesson but it was now accepted that we had to work together to find solutions. There had to be trust and mutual confidence between the new Control Agency and fishermen. Both sides had to be accountable and legitimate fishermen should not be harassed.*

*Dr Barrie Deas of the National Federation of Fishermen's Organisations thought that there was a disparity of scale between the Commission's view of the world and that of others. The Commission still preferred a command and control approach with strong emphasis on harmonisation of the regulations when everyone else was moving towards local solutions. Mary McAllan accepted that there was a problem with moving upwards from the successes achieved with control at a local scale. However, she thought that Commissioner Borg had accepted that control was not working at the larger scale and was taking responsibility for putting that right. Certainly the success in improving compliance in Scotland had shown what could be done when people cooperated.*

## **Reality Then and Now**

### **Cephas Ralph, Director of Operations, Scottish Fisheries Protection Agency**

Cephas Ralph presented an enforcer's viewpoint. It was twenty years ago that he had first observed fish being landed illegally onto the back of a lorry and became involved in monitoring and preventing such landings taking place. Since 2005 both suspected and detected 'black landings' had greatly reduced. By matching expected landings to observed landings it had been possible to see the scale of the problem and obtain the resources to take effective action. The composition of the over-15m Scottish fleet had changed in recent years. The number of vessels had fallen significantly through consolidation and decommissioning. By 2003 the number of vessels fishing for Scottish langoustine had exceeded the number of demersal vessels. More than half the Scottish fleet now fished for langoustines.

Illegal marketing of fish could quickly overtake all efforts to control it, establishing a vicious circle:



At its peak, more almost seventy percent of the fleet was believed to be involved in the black landings. Non-compliance became the norm for some fishermen. Under these conditions of non-compliance there had been:

- Numerous suspicious vessel movements
- Unexplained landings behaviour
- Poor Industry / Inspector relations
- Diminishing fleet viability
- Low investment
- Bad public perception of the Industry

The drivers for change had been:

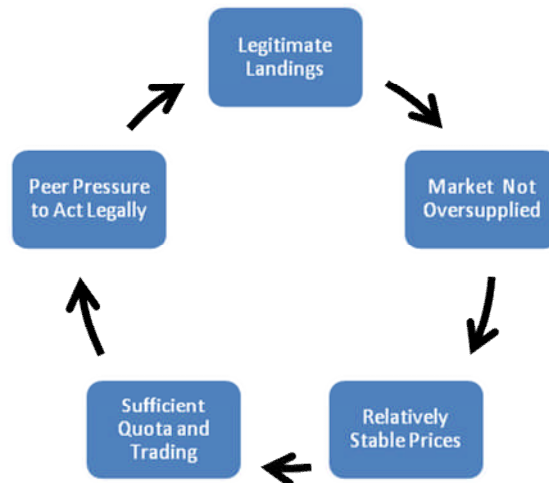
- Reduced fleet capacity
- Legitimate quota trading
- Tamper proof VMS

- Highly targeted enforcement
- Requirement for buyers to account for fish
- Consumer concerns over sustainability
- Accreditation
- Peer pressure

Now that greater compliance had been achieved, we saw:

- ‘Normal’ vessel movements
- ‘Normal’ landings behaviour
- Good Industry / Inspector relations
- Growing fleet viability
- New investment
- Improving public perception of the Industry

There was now a cycle of compliance:



The number of reportable incidents had fallen greatly. The enforcement agency was now concerned with pursuing the few who offend for the benefit of the many who did not.

## **Reality Then and Now**

### **John Buchan, Skipper of the MV ‘Fairline’**

John Buchan presented a fisherman’s viewpoint. He remembered when the term TAC stood for ‘*take all you can*’. Times had changed. The demersal industry had gone through a dramatic period, caused by over-capacity. There had been a time when it was perhaps too easy to build a new boat. Pelagic fishing on the west coast of Scotland had expanded but that fishery had not remained productive and many boats had returned to the North Sea. Initially the fleet remained viable as species like cod and haddock had been plentiful throughout the period of the ‘gadoid outburst’. There had also been good markets. However, the fishery had proved unsustainable. Instability and lower quotas and poor financial conditions within the

industry had led to illegal and unreported landings. Decommissioning had proved to be a blunt instrument as many good boats were scrapped and poorer vessels retained. Quota had ended up in the hands of people who were no longer fishing.

The fleet had now been reduced substantially in size. It could not get any smaller because of the problems that would be encountered with infrastructure. Parts of the North East of Scotland would become more fishery dependent as North Sea oil dries up. It was important to retain sustainable fisheries in this area.

Fishermen never got out of their beds intending to fish illegally. They were forced into it by economic conditions in the fishery. Policies were required to prevent that ever happening again. Achieving a level playing field was really important. Fishermen must compete on equal terms. We had to restore optimism otherwise young people would fail to enter the industry. People wanted the high quality fish that we could provide from our North East ports and we wanted to continue to supply them.

## **Reality Then and Now**

### **Danny Couper, Couper Seafoods**

Danny Couper presented a fish processor's viewpoint. He was concerned at the direction the Common Fisheries Policy had taken. There had been an inability on the part of the administration to find a management strategy which would ensure the right balance between the exploitation and preservation of stocks. There had also been an inability to establish objective criteria for national rights of access to marine resources. The result had been factories closing and loss of skilled labour in the industry despite order books being full for Scottish fish and despite the fine work done by Seafood Scotland in promoting fish.

The problems had been with us since the inception of the CFP. The initial decision to put most controls on catch instead of effort was seen by many as complicated and futile. To make matters worse subsidies were available to increase effort. The result had been over capitalisation of the industry. Loopholes in catch and landing controls then led directly to a crisis in over-fishing.

The introduction of sellers and buyers legislation had ensured that there was now a level playing field within Scotland. Decommissioning had taken place and curtailments in days at sea had had their effect in reducing fishing effort. In addition, there was now increasing recognition that management should be devolved to particular geographic areas. Real time area closures and a reward points system had been introduced. These should bring stability to the sector. Things were moving in the right direction but the devolution of management had to go faster and further. Fishermen had now changed from hunters to harvesters and they were working hard towards sustaining the fish stocks and accepting responsibility for their actions.

One problem to emerge was that quota was now owned by speculators. Quotas should have been ring-fenced so that only POs and working skippers were owners. Processors had high fixed costs and overheads and needed continuity of supply to give economies of scale. The current method for allocating quotas undermined this.

An important feature of the Scottish industry was the concentration on haddock and whiting, both small species. The haddock fishery was very sustainable and we hoped that in time it would achieve MSC accreditation. It was imperative that the processing industry retained skilled staff, experienced in dealing with small species. Consistent and regular supply was important in achieving this.

Managing a wild resource was not easy and continual discussion between catchers and processors was imperative – using the good offices of Seafood Scotland. The processing sector had now been reduced by about half, in line with the fleet; the difference being that processors had not received decommissioning or other forms of aid. Discriminatory funding of companies had caused unnecessary hardship and closures. There was now a lack of investment in processing and we must see some form of funding coming forward for our industry; it had a bright future.

Here in the North Sea we had some of the best seafood resources in the world and we as processors, standing between the catcher and the retailer, must be able to sustain our costs and overheads if we were to achieve our aim of producing high quality affordable products. We needed incentives and we needed cooperation with fishermen to attain consistent supply. We all had a great future if we could work together to maintain our businesses and support regulations and policies which were truly fit for their purpose.

## **Reality Then and Now**

### **Pim Visser, President, European Association of Fishing Ports and Auctions**

Pim Visser presented a ports and auctions viewpoint. His organisation, the EAFPA was a non-profit making trade organisation that promoted the importance of the specialised fishing ports and fish auctions to the European fishing industry. It was actively involved in community wide programmes and engaged in international industry actions and initiatives. Membership was open to fishing port and auction providers throughout all of the countries of the European Union and European Economic Area and Affiliate membership was open to adjoining countries. EAFPA members had ports and auctions in 12 countries, with a turnover of four billion Euros each year. It had a seat on ACFA and took part regularly in dialogues in Brussels and within the Regional Advisory Councils.

EAFPA facilitated the exchange of experience between members, identified options for auction development and engaged in Pan European studies and projects including EFAD – the European Fish Auction Datanet project, undertaken with assistance from the European Commission..

Recently there had been declines in the fishing fleets, with consequent income reduction. The EFAD project identified 330 fishing ports but 60 of them landed 80% of the fish. Nowadays, the auctions and ports had to respond to new legislative requirements, quality and traceability issues, globalisation of supply and income reductions and cost increases. The ports and fish auctions played an important role in ensuring fair and open prices for fish within a secure and properly regulated hygienic environment. They offered the first link between ships and the shore.

In the past ports were open and an attitude of ‘hear no more see no more’ allowed IUU catches and landings. Nowadays the ports were much more carefully regulated, especially for reasons of security as a result of 9/11. They also carried a duty of care to the authorities (dependent on the national legislation in member states) in respect of registration and control. There was very effective control through the auctions and great efficiencies had been achieved. Ports were the point of registration of fishing vessels. Auctions were the focus for the registration of quantities and the registration of transactions. They also provided a link to traceability. A development from paper/pencil exchange of information to the digital transfer of data was picking up speed. Progress was much more advanced in some countries than it was in others.

The enhanced traceability of fish products carried opportunities for communication with the end consumer. Traceability could only be achieved through the active participation of the auctions and the association was positioning itself to bring this about in a cost effective and cohesive manner. Indeed auctions were able to play a primary role by extending such systems to embrace all fish. Traceability had the potential to lead to much greater compliance by fishermen.

There were currently many practical problems to which solutions must be found. There were huge tasks in the new Member States. There was much bureaucracy. A supply chain approach was needed with problems solved at the beginning of the chain and not at the end. The problems with the 8% margin of tolerance on the weighing of fish must be resolved soon. The EU must seriously level the playing field and join forces to bring new Member States to an acceptable level on compliance. Measures to resolve illegal, unreported and unregulated fisheries had a proven and positive effect on prices in the marketplace. The role of auctions should be explicit in a revised control regulation.

Fishing ports and auctions offered highly efficient interfaces providing essential services and holding useful third party information which was ready to be shared. The Commission needed the help of fishers, processors, and ports & auctions to take control and compliance forward and solve the outstanding problems now.

## **Workshops**

Three Workshops took place to consider issues important to control and compliance.

### **Workshop on Real Time Closures**

Chair – Bjarne Schultz, Special Adviser, Norwegian Directorate of Fisheries

Presentation – Allan Gibb, Scottish Government Marine Directorate

Rapporteur – Michael Andersen, Danish Fishermen’s Association

### **Workshop on Technical Conservation**

Chair – Dr Barrie Deas, National Federation of Fishermen’s Organisations

Presentation Willem de Jong, the Netherlands

Rapporteur – Dr Richard Ferro, Fisheries Research Services Aberdeen

### **Workshop on Influencing Behaviour**

Chair - Mary McAllan, Scottish Government Marine Directorate  
Presentation – Fred Normandale, National Federation of Fishermen’s Organisations  
Rapporteur – Dr Nathalie Steins-Oosterling, Stichting van de Nederlandse Visserij

The reports of the Workshops are provided below:

## **Workshop on Real Time Closures**

Michael Andersen reported that the workshop had begun by considering the benefits of real time closures. Was the principle of closures a good thing?

- It had been agreed that closures facilitated the development of selective gears in order to avoid reaching the levels of by-catch which triggered closure.
- The closure of spawning grounds had been questioned by some scientists but it was popular with fishermen as well as the broader public.
- Scientific documentation of the benefits of closures might be difficult, or at least far away in the future, but the adoption of closures appeared to be the right thing to do.

Were there any documented drawbacks?

- Defining the spawning grounds may be the same as giving them up – there is a matter of trust when asking fishermen to provide information on where fish spawn
- Effort may be displaced elsewhere by the closures
- There may be a need for a different approach in different waters

What were the challenges? How did we make the closures work?

- It was necessary to identify the levels of by-catch which should trigger the closures
- Appropriate measures must be identified – which fishing gears should be included?
- The closures must be communicated to fishing vessels and to others
- There must be strong involvement by the industry in order to ensure compliance.

Who should manage the closures?

- Fishers must be involved in their management – perhaps through the Producer Organisations. Governments should be involved mainly as mediators. There was experience from France on voluntary closures.
- Some thought the closures had to be achieved through the EU, but others said this was not practical. It could be done but only within the zones of Member States. There was then a danger of the closures being perceived as protective of local fishermen.
- There was also the question of who should document the benefits.

It was agreed that real time closures needed to be part of tool box of pre-agreed measures. The closures should not exceed what was necessary to protect the vulnerable stocks. All Member States with fishing interests within the zone should be involved in the measure.

## **Workshop on Technical Conservation**

Willem de Jong had begun the workshop by describing developments in the Netherlands on the measurement, control and monitoring of engine power. After 1 year of operation, an effective system had been developed for the Dutch fleet. Every vessel had been checked and the engine sealed; with provisions for repairs, resealing and monitoring. Since then many engines had been checked and a number re-measured as part of the auditing system. During this period no further issues of compliance had to be dealt with. The introduction of the scheme had improved the situation considerably. There was now a need to extend the system to other fleets with the advent of effort management by kW days.

Willem de Jong also described work on controlling net specifications. The work had highlighted the importance of accurate mesh measurement for the fleet fishing for sole. Because of inherent variation in mesh size (either due to measurement uncertainty or variation in netting manufacture) it was perhaps not appropriate to use an absolute mesh size limit. The working group suggested that:

- The new Omega gauge may produce a smaller reading than the standard wedge gauge
- It might be appropriate to accept a margin for error in mesh measurement
- Certification of codends/nets at the factory might be a simpler option for enforcement, rather than the current series of complex rules on all aspects of net design
- The use of blinders and other major infringements should be severely punished.

The discussion then widened into general areas related to technical measures. The main points were as follows:

### 1. Key issues for greater compliance

- Technical measures legislation needed to be practical, enforceable, understandable and effective
- In the past, circumvention of gear regulations had been a problem; there was much less scope now except through illegal devices such as blinders
- Trials organised through industry / science partnerships (ISPs), in Scotland, England, France & elsewhere, had been very useful in assessing new selective gear designs, especially to reduce discards, because this process often encouraged industry buy-in
- Technical measures defining gear design were necessarily more complex when solving problems of mixed fisheries (the case for many North Sea fisheries). However, much work was being done especially through ISPs.

Industry should be prepared to accept greater complexity if mixed fisheries were to continue.

- Incentives were useful in encouraging good practice but positive incentives should be considered as well as negative and they needed to be of the right magnitude to be attractive
- It was essential to match mesh size and minimum landing size (currently not always the case)

## 2. Thoughts on introducing new legislation

- One alternative to technical measures (input controls) was the adoption of output controls – i.e. to legislate on what was emptied on deck from the cod-end giving fishermen the job of developing suitable gear designs to achieve this. Problems of running observer schemes were acknowledged.
- A discard ban had disadvantages - another option was to base TACs and quotas on total removals (i.e. landings plus discards). There would be no need to keep the discards but an incentive to reduce discards remained. Monitoring was problematic in both cases.
- Each fishery was different (vessel, target catch composition, gear design, operating procedure) and regulations defining net design needed to take careful account of these differences – it would not always be possible to transfer solutions even between adjacent fisheries.
- The principle of managing regional fisheries on the basis of a single key species e.g. cod, might be inappropriate in some circumstances – e.g. Scottish North Sea haddock fishery has been affected by pre-dominance of measures to protect cod.
- There was much interest in the imminent new EU technical conservation regulations
- The Commission indicated that text would be circulated soon to stakeholders such as RACs. An overarching regulation on the principles would be published by the Commission. Subsidiary legislation describing details for individual regions would then be developed by expert groups. There were questions on the composition of these expert groups. There was a feeling that extra effort taken at this stage to ensure that appropriate experts, including fishermen, were involved would be worthwhile, leading to better quality legislation, a higher rate of compliance and hence greater effectiveness.
- RACs perhaps offered a forum which could bring together the right expertise.
- As industry became more pro-active in putting forward new management ideas, there would be a need for quicker reaction from the Commission.

## **Workshop on Influencing Behaviour**

Nathalie Steins, reporting on the workshop, said that there had been general agreement on the objectives for control and compliance. We are all seeking more sustainable fisheries (economically sustainable as well as biologically sustainable). We were also seeking a culture of compliance instead of the current command and control regime.

The barriers to compliance included:

- An accumulation of bad laws and regulations, which were out of touch with reality
- Flaws in the science base leading to poor stock assessments
- The lack of a level playing field across Member States
- The economics of the fishing industry
- A lack of incentives and rewards for those who behaved well

The workshop had come up with a series of ideas for removing those barriers.

With respect to improving the regulations we should:

- Carry out a health check of existing rules at a regional level
- Make the rules stakeholder-proof (for fishermen and inspectors) before implementation
- Prefer flexibility over tailor-made rules
- Provide leeway on:
  - recognition that a kilo of fish  $\neq$  a kilo of fish
  - catch composition percentages should not be expressed per trip but spread over multiple trips
  - some over-quota landings should be allowed (each year) but the revenue should go to a fund for research & education.

With respect to improving the science base we should:

- Create sense of ownership of the scientific advice by fishermen
- Increase not reduce science funding
- Enlarge the socio-economic science base and include it as part of stock management advice

With respect to achieving a level playing field we should:

- Ensure equity across member States in enforcement, sanctions and rewards
- Follow the example of the US: Federal Law is supreme over State Law in enforcement, penalties and rewards

With respect to the economics of fishing we should:

- Understand that compliance is linked to the profitability of the fleet
- Bring the fleet in balance with resources
- Create stability:  $\pm 15\%$  TAC fluctuations / multi-annual stock management

With respect to incentives we should consider rewarding clean fisheries with extra days-at-sea, or extra TAC allocations.

To achieve a culture of compliance would should involve fishermen and inspectors in designing sensible rules and regulations. We could live with less tailored measures provided they were practical, applicable and enforceable.

## **Views from the Different Sectors**

### **The Catching Sector**

**Alan Coghill, Orkney Fisheries Association**

Alan Coghill believed that this conference could not have occurred at a better time. We were currently about to introduce new effort measures which would need appropriate control and compliance. The involvement of fishermen at the planning stage was really important. Administrators often had no idea of the complexities involved when they were preparing regulations. Real time closures, in particular, needed the active engagement of fishermen. In fact their introduction in the North Sea had been at the request of fishermen. The Commission had said it could not be done. These measures now provided an example of what could be achieved if fishermen were involved.

The message to the Commission was to listen to the fishermen, especially over the state of stocks, but also when framing regulations. We now had to be positive. Fishermen had admitted their past mistakes. Here in Scotland fishermen were enjoying working with officials to make fisheries management a success. We would like that to happen with the Commission too. The involvement of fishermen at the planning stage of any new regulation was really important.

### **The Processing Sector**

**Guus Pastoor, President of the The European Fish Processors' Association,  
AIPCE**

Concentration of the processing sector was now taking place and skills within the industry were improving. Fish catches within the EU had now reached 4.4 million tonnes and imports amounted to 9.7 million tonnes; giving processors 14.1 million tonnes of fish to process.

Who was in control? Somebody had to set the rules as there would always be someone seeking to outsmart everyone else. Cooperation was needed between all parties. AIPCE-CEP was taking several initiatives. It was looking at control instructions for the Barents Sea and for the Baltic Sea. It was looking at letters of warranty. It was considering a model for third party audits and it had prepared a position paper on illegal, unregulated and unreported (IUU) fisheries. The organisation especially welcomed the initiatives of the Commission on IUU. There had to be control of fish both at the beginning and end of the supply chain. Penalties for non-compliance had to be very severe, both within and outside the EU. The burden of proof had to be on the Flag State. Blacklists should be used, and meaningful sanctions had to be applied. AIPCE would like to see the IUU approach applied within the EU as well as outside it.

The way forward was to improve practical and institutional issues. We had to control transshipments of fish, and we should be requiring certificates of legality. The certification of fish

was important but should be kept simple and cost-effective. We should avoid creating barriers to trade, and we should be concentrating on the areas of highest risk.

## **The Non Governmental Organisations**

### **Jan Willem Wijnstroom, European Anglers' Association**

Jan Willem Wijnstroom spoke on behalf of the WWF, Birdlife international, Seas at Risk and the European Anglers' Alliance; those stakeholders from the 'other interests' group of the North Sea RAC. He pointed out that if this conference had been organised some 10 years earlier the setting would have been very different. Things had changed and this joint initiative of the NSRAC and the Scottish Government proved the importance of stakeholder involvement in fisheries management as well as in control and compliance. The Scottish examples that were mentioned by Mary McAllan and Cephas Ralph had demonstrated that the willingness was there to reach a new culture of compliance. It had been noted by several speakers that overcapacity was the root cause of much non-compliance.

The Scottish example was good news but there was still a lot to be done at a European level. Commissioner Borg had informed us of the results of the Court of Auditors report and the shortcomings that had been found in some crucial aspects of the CFP: reporting of catches and related control and enforcement measures. The overhaul of the CFP Control Regulation was the Commissions number one priority for 2008. The action points referred to by Commissioner Borg in his keynote speech needed maximum support from all those involved in the CFP. Member States faced the biggest challenge here when it came to implementation and harmonisation.

The role of the new Community Fisheries Control Agency was an important driver in terms of a uniform and effective application of the rules of the CFP as well as in providing support to the Member States.

The Commission proposal for a Council Regulation to address the problem of illegal, unregulated and unreported (IUU) fishing had been an important step forward. We strongly endorsed the intent behind this proposal to address the issue of inequity across Member States in sanctions against illegal fishing. The proposed Regulation would:

- Strengthen the responsibility of Member States to impose sanctions on their nationals who engaged in or supported IUU fishing, inside or outside Community Waters;
- Set measures to harmonise sanctions across Member States (such as fines and confiscation of catches).

Birdlife International, Seas at Risk, the WWF and the European Anglers' Alliance strongly supported fishermen's initiatives in implementing voluntary closures to protect spawning and juvenile cod. We were heartened by the view at the workshop that fishermen thought these measures were justified on moral grounds, even if scientific evidence for their effectiveness was not immediately forthcoming.

It was important to look at fishery closures of whatever type. The emerging network of MPAs called for some sort of control and compliance. From an angler's point of view co-

management would be the best option. Mapping would be essential as this might have implications for effort displacement. Tried and tested technical conservation measures to reduce by-catches should be mandatory. For example separator grids in Nephrops trawls and separator panels in whitefish trawls should be a legal requirement across all EU fleets.

Three points needed to be given special priority from a WWF point of view:

- The reduction of discards must be given the highest priority. Conditions should be established to encourage and incentivise the use of best available technology and techniques to minimise such wasteful activities.
- Total Allowable By-catch Quotas (TABs) should be introduced as a means of reducing discards in non-directed fisheries, such as those for North Sea cod, where high levels of unreported discarding threatened the long-term recovery of the stocks. A pilot project seeking workable solutions should be implemented.
- Discard reduction schemes were best implemented with a complementary observer programme which could be used to measure the success of the policy. Equally, the use of TABs required the use of observers so that accurate estimates for total levels of removals can be calculated.

Reducing by-catch and eliminating discarding were major challenges for the sustainable management of European fisheries. However, it must be emphasised that there is no 'one size fits all' fix.

**The Northeast Atlantic Fisheries Commission (NEAFC)**  
**Karsten Hoydal, Secretary**

Karsten Hoydal welcomed the opportunity to speak on behalf of NEAFC, which dealt with stocks which spread out into the open sea. Contracting parties to NEAFC had shown accord on a number of measures for control and enforcement of its fisheries. NEAFC had blacklisted some vessels and illegal trans-shipments of fish had been addressed. It had become clear that measures to improve control and compliance must involve the fishing industry, and not just the capture sector but all sectors. In general, systems which did not have the support of industry did not work.

**The Community Fisheries Control Agency**  
**Harm Koster, Executive Director**

The CFCA had joined with the North Sea RAC and the Scottish Government in organising this conference. It was evident that a lot of work still had to be done to promote control and compliance. This conference was the start of working together to improve the culture of compliance. We should now try to define shared goals. We should be seeking incentives to improve compliance at all levels of the industry. Certification would become especially important in the marketing of fish. The North Sea RAC should be thanked for the work it had done in organising this important conference.

## **The European Parliament**

### **Ian Hudghton MEP**

Ian Hudghton pointed out that the Parliament's input to fisheries was currently only consultative. Nevertheless, it had taken a view on a number of important issues, including illegal, unregulated and unreported (IUU) fisheries and also discards. The Parliament had called upon the Commission to put in place proper controls across the EU. Discarding of by-catches should only be a last resort. We must look at electronic techniques for observing and registering discarding, and we needed incentives to prevent discarding taking place.

At the end of last year we had seen the report of the European Court of Auditors which highlighted failures in control and compliance. The Commission had accepted that report and was now addressing the problems. There had been wide failures within the Common Fisheries Policy and there was a need to look again at the Framework Regulation. We needed more area specific and fishery specific measures to be applied. The CFP had not been a shining example of success and if we were to go forward we had to provide incentives for fishermen to comply with the regulations. There were two important aspects; the greater involvement of stakeholders and the adoption of a more regional approach. We also needed to clarify the objectives of the CFP as the Sissenwine and Symes report on the CFP had pointed out. He hoped that report would not simply be secreted away.

## **Concluding Session**

*A French fisherman commented that we kept hearing about sanctions. Fishermen were not against controls when they were needed. However, the poor scientific assessments were causing problems. The assessments were slow to recognise when fish stocks were increasing. In addition, fishermen could not understand why the environment was being degraded by wind-farms, cables & pipelines and dredging. These activities were not protecting the resource. Xavier Vázquez promised to pass these concerns on to his hierarchy. It was certainly true that there were now many more users of the marine environment. The Commission's Marine Strategy was intended to address the problem of multiple use and sought to achieve a balance between the different users of the sea. On the scientific advice, the Commission was aware that the ICES advice was not perfect. Unfortunately there was less and less money available for fisheries research.*

*Barrie Deas emphasised that with respect to control and compliance the rules in place at the moment were part of the problem. There were two things to be addressed. Firstly, there was an obligation on the part of the Commission to carry out regulatory impact assessment. Secondly, we needed to take co-management further forward. That would require a major change, but it could have massive benefits.*

*Xavier Vázquez pointed out that the proposals coming forward on control and compliance from the Commission were not just a response to the report from the Court of Auditors. They were already a priority for the Commission. The new Control Regulation would certainly have to be subjected to impact assessment.*

*Ian Hudghton discussed co-decision taking by the Parliament and Commission and wondered which subjects would fall under co-decision taking. That had still to be decided. The new Control Regulation would not be subject to co-decision taking.*

*Alan Coghill stressed the need for the Commission to take away the message of engagement with fishermen from the conference.*

## **Summing up by the Moderator**

### **Ichiro Nomura, Assistant Director General UN Food and Agriculture Organisation (FAO)**

Ichiro Nomura gave his personal impressions of the conference. It was evident to him from what had been said that the current control and compliance system within the EU was not reliable, not being supported and not very effective. The conference had supported the proposal of the Commission to develop a new Control Regulation and to move towards a new culture of compliance following the establishment of the new Community Fisheries Control Agency. It was also clear that the conference wished stakeholders to participate more fully in decisions on control and compliance.

The new system being put in place would be:

- Simpler
- More cost effective
- More harmonised, but nevertheless recognising that ‘one size did not fit all’

Such a system must be supported by all sectors including fishers and fish processors. The need for the participation of the Regional Advisory Councils had been emphasised. The conference had shared the view that a full culture of compliance could only be nurtured through mutual trust.

It had come as a surprise to him that there was such strong dissatisfaction with the scientific advice on fish stocks. The North Atlantic was often held up internationally as an area where scientific advice was well advanced. It had emerged during the conference there was a general wish for the stock assessments to be improved and for mutual agreement to be reached on the state of stocks. It was certainly true that fishers often had important additional information, which should be used.

Stress had been placed during the conference on the need for a level playing field; for a greater sense of ownership; and for more dialogue to remove the barriers which were preventing greater compliance from being achieved. Problems could only be solved through collaboration and engagement between all the interested parties. We had to move forward for the sake of achieving sustainable fisheries in EU waters and elsewhere.

There were different levels of fisheries management: local, national, regional and global. The United Nations General Assembly, and the FAO Committee on Fisheries (COFI), represented the global level, where emerging global fisheries issues could be discussed. Over the past

two days we had discussed many of the subjects which were being dealt with at that global level.

As participants in the conference we were grateful to Commissioner Borg for taking part and the CFCA, the NSRAC and the Scottish Government for their hard work and hospitality.

## **Brief Report on the Conference**

### **Dr Anthony Hawkins, Rapporteur for the North Sea Regional Advisory Council (NSRAC)**

From the beginning, this conference on control and compliance had set us a challenge. How could we adopt a more cohesive and collaborative approach to the problems of control and compliance? It had been recognised when Regional Advisory Councils had been set up that stakeholders needed to become engaged in discussion of important aspects of fisheries management. How could stakeholder participation improve the culture of compliance?

At the conference we had first heard the views of the Commission. Commissioner Borg himself had described how the public were being consulted on how control should be improved and strengthened to make it fit to deliver the core goals of the Common Fisheries Policy; a sustainable European fishing industry. A meeting with stakeholders would be held by the end of April 2008 and the consultation exercise would lead to a proposal for a new Council Regulation in October.

We had heard from one Nation, Scotland, about its new management framework for improving control. Seeking common purpose and shared goals had proved critical. Building a culture of compliance was a journey not a destination. Compliance involved shared purpose, mutual respect and genuine dialogue and was simply a normal way of doing business. There had to be a strong element of trust in transactions between fishers and fishery managers.

The key proposals coming forward from the Commission on control and compliance were to:

- Simplify rules and procedures, including administrative sanctions;
- Harmonise the preparation of legal texts, their interpretation, and the definition of a standard methodology;
- Strengthen cooperation and assistance;
- Achieve better, more cost effective controls;
- Develop a culture of compliance;
- Use modern technologies;
- Develop the role of the Community Fisheries Control Agency.

Surprisingly, there had been no mention within those ideas of the need to engage with stakeholders but the Head of the new Community Fisheries Control Agency, Harm Koster, had emphasised the role the RACs could play a particular role in simplifying the regulations and had stressed the need to cooperate with one another to create a culture of compliance.

We had also heard from stakeholders themselves that only by working together could we achieve regulations and policies which were truly fit for purpose.

The three workshops had provided valuable advice on:

- The mechanics of introducing real time area closures,
- How technical measures could be made more practical, understandable and effective, and
- How a culture of compliance could be attained by involving fishermen and inspectors in the design of more sensible rules and regulations.

We had then heard the views of the different sectors. The message we had heard from fishermen was that the Commission should listen to them, not only over the state of fish stocks, but also when framing regulations. The processing sector had emphasised the need to control fish both at the beginning and end of the supply chain. We had to monitor trans-shipments of fish, and we should be seeking certification of fish supplies. However, certification should be kept simple and cost-effective. The NGOs had strongly supported fishermen's initiatives in implementing voluntary closures to protect spawning and juvenile cod. They thought that reduction of discards should be given priority but recognised that there was no quick and easy fix for achieving this.

From this conference there could be no doubt that compliance with the regulations was of utmost importance. Compliance underpins the success of the CFP. Almost every review of the CFP, starting with the 2001 Green Paper and ending with the report of the Court of Auditors had come up with the same message. We had to get control and compliance right. This conference had enabled us to focus on the problems of control and compliance – indeed it had underlined the fact that we should have held this conference some time ago.

There were many different aspects to achieving high levels of compliance:

- Better, simpler rules, with provision for swiftly dealing with any anomalies. Complexity was a drag on both businesses and administrations
- More incentives for fishers to comply with the regulations. The use of carrots as well as sticks.
- More effective use of technology. The use of VMS and electronic log-books could make things simpler. Catch comparisons and the use of 'intelligence' could help root out offenders.
- Certification and better traceability could play an important role. Consumers' views were important and influential.
- Higher quality, more responsive and up-to-date science was crucial. The stock assessments needed to be validated by fishers, and fishers needed to be involved to a much greater extent in the provision of information on the stocks.
- A prosperous and economically sound fishing industry, with the right balance between fishing capacity and the size of the resource, was essential if there was to be strong compliance. Fishers and processors had to be in a position to make a profit. If they did not then compliance will be a problem.
- There must be equity of treatment across Member States and beyond. Any perception that the system was unfair would create problems with compliance.

This last point was especially important. We needed to attain a culture of compliance. The most crucial factor in achieving that culture was to get the economics of the fishery right – both for fishers and processors. In addition, however, we needed stronger dialogue between all the interested parties. For too long, fishers, processors, fishery managers and the enforcers had kept themselves at arms' length from one another. The Regional Advisory Councils had already shown the great benefits of working together. The complete turn-around of control and compliance in Scotland had confirmed the benefits of all parties sitting down together to resolve their problems. The Commission now had to move forward. It had to turn away from its command and control approach and must start engaging with stakeholders. The benefits would be many and the disadvantages few.

The need for a level playing field had been a strong and recurring theme. There had to be a transparency of approach by the Commission, a willingness to address the problem of offending Member States and equality of treatment across Member States. At the moment we were very far from resolving all the problems over control and compliance within the EU. The report of the Court of Auditors had made that clear. Driving up standards was mainly about holding the Member States and fishers in particular fisheries to account. There remained a lack of consistency across Member States. However, compliance could be measured. Those who offended and those who did not offend could and had been identified. However, there were those who used to offend, who did so no longer, and we had to ask how long they could be relied upon to behave well if they saw others still offending.

It was now important that we identify best practice – where things have been put right and have remained right. We must ask those who had now come into line what caused them to do so. The dialogue which had begun at this conference must continue. We had to think hard about what we did next. The first step would be for the new Agency to continue its engagement with the Regional Advisory Councils over improving control and compliance.

## **Concluding Remarks**

**Hugo Andersson, Chairman of the North Sea Regional Advisory Council  
(NSRAC)**

We had experienced an interesting two days. We had listened to many thoughtful presentations and had taken part in forward-looking workshops. There had been much discussion. This was the first time we had gathered together to discuss control and compliance and it was the beginning of a debate not the end. The Commission, the CFCA, Member State Enforcers and Stakeholders needed to develop the new Control Regulations together not in isolation. The NSRAC would be discussing further cooperation with the Community Fisheries Control Agency at its next meeting, following the distribution of the report of the conference.

The conference had required a great deal of work and all those who had contributed from the NSRAC, the CFCA and the Scottish Government had earned our thanks. The presenters, the moderator, the rapporteur and the interpreters had performed their difficult tasks well and deserved our praise.