Ecosystem approach to fisheries management in the Common Fisheries Policy

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CONTENTS

Introduction
1. Background and international legal context
2. Community law
3. Instruments for applying an ecosystem approach to Common Fisheries Policy
   3.1 Scientific evidence
   3.2 Maximum sustainable yield
   3.3 Organization of fisheries exploitation
   3.4 Optimum use of resources
INTRODUCTION

In the international community:

- From the absence of awareness - until the 19th century – that resources can be depleted
- To the 20th century concern for the conservation of fish resources
- And now, the challenge to apply an ecosystem approach to protect seas and oceans as unique, legally but not biologically compartmented environments
INTRODUCTION

The ecosystem approach:
- Origin in international law: it forms part of responsible fishing strategy
- Consequence of the application of environmental principles to fishing
- Indeterminate legal, cross-sectoral principle – not restricted to the CFP –
- Principle, in the context of fisheries, that determines the way management tools are applied
INTRODUCTION

- What key legal elements define the content of this principle in the framework of international fisheries law?

- To what extent is the EC bound to adopt this approach?

- How are CFP management tools affected by this approach?
Background and international legal context

What key legal elements define the content of this principle in the framework of international fisheries law?

Stage one: the necessary context

- **1992 Declaration of Cancun on Responsible Fishing:**
  ...the sustainable utilization of fisheries resources in harmony with the environment; the use of capture and aquaculture practices which are not harmful to ecosystems, resources or their quality ...

- **1995 International Code of Conduct for Responsible Fishing**
  - Proposed by the 1992 UNCED in Rio de Janeiro
  - It is not, in principle, a legally binding text
  - It constitutes the clearest and fullest expression of the principles governing the conservation, management and development of fisheries in waters under national jurisdiction and in the high seas
  - Its spirit led to the precautionary principle, the ecosystem approach and the focus on compatibility as means to an end: ecosystem sustainability (responsible fishing)
Background and international legal context

Stage two: initiation and planning

2001 Reykjavik Conference on responsible fisheries in the marine ecosystem
- Objective: to include ecosystem-related aspects in fisheries management
- Decision: to ask FAO to draw up technical guidelines

2002 Johannesburg Declaration on Sustainable Development
- A plan was formulated for implementing decisions
- Goal: application of the ecosystem approach by 2010
Background and international legal context

Stage three: determining the content

- 2003 FAO technical guidelines on the ecosystem approach
- Establishes the **key elements** of the ecosystem approach
  - Objectives
  - Concept
  - Governing principles
  - Goals
Background and international legal context

Stage three: determining the content

Key elements in the FAO ecosystem approach

**Objective:** fisheries management that is compatible with the needs of today’s society and future generations

**Concept:** balance diverse societal objectives, by taking account of the knowledge and uncertainties of biotic, abiotic and human components of ecosystems and their interactions and applying an integrated approach to fisheries within ecologically meaningful boundaries
Background and international legal context

Stage three: determining the content

Key elements in the FAO ecosystem approach

 Governing principles:

- **Reduction of fishing pressure on the ecosystem**: fisheries should be managed to limit their impact on the ecosystem to the extent possible

- **Maintenance of ecological relationships between harvested, dependent and associated species**

- **Compatibility of management measures**: management measures should be compatible across the entire distribution of the resource (across jurisdictions and management plans)

- **Precaution**: the precautionary approach should be applied because the knowledge on ecosystems is incomplete

- **Sustainable development**: governance should ensure both human and ecosystem well-being and equity
Background and international legal context

Stage three: determining the content

Key elements in the FAO ecosystem approach

 Goals:
- Avoid overfishing
- Ensure reversibility and rebuilding
- Minimize fisheries impact
- Consider species interactions
- Apply the compatibility principle: ensure the compatibility of management and conservation measures adopted for the high seas and areas under national jurisdiction
- Apply the precautionary approach
- Improve human well-being and equity
- Allocate user rights
- Promote sectoral integration
- Broaden stakeholders’ integration
- Maintain ecosystem integrity
Background and international legal context

The ecosystem approach and the EC in the international context

- **Conventionally binding norm** – international legal obligation binding on the EC: straddling and highly migratory fish stocks, Convention on Biological Diversity, FAO...

- **Customary norm in progress**: guideline for the CFP
Legal Community framework

**TCE**
- **Arts. 32-38**: no reference to sustainability
- **Art. 6**: mandatory integration of environmental protection requirements in other Community policies such as the CFP

**Regulation 2371/2002**
- **General objective**: to ensure exploitation of living aquatic resources that provides sustainable economic, environmental and social conditions
- **Precautionary and ecosystem principles**: first-time regulation
Legal Community framework

- **Integrated maritime policy**
  - 2007 blue paper
  - Commission proposal to adopt measures to ensure the application of the ecosystem approach to the CFP

- **Maritime strategy**
  - 2008 Directive
  - Theme-based strategy for the protection and conservation of the marine environment
  - Objectives to be honoured when adopting management measures in the CFP
How binding, then, is the application of this approach on the EC?

The EC is bound both internationally and by Community Law to implement the ecosystem approach in CFP management.
Tools for applying the ecosystem approach in the CFP

How are CFP management instruments affected by the implementation of this approach?

The cross-sectoral nature of the ecosystem approach means that its implementation will affect the four fisheries management pillars imposed on coastal states by the UNCLOS:

- Scientific evidence
- Maximum sustainable yield
- Organization of fisheries exploitation
- Optimum use of resources
Tools for applying the ecosystem approach in the CFP

Scientific evidence

- Any CFP measure must be based on **reliable scientific evidence**
- Application of the **ecosystem approach involves**:
  - **Structural change** in scientific institutions: reorganization of scientific committees to provide them with a more cross-sectoral structure
  - **Change in the content** of their production: mandatory inclusion of data not only on the target species but on the ecosystem as a whole
  - Clear **financial** support to fund such adaptation of the scientific environment
  - During the **transition**: risk of over-application of the precautionary principle
Tools for applying the ecosystem approach in the CFP

Maximum sustainable yield

- **Concept**: from the ecosystem approach, understood to be the attainment of a maximum yield from fishing that is sustainable for the entire ecosystem.

- To this end, there is a broad *acquis* of measures intended to reduce fishing mortality and the environmental impact of harvesting.

- The state of the ecosystem proves that it is insufficient.
Tools for applying the ecosystem approach in the CFP

Maximum sustainable yield

Application of the ecosystem approach involves:

- Simpler and more transparent measures
- Measures to reduce fishing pressure: formulation of recovery plans (Johannesburg proposal, Member State-EC cost liabilities)
- Measures to protect vulnerable species and reduce their high fishing mortality: elimination of discarding
- Measures to protect vulnerable habitats:
  - Habitats and marine strategy directives
  - Beyond no-fishing zones and traditional reserves: “protected marine areas”
- Stricter application of the precautionary principle: greater uncertainties in ecosystem management than in target species management
Tools for applying the ecosystem approach in the CFP

Organization of fisheries exploitation

- **Failure of the TAC / quota system**: universal overfishing and overcapacity
- **Application of the ecosystem approach involves**: 
  - Regulation based on **TACs** and controlling **fishing effort**, but from a global perspective, without fragmentation into national segments
  - **FAO**: allocation of user rights
  - **Transferable individual rights** regulated globally by the EC
Tools for applying the ecosystem approach in the CFP

Optimum use of resources

- It is likewise important not to **under-exploit** resources expected to be fished
- **Traditional instruments**: quota exchanges, greater TAC flexibility
- Application of the **ecosystem approach involves**:
  - Putting an end to underused quotas
  - Introducing transferable individual rights
  - Eliminating the relative stability principle
Summing up,

Application of the ecosystem approach in CFP management involves:

- Adapting scientific research structures and the content of scientific reports
- Adapting present management and conservation measures to introduce the ecosystem variable in decision-making
- Creation of new measures that specifically further ecosystem protection
- Institution of a system of transferable individual rights
Thank you

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