

The Implementation of Regionalisation under the Post-2013 CFP: Some Lessons from the ‘Discard Plan Process’

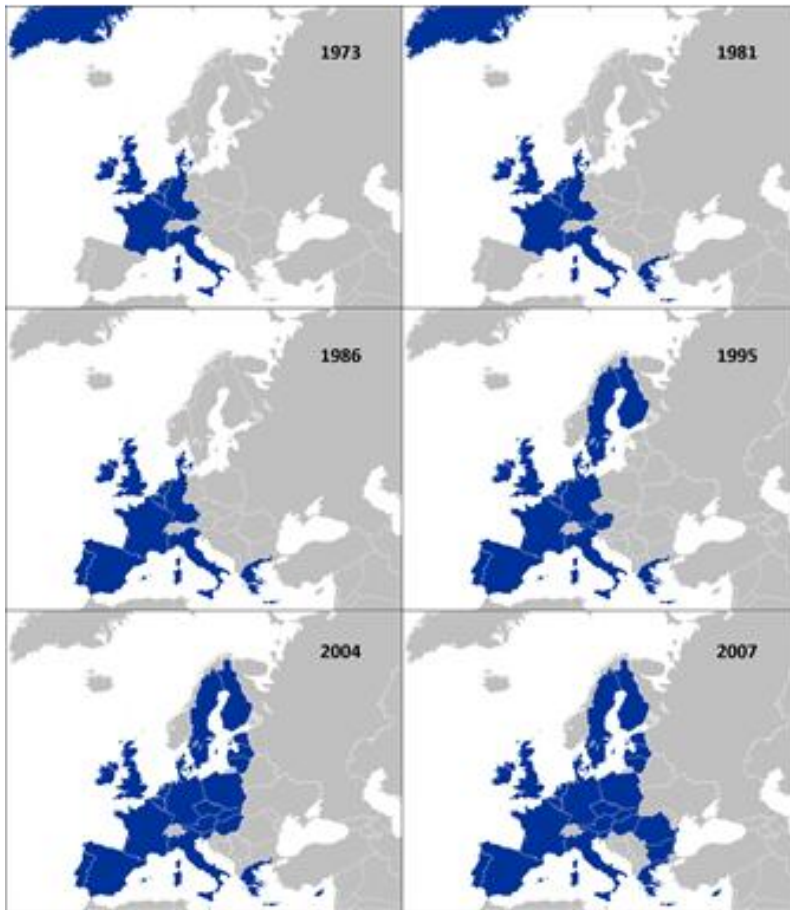
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AIM OF THE RESEARCH

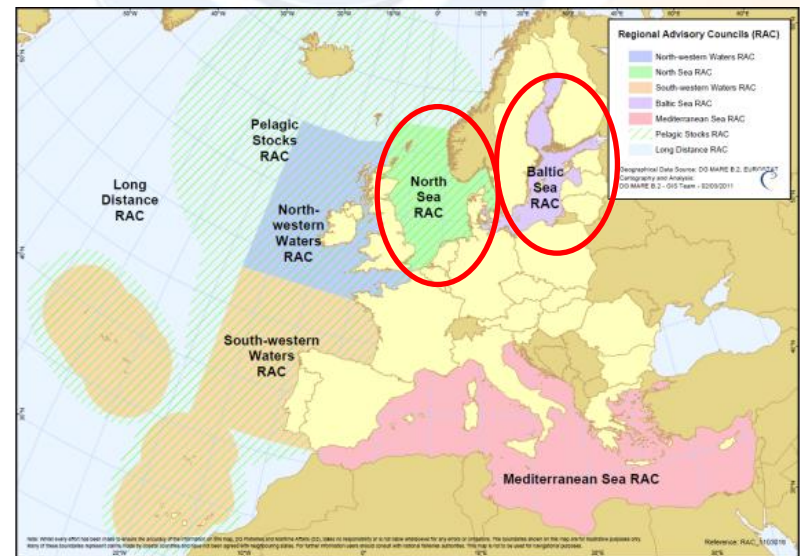
- The new basic framework regulation adopted in late 2013, Regulation 1380/2013, for the first time introduced what is presented as a structure for 'regional cooperation on conservation measures' under the heading of 'Regionalisation'. This work aims to provide an early indication of whether the chosen solution allows regionalisation to reach its potential and, if possible, give directions for further implementation of the provisions.
- This is done with reference to theoretical insights and previous discussions on regional governance under the CFP, the provisions of Art. 18 of Regulation 1380/2013, and an empirical study (documents, interviews, workshops) of the processes of developing discard plans for of respectively the Baltic and North Seas.

WHY DID A NEED TO REGIONALISE ARISE IN THE FIRST PLACE?



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Increasing Diversification of the CFP Fisheries System...



(DG MARE, http://ec.europa.eu/fisheries/partners/regional_advisory_councils/rac_en.pdf)

WHAT IS AT PLAY IN THE REGIONALISATION DISCUSSION?

Who?

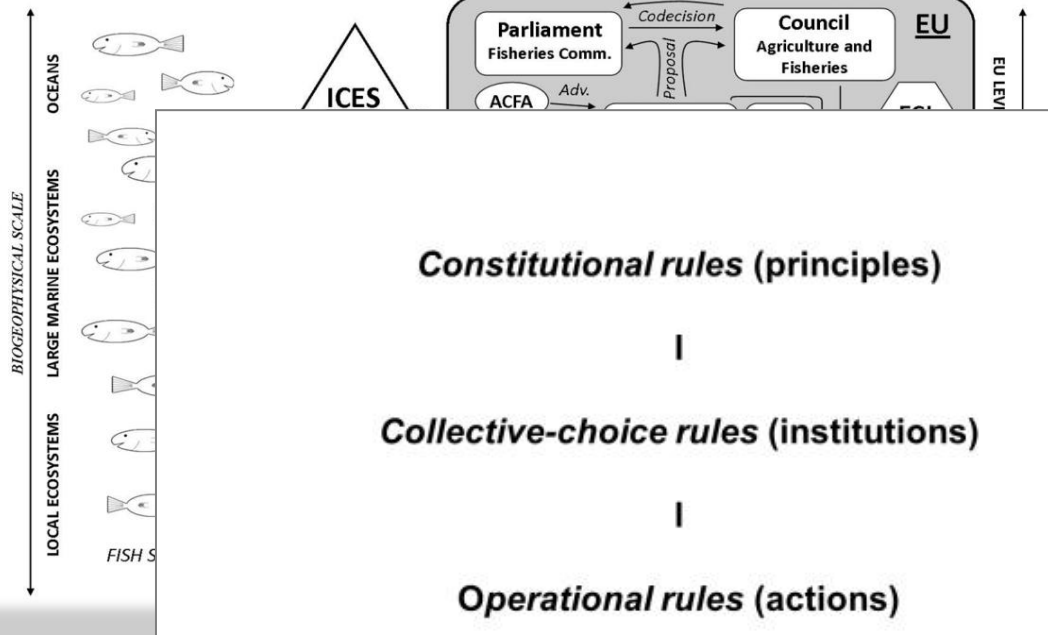
Top-down hierarchical management by the state: where mechanisms for dialogue with users and stakeholders might exist, but only minimal exchange of information takes place and EU

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Where?

What?

WHAT IS REGIONALISATION SEEN AS ABLE TO DELIVER?

Seven practical benefits ('governance objectives'):

- Focus the EU central level on principles, rather than being engaged in micro-management decisions (*i.e. efficiency*)
- Facilitate EBFM and the process towards integration of policies (*i.e. efficiency*)
- Bring decisions closer to stakeholders (*i.e. process legitimacy*)
- Provide better match between those making decisions and those implementing them (*i.e. process legitimacy*)
- Allow more tailor-made management (*i.e. content legitimacy*)
- Develop 'best practices' by experimentation in different regions (*i.e. content legitimacy*)
- Provide for coherent integration of policies (*i.e. content legitimacy*)

Regionalisation

Article 18

Regional cooperation on conservation measures

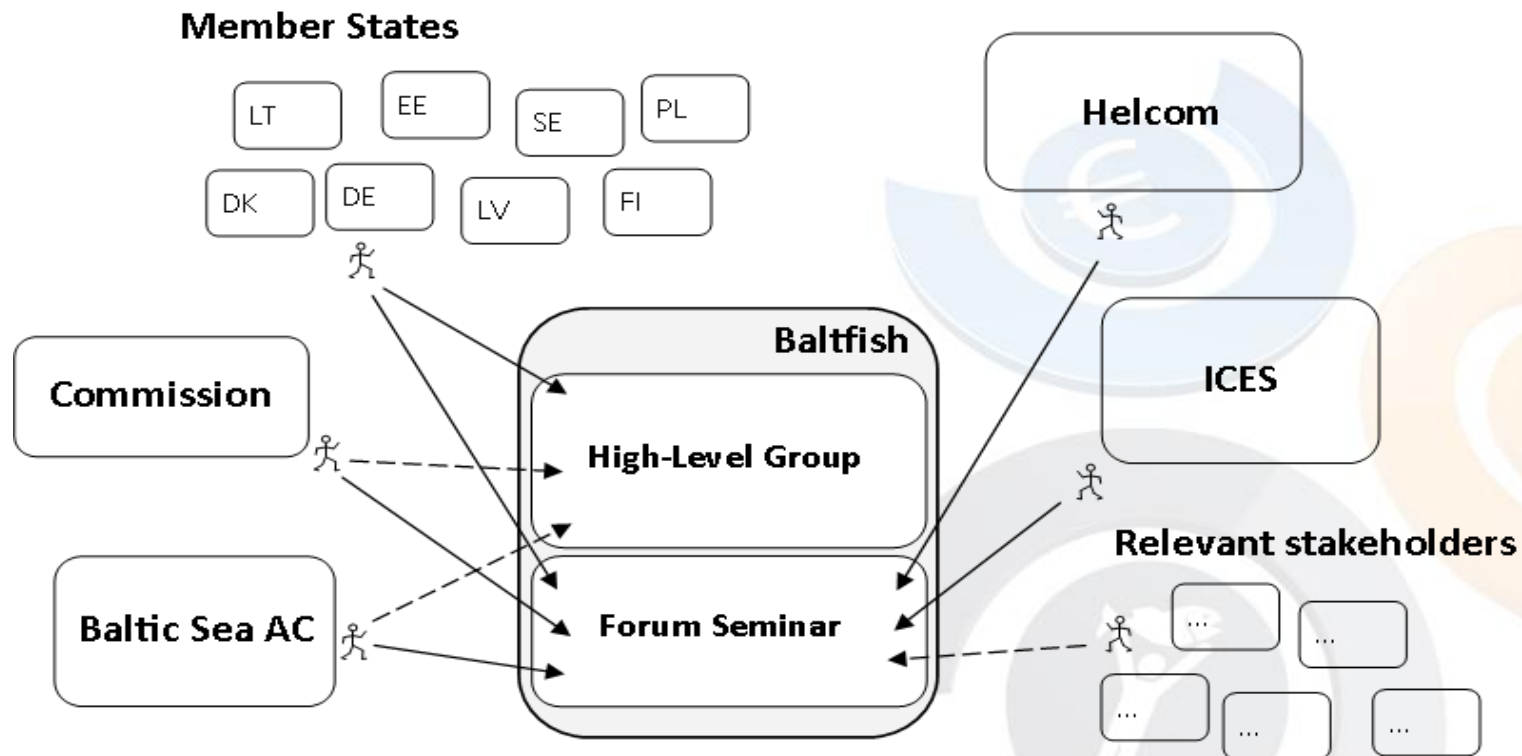
1. Where the Commission has been granted powers, including in a multiannual plan established pursuant to Articles 9 and 10, as well as in cases provided for in Articles 11 and 15(6), to adopt measures by means of delegated or implementing acts in respect of a Union conservation measure applying to a relevant geographical area, Member States having a direct management interest affected by those measures may, within a deadline to be stipulated in the relevant conservation measure and/or multiannual plan, agree to submit joint recommendations for achieving the objectives of the relevant Union conservation measures, the multiannual plans or the specific discard plans. The Commission shall not adopt any such delegated or implementing acts before the expiry of the deadline for submission of joint recommendations by the Member States.
2. For the purpose of paragraph 1, Member States having a direct management interest affected by the measures referred to in paragraph 1 shall cooperate with one another in formulating joint recommendations. They shall also consult the relevant Advisory Councils. The Commission shall facilitate the cooperation between Member States, including, where necessary, by ensuring that a scientific contribution is obtained from the relevant scientific bodies.
3. Where a joint recommendation is submitted under paragraph 1, the Commission may adopt those measures by means of delegated or implementing acts, provided that such recommendation is compatible with the relevant conservation measure and/or multiannual plan.
4. Where the conservation measure applies to a specific fish stock shared with third countries and managed by multilateral fisheries organisations or under bilateral or multilateral agreements, the Union shall endeavour to agree with the relevant partners the measures that are necessary to achieve the objectives set out in Article 2.
5. Member States shall ensure that the joint recommendations on conservation measures to be adopted pursuant to paragraph 1 are based on the best available scientific advice and fulfil all of the following requirements:
 - (a) they are compatible with the objectives set out in Article 2;
 - (b) they are compatible with the scope and objectives of the relevant conservation measure;
 - (c) they are compatible with the scope and meet the objectives and quantifiable targets set out in a relevant multiannual plan effectively;
 - (d) they are at least as stringent as measures under Union law.
6. If all Member States do not succeed in agreeing on joint recommendations to be submitted to the Commission in accordance with paragraph 1 within a set deadline or if the joint recommendations on conservation measures are deemed not to be compatible with the objectives and quantifiable targets of the conservation measures in question, the Commission may submit a proposal for appropriate measures in accordance with the Treaty.
7. In addition to the cases referred to in paragraph 1, Member States having a direct management interest in a fishery in a defined geographical area may also make joint recommendations to the Commission on measures to be proposed or adopted by the Commission.
8. As a supplementary or alternative method of regional cooperation, Member States will be empowered, in a Union conservation measure that applies to a relevant geographical area, including in a multiannual plan established pursuant to Articles 9 and 10, to adopt within a set deadline measures further specifying that conservation measure. The Member States concerned shall closely cooperate in the adoption of such measures. Paragraphs 2, 4 and 5 of this Article shall apply *mutatis mutandis*. The Commission shall be associated and its comments shall be taken into account. Member States shall only adopt their respective national measures if an agreement on the content of those measures has been reached by all the Member States concerned. Where the Commission considers that a Member State's measure does not comply with the conditions set out in the relevant conservation measure, it may, subject to providing relevant reasons, request that the Member State concerned amend or repeal that measure.

(Council and Parliament 2013)

ARTICLE 18-STYLE REGIONALISATION CHARACTERISED

- “[W]eak interpretation of regionalisation” (Gray and Hatchard, 2014, p. 92).
- *“The provision on regionalization [...] can be regarded as a ‘framework’ or ‘proto-type model’ for sub-EU Member States cooperation on specific management questions. It may serve as a starting point for increased regional governance of fisheries activities within the overall CFP architecture”* (Salomon et al. 2014, p. 82).
- Regionalisation, as outlined in Regulation 1380/2013, has great potential but unfortunately also the potential to disappoint.
- In particular, there is a risk that regionalisation will not deliver the inclusion of stakeholders, which is expected in the stakeholder community.

REPRESENTATION IN BALTFISH



EFFICIENCY BENEFITS & CHALLENGES

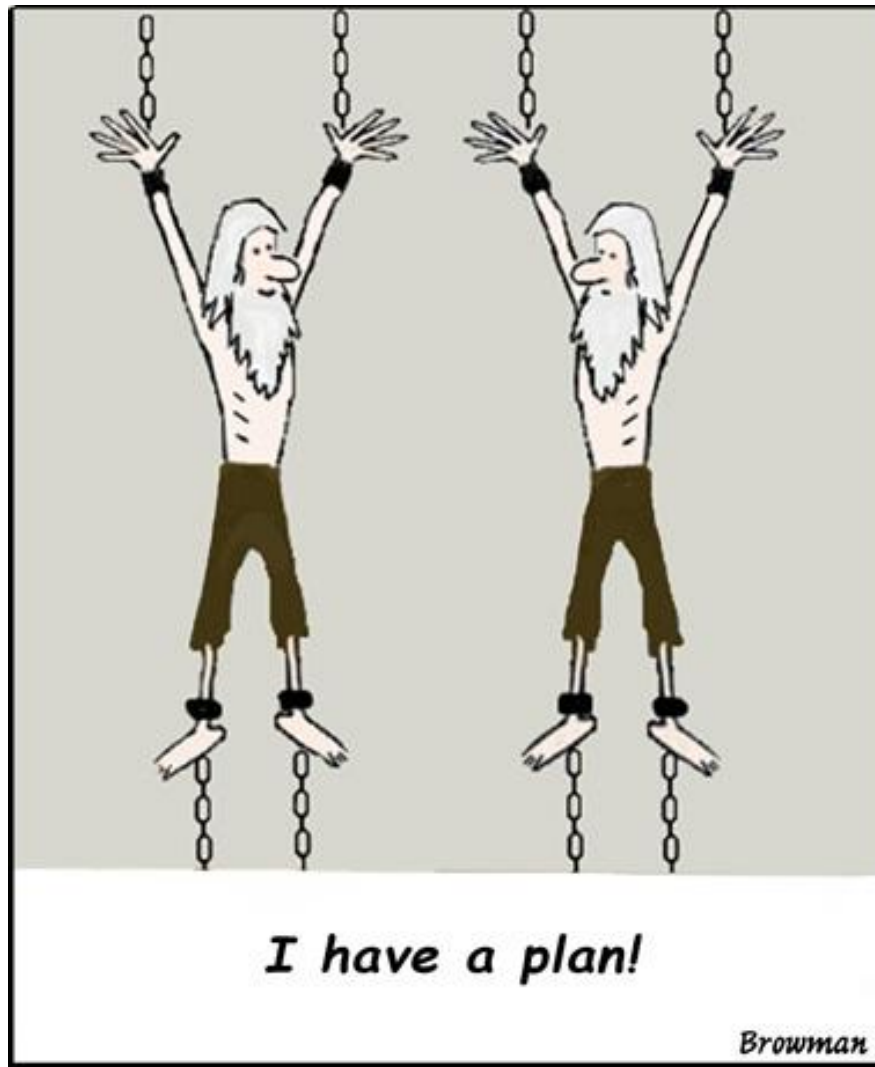
- + Information from stakeholders are collected at a more 'appropriate' level
- + Central level has been relieved of some tasks
- + Regional structures creates better basis for integration with other instruments requiring regional action
- Increased workload reported at regional level without perception of reduced workload at central level (member state administration)
- Problems of manoeuvring in the regional structure, which is perceived as not particularly transparent (e.g. planning work between meetings)
- Central level continues to be involved in regional management (due to the 'legal challenges' – nothing to do about that right now...)
- Little indication that integration with other instruments will be of priority

PROCESS LEGITIMACY BENEFITS & CHALLENGES

- + Some degree of perception of being listened to among stakeholders
- + Overall satisfaction with the establishment of a regional layer
- A perception of continuation of top-down style stakeholder interaction
- The non-binding character of regionalisation creates uncertainty
- Lack of transparency and accountability (unclear who takes decisions)
- Lack of clear procedures (very dependent on individuals, e.g. CEC facilitation)
- The role of the ACs has become unclear, as the regional structures are to some extent creating competitive stakeholder structures (i.e. BaltFish Forum seminar)

CONTENT LEGITIMACY BENEFITS & CHALLENGES (slightly premature to evaluate on this...)

- + Substantial amount of work has been carried out in the different regions to develop discard plans
- + Regulation 1380/2013 allows for specific regional solutions and thus learning from 'best practice'. This is already happening in relation to the regional set-up
- + Strong perception that this is the way forward for decision-making
- Problem that regionalisation is indirect through the central level
- Concern if there is really enough manoeuvrability in terms of possible policy-options at regional level...



I have a plan!

Browman

INTERPRETATIONS

A pessimist: A failure to deliver what was perceived as promised has damaged working relationships between stakeholders and member states/Commission. Now there is mending to do.

A pragmatic: The first experiences with regionalisation have been as one might expect. The landing obligation was unpopular from the outset. In this light, it is impressive that the process actually ran as smooth as it did. The regional actors are learning fast and the regional structures will find their form in coming processes. However, there are several improvements, which should be made.

An optimist: Regulation 1380/2013 has come of to a good start: discard plans have been adopted, regional structures have been institutionalised, and the CFP is shifting towards a regional *modus operandi*. The intension was that the different regions would find their own procedures and learning by doing will ensure this; allow them the time to do this.

SHORT-TERM ACTIONS (RESPECTING THE PROVISIONS...)

- ❖ Strengthening the transparency of the system (websites, calendars, minutes, AC as observer, secretariat)
- ❖ Consider how a 'spirit of co-management' can be fostered
- ❖ Outline more clear working procedures at regional level (and between regional and central level) (too dependent on individuals) (NS AC MoU...)
- ❖ Evaluate and possibly consider solutions to the resource problem (funding, more clear indications of where pressure is reduced)
- ❖ Ensure that there are sufficient feed-back loops in the system (at regional level, and between regional and central level)
- ❖ Consider more in depth what role the ACs should play at regional level (one among many access points, or *the* access point?)

Thank you for your attention!

