



Decision making in the reform of the CFP

Inter RAC / Marine Scotland / DEFRA
Edinburgh
3-4 November 2009



New governance in the CFP **- reversing the burden of proof in fisheries** **management**

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European Commission



Why do we discuss governance ?



Structural shortcomings that have prevented us from delivering sustainable fisheries

Decision-making system that encourages a short-term focus

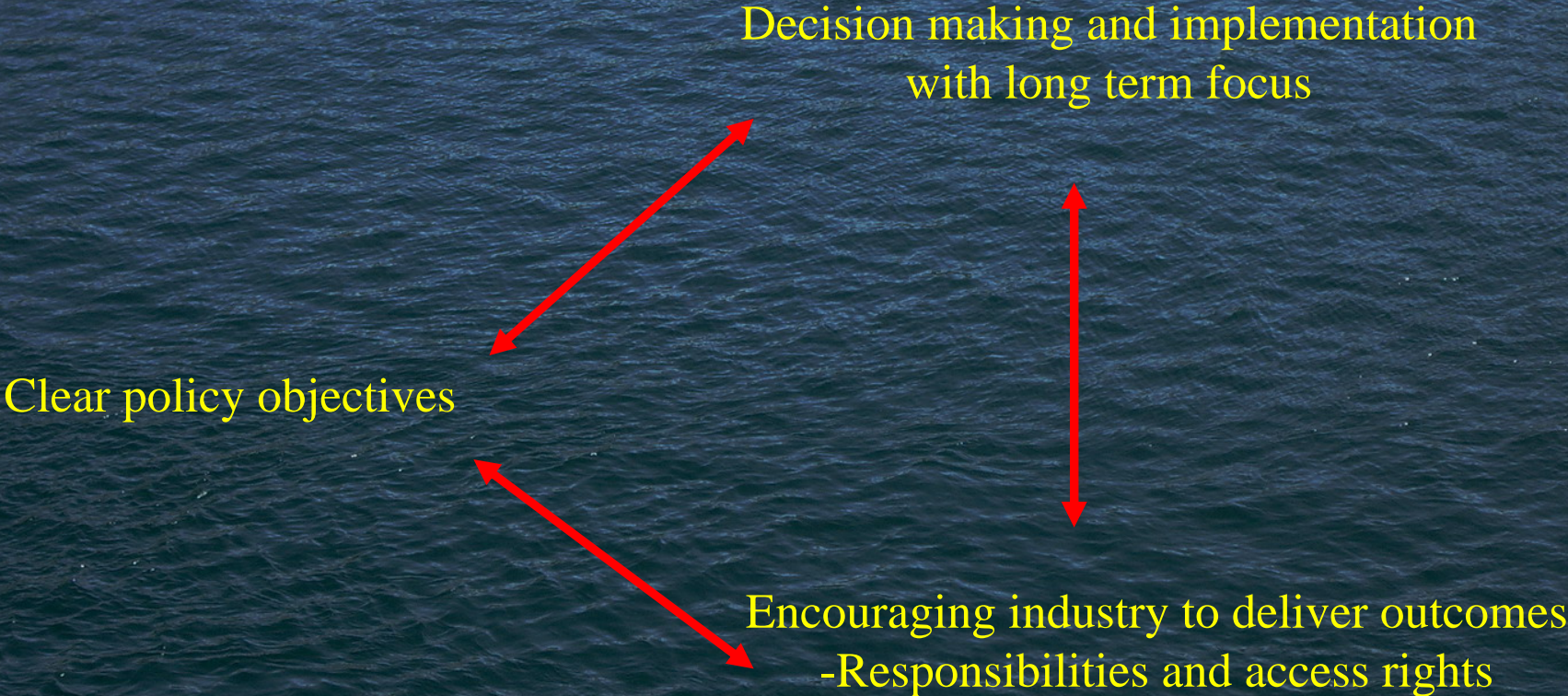
Imprecise policy objectives resulting in insufficient guidance for decisions and implementation

Industry is not given responsibility or incentives to deliver outcomes





Towards sustainable fisheries



What new governance should deliver

- **Hardwiring responsibility – a decision making and implementation setup which encourages a long term perspective**
- **Implementation decisions closer to those they affect or who have an interest - and with their participation**
- **Giving responsibility for sustainable fisheries back to those mostly affected – industry to shape its own future within limits acceptable to society**
- **Implementation decisions with more sensitivity for specifics of regional seas and fisheries**
- **Implementing the ecosystem approach: A CFP which can support and benefit from regional maritime management – Marine Strategy, spatial planning**
- **Getting rid of centralised micromanagement**



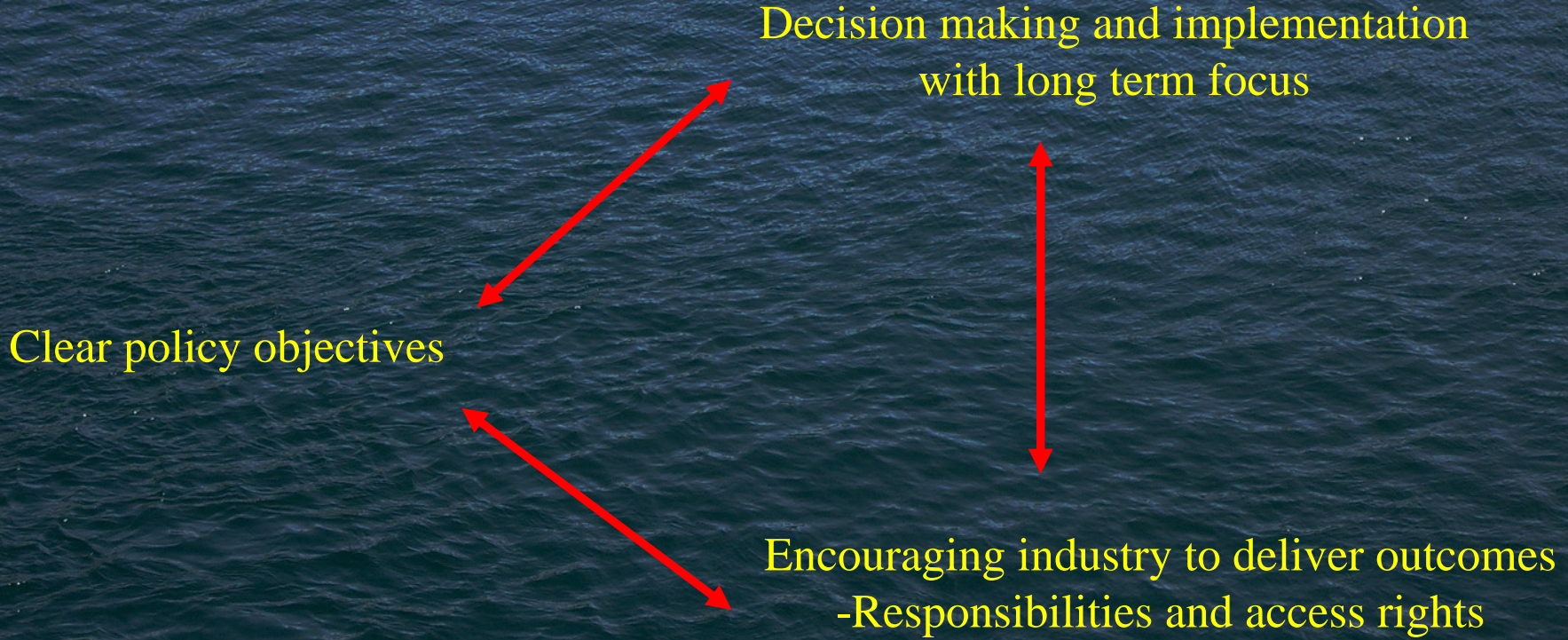
Constraints/conditions for new governance

- **Treaty restrictions:**
 - **Maintain a COMMON policy – exclusive Community competence for conservation of marine living resources**
 - **Delegation of decision and executive powers only possible to bodies recognised in Treaties**
 - **Maintain Commissions' right of initiative**

- **Good governance**
 - **Transparency & accountability**
 - **Participation – industry & civil society**
 - **Based on best available scientific evidence**
 - **Efficacy, timeliness, cost efficiency**

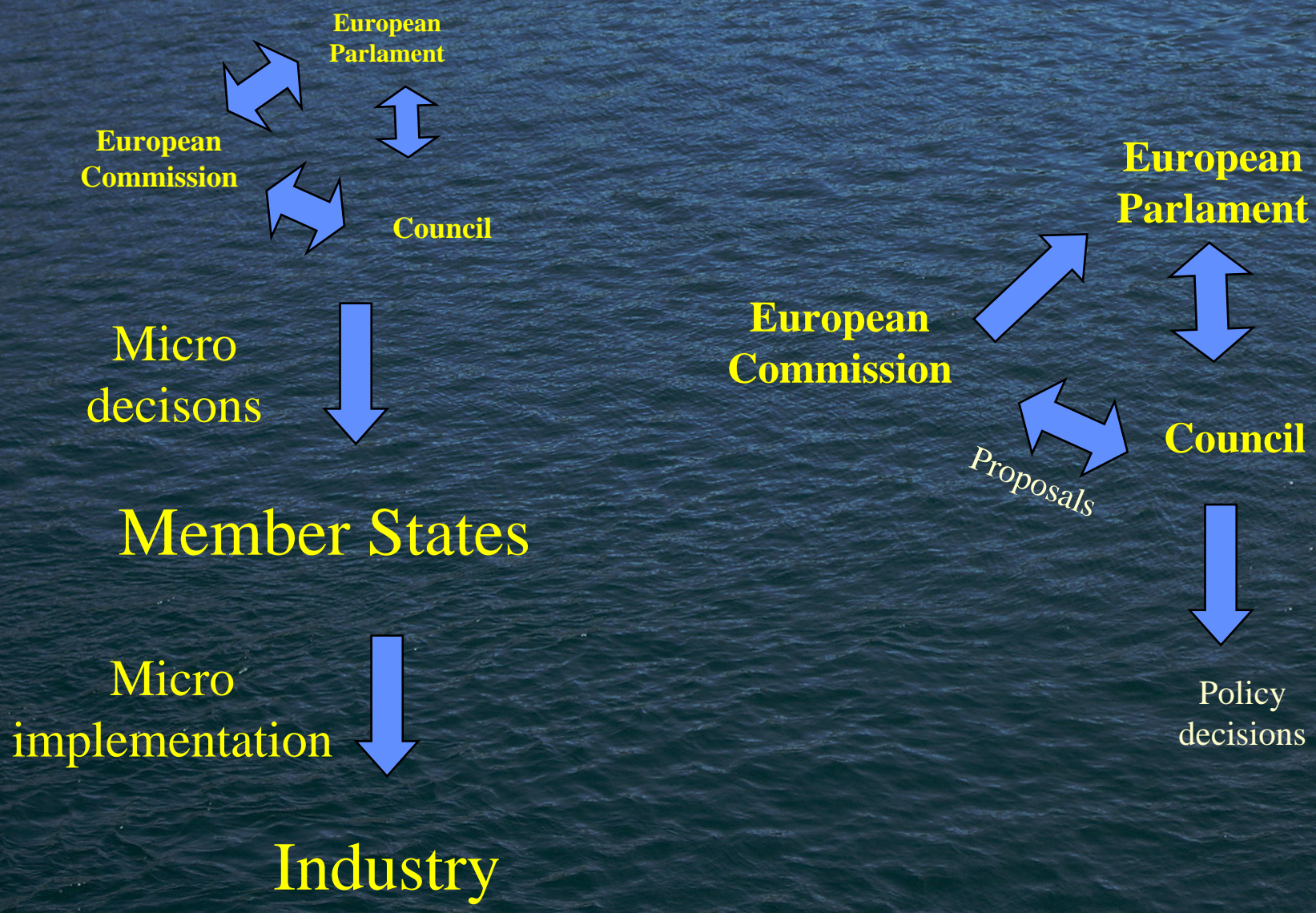


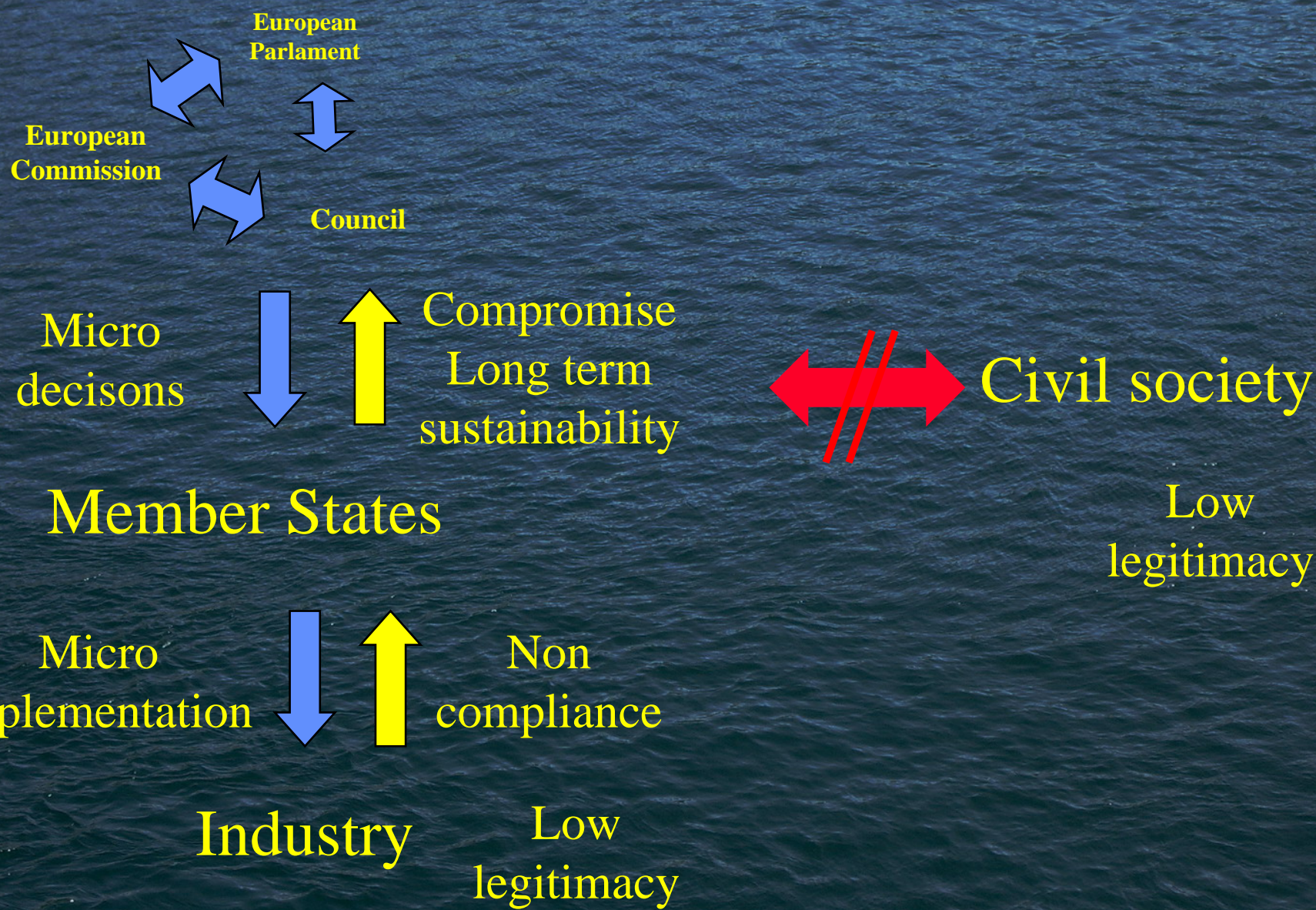
Governance which hardwires responsibility – Hierarchy in public decision making and implementation





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The present setup gives incentives to perverse adaptations and makes sound adaptations difficult

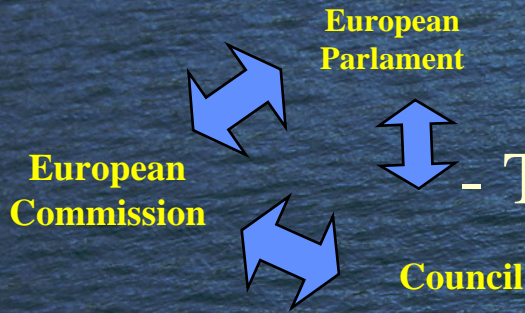
Top-down centralised micromanagement results in:

- **Perverted technologies**
 - **Non-economical technologies and tactics**
 - **Technologies which do not achieve conservation targets**
- **Loss of sense of responsibility - Low legitimacy**
- **Low compliance**
- **Increasingly paternalistic governance**
- **Widening the fisher-science-manager gap**
- **Non-achievement of objectives - ecological, economic, social**
- **Complex and costly policy**



Highest level makes decisions from principles to microregulation

- The immediate short term takes precedence



Micro decisions



Member States

Civil society

Micro implementation



Industry

RACs





The options



Options

- **No change**
- **Extended RAC w MS and stakeholders with competence to give advice**
- **Regional MS decision making with competence to make decisions on implementation of Community policy**

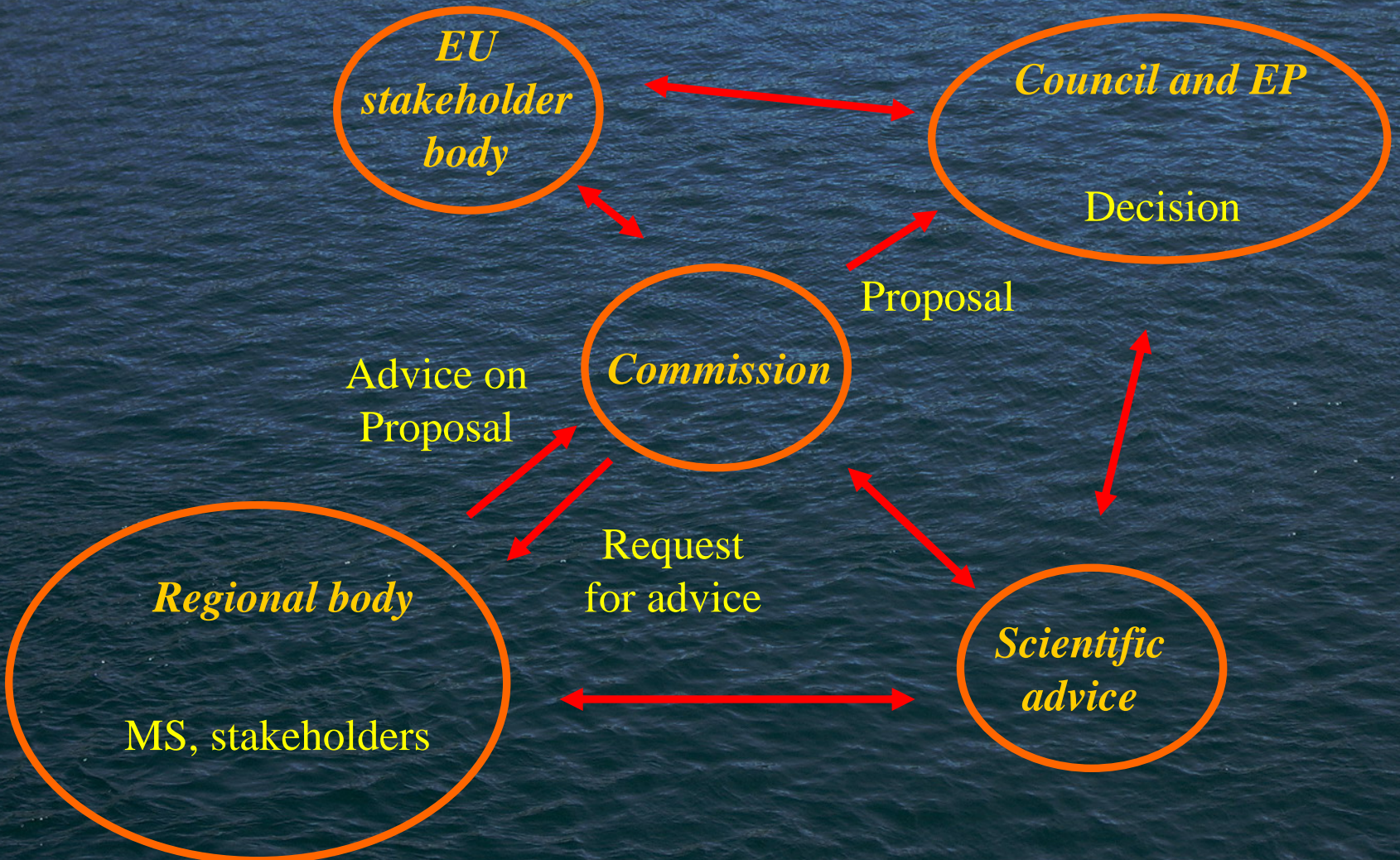


Evaluation – status quo

- **Status quo leading to same outcome**
 - **Hardwired responsibility: all decisions still on same level, no binding by common principles**
 - **Sensitivity to regional sea specifics: no progress**
 - **Closer to people/participation: no progress**
 - **Giving responsibility to industry: no**
 - **EA implementation: no progress**
 - + **Treaty limitations: fully in accordance**
 - **Good governance: no progress**



Extended RAC





Evaluation – Extended RAC

Extended RAC w MS participation, advisory only (delegation of power not possible within Treaty)

ExtRAC to advice/draft proposal to be decided/confirmed in co-decision

Will ExtRAC members use Council and EP as second chance of influence/appeal if RAC advice not entirely to their liking?

- +/- Hardwired responsibility: potential improvement if MS and stakeholders refrain from using influence through Council and EP as appeal**
- + Sensitivity to regional sea specifics: good potential**
- +/- Closer to people/participation: good potential but dependent on how Council and EP will be used by MS and stakeholders**
- +/- Giving responsibility to industry: possible**
- +/- EA implementation: potential but dependent on how Council and EP will be used by MS and stakeholders**
- + Treaty limitations: If only advisory - within**
- Good governance: more participation but no real delegation, potentially more complex and costly**



Regional MS body





What is delegated?

- **Essential legislation must remain exclusive Community competence**

Essential:

- **Only standards – like MSY limit?**
- **Management plans ?**
- **TACs ?**

Implementation:

- **Developing management plans within MSY standard?**
- **Decide implementation (including TACs) on basis of management plans?**
- **Implement TACs only?**



Evaluation – Regional MS body

Delegation to MS with requirement to make decisions on regional level, within Community standards and control

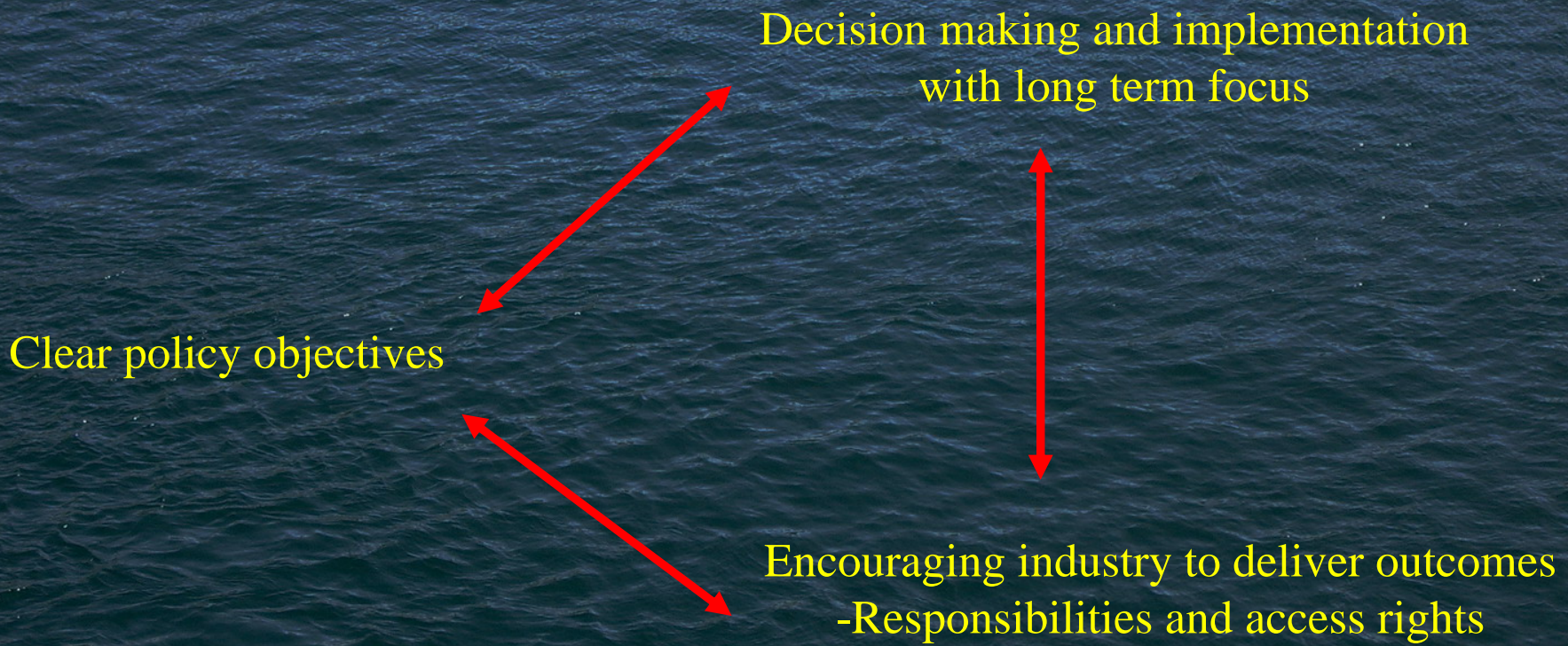
- + Hardwired responsibility: regional level bound by Community standards**
- + Sensitivity to regional sea specifics: Good potential – but risk of regional dispersion also relative to Community standards**
- +/- Closer to people/participation: Proximity but participation only in advice**
- +/- Industry responsibility: possible**
- + EA implementation: good potential – CFP and MSFD implementation may merge?**
- + Treaty limitations: possibly if division between essential legislation and implementation can ensure Common policy while enabling delegation**
- +/- Good governance: advice body on same level as regional decision making but not full participation in decision making**



But
regionalisation
cannot stand
alone – give
industry
responsibility



Governance which hardwires responsibility – Industry taking responsibility



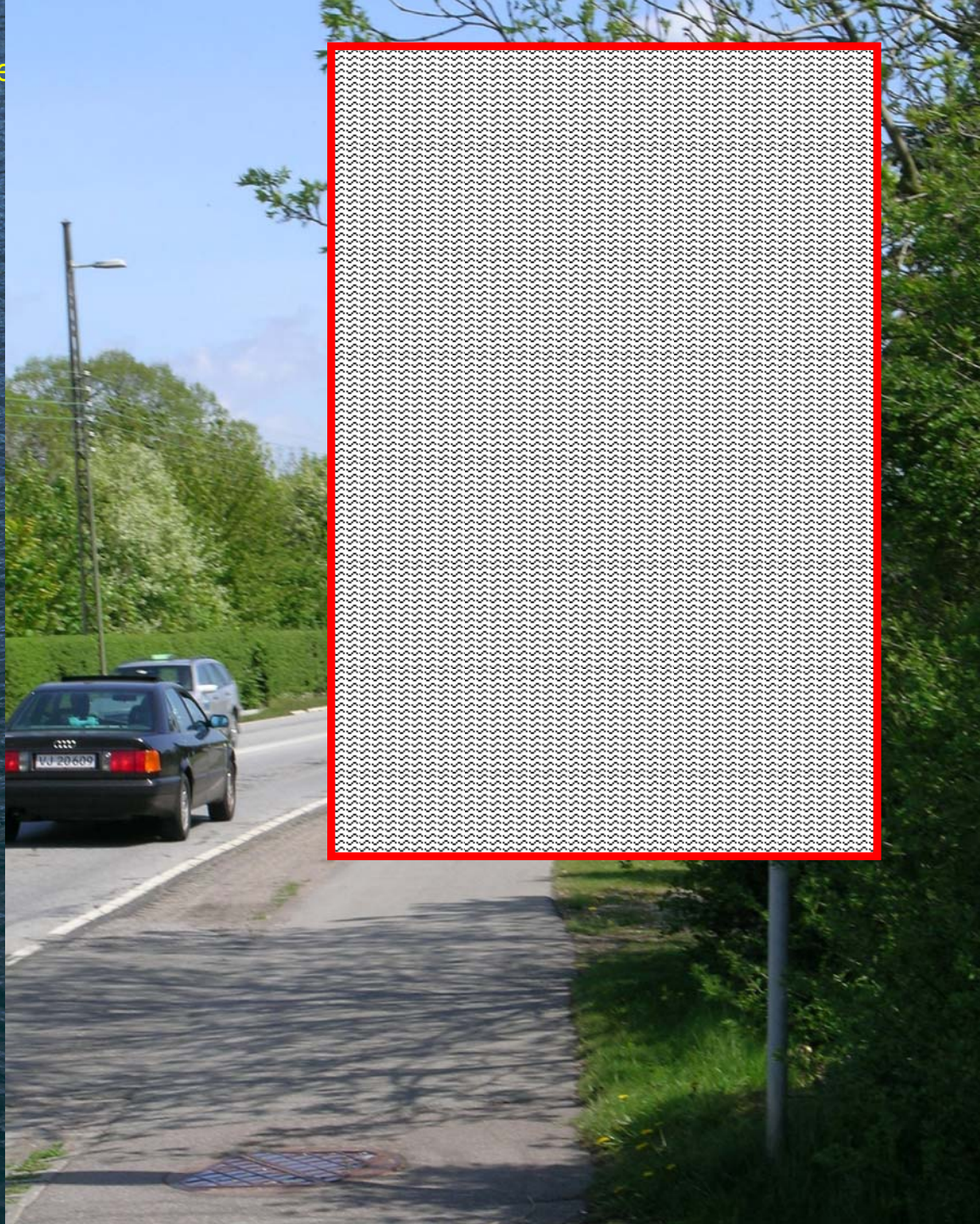


Regionalisation must be linked to industry responsabilisation

- **A 'regionalised' solution may continue top-down paternalistic management with the same negative outcomes**
- **Industry must be engaged in implementation**
- **Can we learn from the management of other sectors?**



If we
regulated
traffic like we
regulate
fisheries...





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VW abc:

If 1.8 model press speeder down maximum 5.5 mm

If 2.3 model press speeder down maximum 4.7 mm

If gti model of any of the above subtract .2 mm.

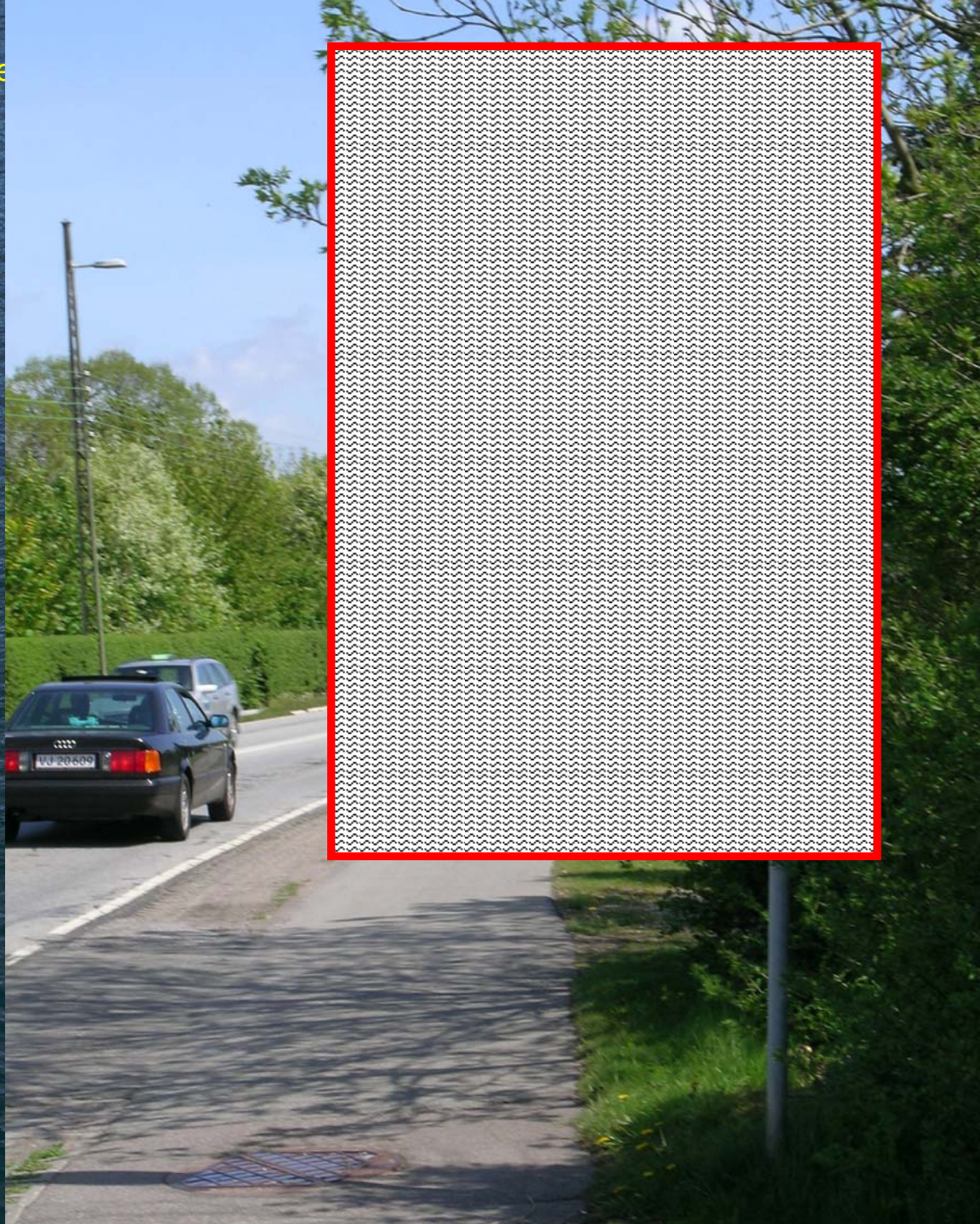
- Add .07 mm pr full year of age prior to 1 Jan 2009.
- Add .5 mm per 50 kg load above 150 kg not counting petrol
- If using winter tyres add .3 mm
- If wind against add .15 mm pr m/s wind against
- If wind from behind subtract .15 mm pr m/s wind from behind
- If wind from an angle subtract or add $.15 * \cos(v)$ where v is the angle of impact
- At downward slopes subtract .24 mm pr % slope
- At upward slopes add .24 mm pr % slope
- During rain add .7 mm pr mm of water on road surface (max 1.8 mm)

VW xyz:

.....

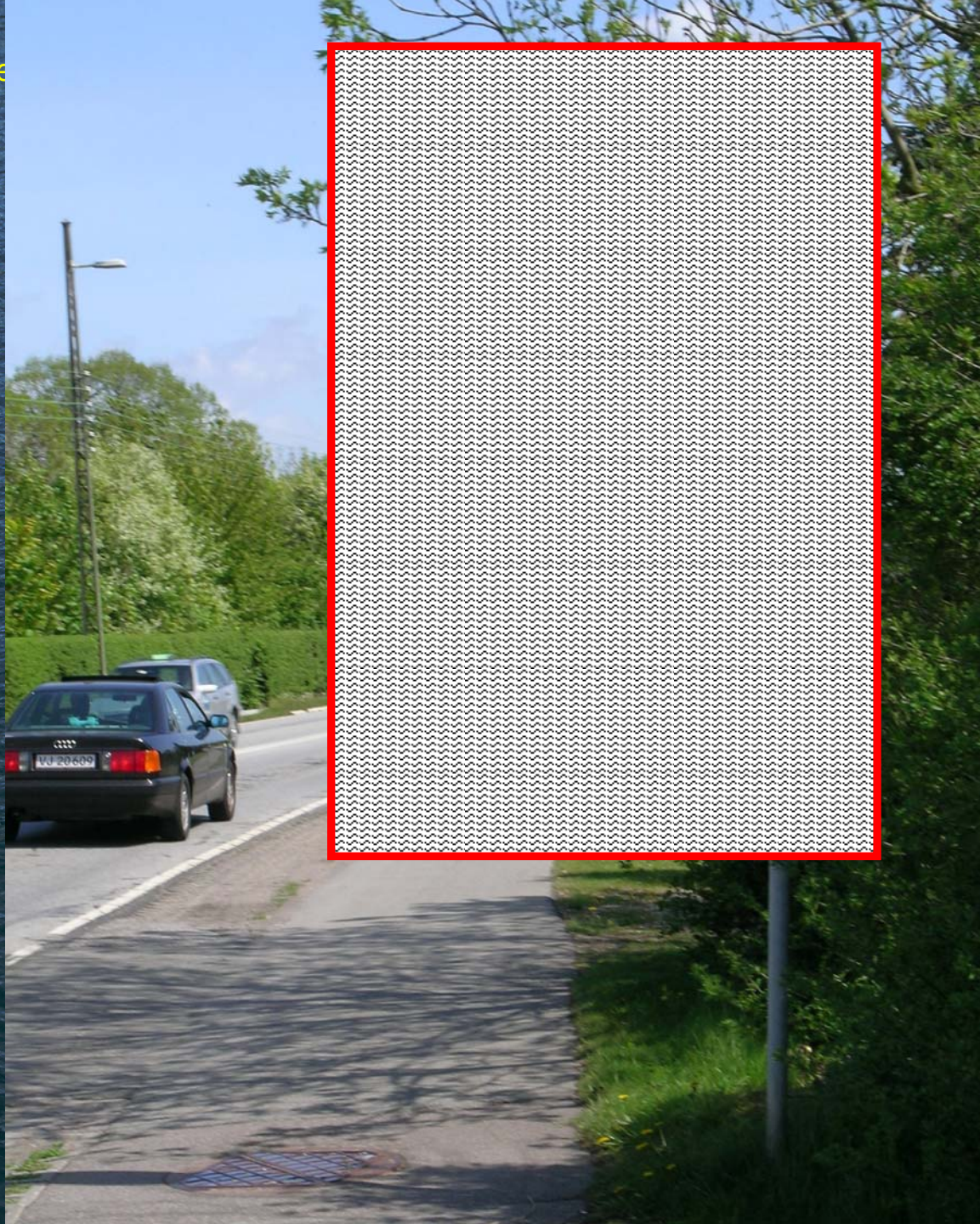


Is this
efficient?





The solution
is simple...



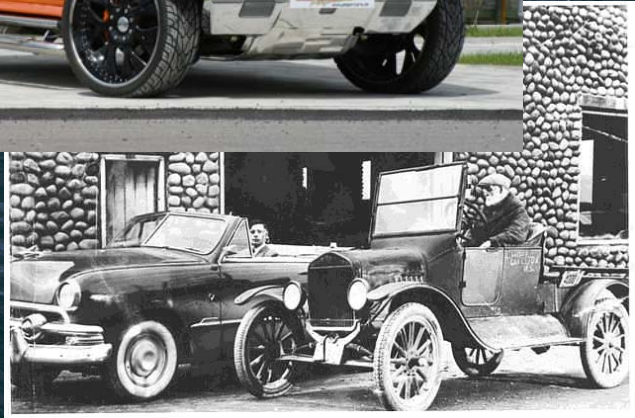
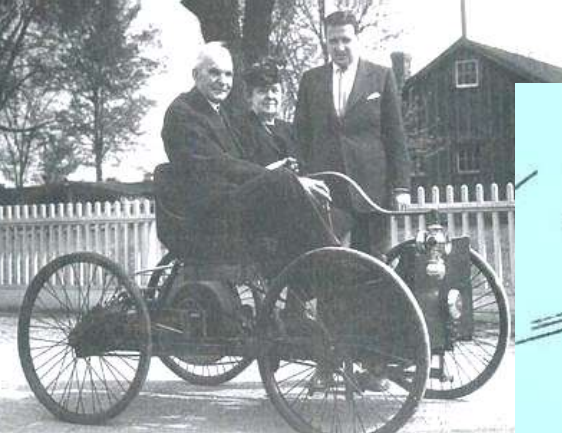


What is done elsewhere?

- **Traffic legislation**
 - **Drive within speed limits**
 - **Nobody cares how you do that technically – or whether your car can actually run 300 km/h as long as you drive within prescribed speed limits**



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What is done elsewhere?

- **Traffic legislation**
 - Drive within speed limits
 - Nobody cares how you do that technically – or whether your car can actually run 300 km/h as long as you drive within prescribed speed limits
- **Environmental regulation**
 - Industries are given maximum limits on emissions
 - Industries are required to document that emissions are within limits
 - Regulation defines outcomes
 - Regulation does not define means to achieve outcomes
 - Burden of proof to large extent with industry



Why is fisheries different?

- **Lack of practical means to control outcomes**
- **Lack of understanding of which outcomes can reasonably be expected**
- **Path dependency**
 - **A long history of regulations of gear characteristics and gear use**
 - **Precedence of burden of proof with government rather than industry**
- **We have increasingly better monitoring options**
- **We have considerable knowledge about impacts and mitigation options**
- **Is history binding?**
 - **Policy - New drivers**
 - **Conceptually - We can think out of the box**
 - **Legally - precedence may create legal barriers**



A 'normalised' policy

- **A 'normalised' fisheries management – give industry responsibility**
 - **Results based management**
 - **Reversed burden of proof**



Results based management

- **Change to specification of acceptable impact rather than acceptable technology**
 - **Maximum catch**
 - **Maximum acceptable by-catch of juveniles, above quota, non-target species**
 - **Maximum acceptable impact on habitat**
 - **Maximum acceptable impact on sensitive species and sensitive habitats**
- **Industry to develop solutions which meet outcome requirements – and are practical, economical**



Revert burden of proof

- **Data and information is the minimum price to pay to society for being given access to common resources**
- **If society identifies maximum acceptable impact it should be left to industry to document that outcomes are within acceptable impact limits – like what is done in other sectors**



Industry documentation

- **Society defines limits and documentation standards**
- **Industry identifies means to operate within limits**
- **Industry sets up documentation system – observers, cameras, sensors – any solution which is practical and meets documentation standards**
- **Documentation subject to audit and control**

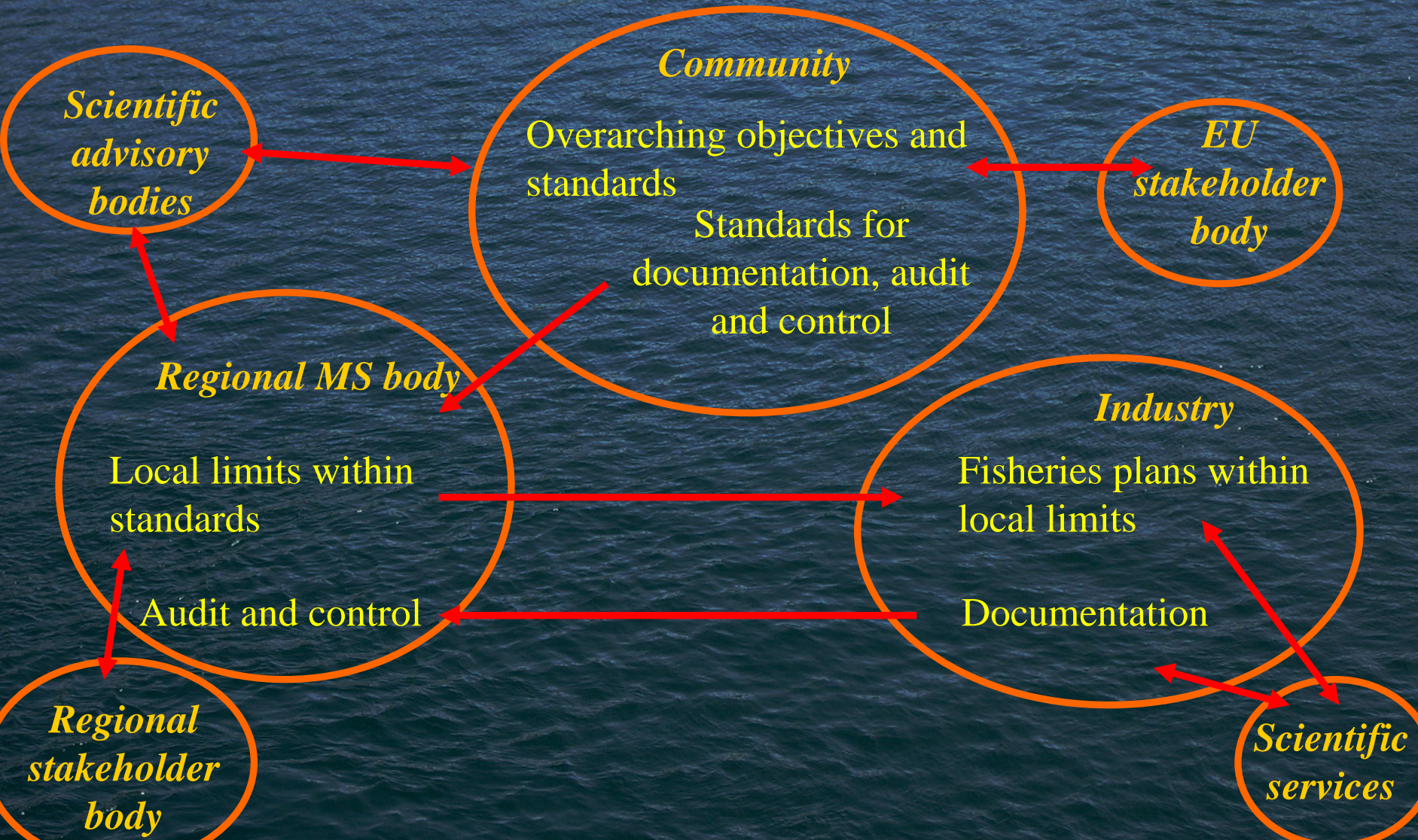


Break out of paternalistic micromanagement – self management

- **Results based management - Release initiative for technological change to industry to find economic and practical solutions**
- **Reverse burden of proof - Give responsibility to demonstrate outcomes to industry**
- **Give secure rights to access which makes this investment worthwhile and helps industry to take responsibility for capacity adaptation itself**
- **Basis for extended co-management/self-management where industry takes it's own destiny into it's own hands**



Regionalisation w industry responsibility





Who is involved?

- **Community limits and standards:**
 - Council
 - EP
 - Commission
 - European advisory body
 - European scientific advice

- **Regional limits and standards:**
 - MS
 - Industry
 - NGOs
 - Regional scientific advice

- **Industry implementation:**
 - Industry bodies – such as PO's
 - Scientific services – industry advice and certified documentation bodies

- **Audit and control:**
 - MS
 - Commission (including control agency)



Summary: Regionalised co-management

- **Focused and prioritised objectives within an ecosystem approach**
- **Hardwiring responsibility:**
 - **Regionalised public decision making and implementation within Community principles and standards**
 - **Self-management by industry on basis of expected results, responsibility within an ecosystem approach and rights**
- **A simpler, less costly policy where decisions are taken as close as possible to those concerned and which encourages industry to do the right thing and enables it to be efficient**
- **‘A normalised fishing sector’**



<http://ec.europa.eu/fisheries/reform>

