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THE NEW COMMON FISHERIES POLICY AN OPPORTUNITY TO MAKE IT GREENER



Photo credit: EC, 2011

Janez Potočnik
European Commissioner for the Environment

2011 will be remembered as a landmark year for the European fisheries sector with the adoption of the reform proposals for the future of the Common Fisheries Policy in July, and the supporting European Maritime and Fisheries Fund in December.

The reform of the CFP is long overdue. Despite progress over the last years, the current levels of fishing activities are still imposing a heavy toll on marine biodiversity. Some of the measures introduced will require bold political decisions and considerable changes, but this is inevitable given the diminished resources available. We need a new legal framework that will ensure environment, economic and social sustainability for generations to come. We need to ensure that fishing doesn't exterminate existing species and undo the work we achieved building solid foundations for global action on biodiversity in Nagoya (Japan) in 2010.

During the preparation of the new proposal I worked closely with Commissioner Damanaki to ensure that adequate management measures would be agreed, properly implemented and enforced, and that the impact of fisheries activities and aquaculture on the marine environment would be reduced and properly monitored.

The proposals represent a major step forward from the current system. They address the main causes of the critical state of the EU fisheries sector, notably the overcapacity of the

EU fleet and the overexploitation of fish and shellfish stocks. In doing this, the Commission has placed sustainability at the heart of the reform, seizing the opportunity to make the CFP greener and more sustainable.

The main features introduced from an environmental perspective include the ambitious target of 2015 for all fish stocks to be brought to sustainable levels in line with international commitments; a move towards an ecosystem-based approach to fishery management with long-term management plans based on the best available scientific advice; the phasing-out of waste caused by discarding; and future EU financial support strictly geared to achieving the objectives of the reformed CFP.

In addition, the new policy recognises the importance of Marine Protected Areas, in particular the EU Natura 2000 network, in ensuring a biodiverse and healthy marine and coastal environment; as well as the need to monitor aquaculture activities to ensure that they guarantee a safe local environment wherever they are performed and are not detrimental to species of European interests and to achieving the conservation objectives of Natura 2000 sites.

The proposals also underline the importance of EU action in the international arena. Within international bodies and in its relations with third countries, the EU will advocate the principles of sustainability and conservation of fish stocks and marine biodiversity. It will establish alliances and undertake actions with key partners to combat illegal fishing and overcapacity. International Fisheries policy should have a stronger conservation focus in all waters where the EU fleet carry out their activities, using the same standards as if they were fishing in EU waters.

The CFP Reform and the supporting European Maritime and Fisheries Fund represent an opportunity in which we can all build support for a new sustainable, environmentally-friendly, resource efficient and credible CFP. This is a major contribution to our flagship initiative for a "Resource Efficient Europe". It is now up to the European Parliament and the Member States in Council to turn these ambitious proposals into ambitious EU legislation which helps fisheries to become again a sustainable activity over the long term.

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Views expressed within this newsletter do not necessarily reflect those of the editor.

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An Exciting Year Ahead

**Indrani Lutchman, Editor,
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2012 is likely to be a very exciting year for EU fisheries policy. As the CFP enters its final year of the reform negotiations, the reform of the European Fisheries Fund gets underway. A summary of the key policy developments over the last eight months points to a busy programme of activities towards achieving sustainable EU fisheries.

The CFP reform

The European Commission published on 13 July 2011 the reform proposals for the future of the Common Fisheries Policy (CFP). The package includes four proposals: a legislative proposal for a new CFP Regulation (COM(2011)425), a legislative proposal for a market policy (COM(2011)416), a Communication on the external dimension of the CFP (COM(2011)424), and a report on reporting requirements (COM(2011)418). The most significant of these is the legislative proposal for the CFP Regulation, which proposes a number of significant changes to the 2002 basic Regulation, including moves towards multi-species fisheries management, market based quota management, and decentralisation of the policy. Other major additions include a ban of discarding and the establishment of a new Aquaculture Advisory Council to complement the current seven Regional Advisory Councils (RACs). Responses to the Commission's proposal were mixed with stakeholders expressing disappointment that they have not gone far enough and other criticising the proposals for being too radical.

From September – December 2011, the Council deliberated on the Commission proposal for a new Basic regulation. During weekly meetings of the fisheries counsellors of the Member States representations in Brussels, this working group met and considered the entire legislative proposal, paragraph by paragraph and provided comments. An internal working document was due to be compiled by the Polish Presidency at the end of this exercise and presumably this will form the basis of interventions by the Council in 2012.

In response to the Commission's proposals, the PECH Committee appointed rapporteurs to prepare their reports on the proposals. Ulrike Rodust (S&D Group, Germany) was appointed rapporteur for the report on the new legislative proposal. Struan Stevenson (ECR, UK) as rapporteur for the report on the market policy proposal; Isabella Lövin (Greens/

EFA, Sweden) - rapporteur for the proposal on the external dimension and Nikolaos Salavrakos (EFD, Greece) as rapporteur on the communication report. These reports are due to be presented to the PECH Committee at the January and February committee meetings for an exchange of views, and are due to be adopted at a later stage.

Since the Commission launched its proposals in 2011, the PECH Committee has also hosted a number of public hearings and internal debates on various elements of the Commission's proposal. These include hearings on TFCs, MSY and the external dimension. Debates on these topics are likely to heat up in the next six months. Other events hosted by the Parliamentary Inter-group, Fish for the Future, different political groups and NGOs in Brussels continue to provide opportunity for further dialogue between the Commission and stakeholders on general and specific elements of the reform proposals.

By December 2012, the Commission expects that the proposals will be finalised and adopted by the Council but there are indications that this reform may run into early 2013. The pace of the negotiations and the retention of substantive elements of the reform are dependent on Member States, the Council, the European Parliament and their willingness to ensure that this reform leads to a final conclusion which is good for fish, fishers and the marine environment.

Reform of the European Fisheries Fund

In December 2011, the European Commission has proposed a new fund for the EU's fisheries and maritime policies, the European Maritime and Fisheries Fund (EMFF) (COM (2011)804). This new fund will replace the existing European Fisheries Fund (EFF) and a number of other instruments, and establishes a financial framework for the CFP and the Integrated Maritime Policy (IMP) for the period 2014 to 2020. The Commission states that the fund will help fishermen in the transition

towards sustainable fishing and coastal communities in the diversification of their economies.

The proposed EMFF budget amounts to €6.5 billion for the seven year period, to which €916 million will be added to finance external fisheries agreements and the compulsory contributions to regional fisheries management organisations. Of the €6.5 billion, €1 billion will be earmarked for the IMP, which leaves fisheries with a marginally greater budget at fixed value than what is available under the EFF (€4.3 billion).

Compared to the current funding system under the EFF the main changes in the fund include the greater impetus on the IMP. Almost 7 per cent of the EMFF budget has been set aside to support the implementation of the IMP including marine spatial planning, integrated maritime surveillance and marine knowledge. In line with the Europe 2020 priority of inclusive growth, the proposed EMFF is intended to promote social cohesion and job creation in fisheries dependent communities, through adding value to fisheries, and diversification into other maritime sectors.

The proposed EMFF integrates the five axes of the EFF and the IMP financial instruments into a single fund, streamlining rules and procedures. This greatly reduce the administrative burden, as four sets of financial decisions, reporting, monitoring and evaluation procedures will be replaced by a single one. The main administrative burden of the EFF was the setting up of the Management and Control System. The proposal for the Common Provisions Regulation, adopted on 6 October 2011 (COM(2011)615) within the reform of the cohesion policy, envisages a management and control system that is the same for all Common Strategic Framework funds. This streamlining will significantly reduce the administrative costs arising from management and control, including reporting, evaluation and monitoring.

In line with the Multi-annual Financial Framework Communication (COM(2011)500 – Part I) conditionality must be introduced into all EU programmes and instruments. Financial assistance under the EMFF will be

made conditional on the compliance of Member States and operators with the objectives and rules of the CFP especially control obligations, the IUU Regulation and data collection obligations. Ex-ante conditionality will apply to aquaculture requiring Member States to prepare multiannual strategic plans.

The negotiation of the EMFF is now underway and the proposal will be debated in coming months. An exchange of views will be held in the PECH Committee in January and at the Council of Ministers meeting on the 23rd of January 2012.

The outcomes of both reforms are likely to result in major changes to the way that EU fisheries are managed, but the key challenge which they will need to address is the EU overcapacity problem.

Overcapacity – An EU fisheries challenge

The European Court of Auditors (ECA) recently published a special report No 12/2011 on whether EU measures have contributed to adapting the capacity of the fishing fleets to available fishing opportunities. The report explains how fleet overcapacity has been a problem for many years, undermining the sustainability of fish stocks and the long-term viability of the fishing sector. It states that measures taken so far to adapt fleet capacity to resources have been unsuccessful. Thus the Court examined whether the framework for the reduction of fleet capacity was clear, and if the measures to reduce capacity are well designed and have been implemented by the Commission and Member States. The audit was carried out at the Commission and in seven Member States (Denmark, Spain, France, Italy, Poland, Portugal and the United Kingdom) selected on the basis of the size of their fleets and the resources available for adapting their fleets under the EFF.

A number of weaknesses were identified. Among them is the need to define and quantify overcapacity. While the need to balance fishing capacity with fishing opportunities is a key requirement of both the CFP and the EFF, the lack of definition and quantification of current EU overcapacity means that it is very difficult to evaluate the effectiveness of

current measures or furthermore, modify them. In addition, the requirement of the CFP Regulation to withdraw fishing rights is contradicted by the annual total allowable catch regulations which allow for the reallocation of fishing rights related to such fishing vessels in certain cases. Where Member States allow beneficiaries of public aid for fishing vessel decommissioning to transfer associated fishing rights or quotas, this provides the beneficiaries with additional resources to contribute to restructure their remaining fishing activities or to pursue other interests.

Member States incurred significant delays in implementing fleet capacity reduction measures. This was due to a number of factors, but mainly the late implementation of National Operational Programmes as priority was given to finalising the Financial Instrument for Fishery Guidance and establishing the new management and control system.

The ECA also noted the potential contradiction within the EFF Regulation in providing funding for investments on board fishing vessels and at the same time requiring these investments not to increase the ability to catch fish. Although there is a prohibition on subsidies to investments which increase fishing ability, such investments are not clearly defined and vary depending on the language version of the Regulation. Furthermore, the Commission has not issued sufficient guidance on the interpretation of this regulatory requirement. Finally, the ECA concluded that decommissioning schemes have not always been targeted at fisheries with evident overcapacity, resulting in scrapping of fishing vessels which had little impact on the targeted fish stock in the first place.

The Commission has proposed the introduction of mandatory transferable fishing concessions to address the problem of overcapacity. This edition presents a series of interesting articles on TFCs which will highlight some of the issues at stake in the current negotiations of the reformed CFP.

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Getting it right

Director of the Fisheries Secretariat (FISH) and one of the founding members of OCEAN2012 - an alliance of organisations dedicated to transforming European fisheries policy to stop overfishing, end destructive fishing practices and deliver fair and equitable use of healthy fish stocks- Niki Sporrong gives her view on how to really reform the CFP.

In 2009, the previous Commissioner for fisheries and maritime affairs, Joe Borg, emphasized in his El Anzuelo editorial how important it was to get this reform of the Common Fisheries Policy (CFP) right. Overcapacity driving overfishing and short-term decision-making has led to poor profitability in the sector, unacceptable impacts on fish stocks and the marine environment, a dependency on public subsidies, as well as a lack of consumer confidence in fish products across the EU. The description is widely accepted as true.

Three main building blocks that would help set things right were suggested, which have been repeated by Commissioner Damanaki:

1. ecological sustainability as the source of economic and social sustainability;
2. simplifying the rules and bringing decision-making closer to the people it affects; and,
3. promoting the same responsible fishing outside EU waters as in internal waters.

From an environmental perspective the first building block is fundamental, as without fish there cannot be any profitable and sustainable

fishing, or employment in the fishing sector. Bringing the decisions closer to the people they affect is also crucial and needs to be met through an increased regionalisation of the future policy. And promoting the same rules regardless of whether fishing takes place in EU waters or elsewhere is another clear-cut priority.

However, I would add that we also need more targeted ways of dealing with overcapacity, including incentives to minimise effects on the environment through preferential access to resources for the best performers, and finally a new funding instrument where money is made to work for the good of the public, specifically ensuring that subsidies in no way contribute to maintaining or increasing existing overcapacity.

In the summer, the Commission finally published its reform proposal, but are we on the way to getting it right? Considering the Commission's repeated assertions on the need for a radical reform of the CFP, it is not quite the ambitious proposal European citizens were promised.

The proposal fails

to prioritise ecological sustainability but includes targets for the recovery of fish stocks that could see the end of overfishing in EU waters. It does not commit Ministers to not exceed scientific advice when setting fishing opportunities but encourages higher selectivity and partially addresses the wasteful practice of discarding fish.

The most radical element of the proposal is a controversial mandatory plan to give away the access to fish stocks to the fishermen active today across the EU in the form of transferable fishing concessions. This is the Commission's main element to address overcapacity. The Commission is turning to "the market" to solve the problem of overcapacity, without putting any safeguards in place. This type of approach has a mixed track record in other countries and would most likely fail to provide compensation to the public for the loss of communal fishery resources or to reward those who fish in the most environmentally and socially responsible way.

Smaller vessels – below 12 meters in length and using passive gear – would not be obliged to enter such a

privatization scheme. However, the proposal fails to suggest any sort of management model for this segment of the fleet, which currently makes up more than 70% of the number of vessels in the EU. On regionalisation – for which there is a widely acknowledged need – the proposal is also not very well developed and it is difficult to foresee exactly how it will work.

Finally, in terms of aquaculture, the indiscriminate promotion and development suggested by the Commission may lead to the same problems of over-establishment, environmental effects and poor profitability as we have seen in the catching sector.

The reform offers a unique opportunity to recover the well-being of our seas and our fishing communities. It is now up to the European Council and the European Parliament to ensure that it results in a future fisheries policy that is environmentally sustainable, as well as socially and economically viable.

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Pushing the boat out on EU fisheries reform

Saskia Richartz, EU Oceans Policy Advisor at Greenpeace, argues that the CFP reform proposal fails to tackle overcapacity and restructure the fleet towards environmental and social sustainability.



Photo Credit: Redworm

The enormous power of industrial-scale fishing vessels to catch fish means that just 4 per cent (160,000) of the world's 4 million fishing vessels catch as much fish as the remaining 96 per cent of vessels (3.84 million), UNEP reported earlier this year. In the EU, the dominance of the industrial fleet is even greater: just 3,400 vessels of 24 metres or more in length – 4 per cent of the EU fleet – take approximately 70 per cent of all EU catches, according to European Commission figures. Yet this industrialised fleet offers less than 30 per cent of overall employment in the catch sector.

These numbers are not trivia. Coupled with unsustainably high rates of exploitation and the poor state of most of Europe's fish stocks, they are the undeniable signs of an imminent system collapse. The reform of the Common Fisheries Policy (CFP) gives the EU a unique opportunity to buck the trend and end its disastrous record of overfishing by tackling Europe's bloated fleet capacity.

As it stands, nobody is benefiting from the CFP. Persistent overfishing has eroded away the productivity of Europe's fisheries.

ultimate price.

In terms of fleet management, there are two main take-home messages: the size, equipment and operational characteristics of vessels determine their potential impact on fish stocks and the marine environment, more than sheer numbers, and the vast majority of fishermen in Europe work on small scale vessels.

Cutting fleet capacity in a way that can bring us closer to sustainable fisheries requires governments to shift away from policies that benefit industrial-scale, high-impact fisheries towards rules that favour more selective, low-impact fishing methods. By supporting more environmentally sustainable and non-intensive fishing operations, Europe's decision-makers can also maximise employment within the catch sector. And in terms of net profit margin, the small-scale sector and fleets using passive gears, like pots and set nets, perform better than larger vessels and fleet segments that use active gear, like trawlers and purse seiners, according to the Commission.

In 2009, the fishing sector operated at a loss of almost 5 per cent. Subsidies are merely creating the illusion that fishing is still a viable trade. The reality is that the sector is living on borrowed time, with the marine environment paying the

What is on the table for CFP reform at the moment fails on several fronts. Above all, the proposals lack clear timelines and action to reduce fleet capacity in line with the overarching objective to recover stocks by 2015 and regional management strategies under multiannual plans. Greenpeace therefore calls on governments and the European Parliament to change the draft policies to ensure that:

- a deadline is set to achieve an effective balance between fishing capacity and fishing opportunities (Art. 34), which corresponds to the 2015 stock recovery target.
- multiannual plans, which should set out regional, ecosystem-based fisheries management measures in a multi-species context, and contain an assessment of the types and numbers of vessels covered by the plan and their spatial and temporal fishing behaviour.
- multiannual plans which contain fleet management targets that guide national efforts and benefit those fishers that have the least impact on the marine environment, who can demonstrate strong legal compliance and who operate within and contribute to local coastal communities by preferentially allocating them access to quotas and fishing grounds.

The CFP reform offers us an opportunity to once again have healthy seas, plentiful fish and thriving fishing communities. However, in order to do so Europe's decision-makers must be willing to tackle overcapacity and restructure the fleet into an environmentally sustainable and socially as well as economically viable one. Only these principles will guarantee Europeans a rich variety of responsibly and locally-caught fish into the future.

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Existing transferable fishing rights in Europe

Suzannah Walmsley, Project Director at MRAG, explores the type of TFC arrangements covered by the proposed legislation and gives examples of where these are already in use in Europe.

The proposed regulation for the CFP requires Member States to establish a system of Transferable Fishing Concessions (TFCs) for all fishing vessels of 12m length or more, and for all fishing vessels under 12m length with towed gear. The TFCs will apply to TAC- and quota-managed stocks, and to some fisheries in the Mediterranean. Specifically, Member States will allocate fishing opportunities to holders of TFCs for the following:

- Fishing opportunities allocated to Member States (i.e. for TAC- and quota-managed stocks);

- Fishing opportunities established in management plans adopted by Member States for fisheries conducted by trawl nets, boat seines, shore seines, surrounding nets and dredges within territorial waters for the Mediterranean Sea (Regulation (EC) No 1967/2006).

In light of this proposal there are some important features of TFCs that should be noted:

To quota or not to quota?

The terminology adopted for the name, 'transferable fishing concession' purposefully does not use the word 'quotas'. This means that various types of TFC are possible, including transferable effort as well as transferable catch quotas.

'Individual' = ITQ?

Article 29(1) of the proposed Regulation refers to the allocation of 'individual' fishing opportunities to holders of TFCs. However, this is subtly different from the 'individual' implied in individual transferable quotas (ITQs) — the key is that the opportunities are allocated on an individual basis to holders of the TFCs. Therefore it is necessary to consider who or what can be the holder of a TFC.

Article 28 specifies that TFCs may be allocated to an owner of a fishing vessel flying the flag of the Member State, or to legal or natural persons for the purpose of being used on such a vessel. Therefore, a

TFC could be allocated to a company that owns several vessels.

Furthermore, TFCs may be pooled together for management purposes, by legal or natural persons or producer organisations. This allows for collective management of TFCs amongst groups of vessels.

Examples of existing TFC-type systems in the EU

Whilst the TFCs are a new measure proposed under the reform of the CFP, to be brought in no later than 31 December 2013, there are a number of European fisheries where similar systems are already in place.

A previous study for the European Commission on rights-based management (RBM) in the EU, carried out in 2009 by an international consortium led by MRAG Ltd, highlighted that a variety of rights-based systems for managing fisheries exist across Europe (defined in the study as 'any system of allocating fishing rights to fishermen, fishing vessels, enterprises, cooperatives or fishing communities' and including catch-based quota systems (ITQs, IQs), effort-based quota systems, licensing systems and territorial use rights in fisheries (TURFs)).

Many examples of catch-based quota-based systems, already exist for fisheries that come under the EU TAC- and quota-management regime. Those that involve transferability of individual quotas include:

- Danish pelagic and demersal fisheries;
- Dutch pelagic and demersal fisheries;
- Spanish demersal fisheries in NEAFC;
- Highly migratory species fisheries including Spain (swordfish and bluefin tuna), Portugal (swordfish), and Italy (bluefin tuna);
- Portuguese demersal fisheries in NAFO;
- Estonia offshore fishery (cod, herring and sprat);
- UK de facto ITQ system (individual vessel quotas that are transferable on an annual basis).

A key difference with the TFCs

compared to these existing systems, is that they introduce a minimum 15 year validity period during which Member States may only recall the concessions in the event of an established serious infringement committed by the holder of the concessions. Existing ITQ systems in Europe either have an indefinite validity (e.g. Spain, Netherlands), a fixed validity (e.g. 5-10 years in Denmark), or a non-specified validity (renewed on an annual basis and in practice in perpetuity, e.g. Estonia).

In practice, most Member States that fish quota-managed stocks already do so through individual (non-transferable) quota systems (e.g. Ireland, Belgium, Poland, Latvia, Lithuania, France), often on an individual owner- or vessel-basis. Under the proposed Regulation, transferability will need to be introduced into these systems. Fisheries with 'community quota' systems (vessels fish freely against a common quota pool), will see greater changes needed, such as in some Belgian and French fisheries.

Examples of transferable effort systems are more scarce, although there are several individual (non-transferable) effort systems. However, one example exists in the Estonian coastal fishery (e.g. for herring, salmon). This system regulates fishing effort in the small-scale (coastal) sector on quota-managed stocks, and demonstrates that alternative forms of transferable fishing 'concession' may be possible, even on quota-managed stocks, although allowable effort must be set at a level consistent with the quota available to that fleet.

The introduction of TFCs does not equate to a blanket application of ITQs. There is flexibility allowed for Member States to design the TFCs in a way that is appropriate for their individual fisheries and fleets, including the possibility of transferable effort systems, collective management, withholding a quota reserve (e.g. for new entrants), and, so long as it is based on transparent criteria, preferential allocation to specific sectors.

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Small Scale Fisheries and Transferable Fishing Concessions

Transferable Fishing Concessions will increase social inequity and reduce natural living resources to a commodity argues Brian O’Riordan from International Collective in Support of Fishworkers



Photo Credit: Frederique Harmsze

On October 10 an alliance of small scale fishing representatives, researchers and NGOs from across Europe met in Brussels under the banner of Oceans2012 to release the “Scale Matters; Quality Counts” (SMQC) declaration. It was drafted in response to the [DG Mare CFP Reform proposals](#), which advocate that mandatory Transferable Fishing Concessions (TFCs) be applied by Member States to all vessels over 12 metres and to all fishing activities with towed gears - i.e. that non-industrial or small scale fishing activities should be exempt from TFCs.

“Such a regime will favour the most economically powerful enterprises rather than the most sustainable fishery activities”, notes the SMQC declaration, whilst “new

fisheries policies that reward best practices with preferential access to fish resources, and target capacity reduction programmes so as to eliminate the most harmful fishing methods would go a long way to placing European fisheries on a more sustainable footing.”

TFCs are a blunt economic instrument, behind which lie a political ideology and a commercial agenda. They rest on the myth that conservation objectives can be achieved by the market; that vessel numbers equal fishing capacity, and so with fewer vessels there will more fish in the sea. ITQs, TFCs and other rights based instruments that use markets for allocating and distributing access will not steer our fisheries towards sustainability. Rather they will increase social and economic inequity and vulnerability,

enrich and empower a few, and transform natural living resources from a source of food and livelihoods into a commodity. This will open up fishery resources and access rights to investors, opportunists and speculators. Small scale fishery enterprises are particularly vulnerable to TFCs given their relatively low turnover. Small scale operations internalise many of their externalities, in contrast to more industrial operations, and hence have a lower ecological footprint, but to the detriment of profitability.

The [2010 European Parliament Resolution on CFP Reform](#) advocated that access rights should no longer be based solely on the criterion of historical catches. Rather, environmental and social criteria should gradually be introduced to determine who

should have access to fishery resources, where the use of such criteria could foster a dynamic that would lead to improved fishing practices and a more environmentally, socially and economically sustainable fishing industry.

The inequity of basing access to resources under TFCs solely on historical catch records is highlighted by the plight of around 50 under ten metre mackerel hand-line vessels in Fife, Scotland. They requested MEP Struan Stevenson to intervene on their behalf with large pelagic vessel owners to obtain from them around 20 tonnes out of their 135,000 tonne mackerel quota to supplement their meagre quotas (to increase their vessel quotas from half a tonne to one tonne); a request which seems well within the means of the few industrial vessel owners, and which would make the difference between a fair living and a struggle for the hand-liners.

Although the DG Mare proposals note that the “specific characteristics and socio-economic vulnerability of some small-scale fleets justify the limitation of the mandatory system of transferable fishing concessions to large vessels”, if the small-scale fleet are not given fair access to start with, the TFC scheme will surely sink them.

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WHO IS AFRAID OF INDIVIDUAL TRANSFERABLE SHARES?

Fisheries economist Pavel Salz touches upon the main topics at the foreground of the discussion over fishing rights: privatization of public property, social justice, socio-economic impacts, practical feasibility, and sustainability.



Photo credit: plebeian regime

Over the past few years, and in particular since the publication of the Green Paper on the Reform of the Common Fisheries Policy (CFP) and the Proposal for the next decade of the CFP, merits of fishing rights have produced one of the most heated debates.

Allocation of fishing opportunities to individuals has been given many different names: ITQs, ITRs, TFCs, etc. I prefer the term 'ITS' (individual transferable shares), because these fishing opportunities are allocated to individual legal persons (company, cooperative, etc.); they are transferable between holders and they represent a share of the national fishing opportunities which may be related either to quantity of fish (quota) or to effort (days at sea). Whatever they may

be called, it is important to stress that they are always user rights or exploitation concessions, not property rights. Introduction of 'ITS' is a confirmation that the State is the owner of the resource and may impose all kinds of restrictions on its use.

It is often argued that transferability will lead to concentration of the 'ITS' in ever fewer hands and that small scale fishermen particularly will be the 'victims of the market forces'. This is indeed likely, but nobody can be obliged to sell his 'ITS' against his will. When this happens, those who sell apparently judged that this was a rational decision. Those who advocate excluding small scale fishermen from the 'ITS' system apparently believe that the small scale fishermen cannot decide for

themselves. This seems a rather paternalistic view.

Initially 'ITS' are allocated free of charge to their future holders, while they represent substantial assets. Why should an owner of a 12.5m vessel receive such a 'present', while an owner of an 11m vessel gets nothing? 'ITS' could be pooled in POs, but when there is no allocation there is nothing to pool. Finally, when a small scale fisher would decide to cross the line to the 'large scale', he will be obliged to buy all the required 'ITS'. Leaving the small scale fishers outside the system gives them a false security in the short run and restricts their opportunities in the future.

It is likely that 'ITS' will support fleet restructuring. However, fleet restructuring is primarily triggered by

profitability and not by ecological sustainability. When a fishery is profitable (due to high fish prices or low fuel price) but ecologically unsustainable, then the public authorities may still have to use other tools, as 'ITS' alone will not lead to fleet reduction. Sustainability is determined by the limits on total allowable catch or effort. 'ITS' is a tool to divide the available fishing opportunities. It may stimulate gradual improvement of efficiency and competitiveness of the fishing industry.

Introduction of 'ITS' in single species fisheries is relatively simpler than in fisheries where many species are caught concurrently. Furthermore, under the present management regime, 'ITS' must be related to stocks, not only to species. In all cases, an 'ITS' system should be supported by a market tool which will accommodate transparent trading. In our digital age, development of a web based system for this purpose should not be a great problem, not even for the 100-plus EU stocks.

The most important aspect of a well-defined 'ITS' system is that it translates ecological constraints into individual responsibility of each fisher, fishing vessels or fishing company.

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Healthy and Sustainable Fisheries by Design: SEASALT Ingredients

Thomas Grasso shares the experiences of the Environmental Defense Fund's team of design experts, identifying the key ingredients needed to designing an effective catch share fishery.

European policymakers are currently engaged in a once-a-decade opportunity to plot the future course of European Fisheries. Now more than ever, many stakeholders from civil society -fishermen, seafood businesses and consumers, and governments - are calling for a new pathway toward a healthy and sustainable future for the oceans. A solution to the complex nature of this problem will require a smart design approach to fisheries reform that incorporates the best available science, a committed engagement of stakeholders and a secure future for fishermen and fishing communities that rely on the oceans for their livelihoods.

Environmental Defense Fund Oceans Program's team of design experts, scientists, economists and lawyers have worked with fishermen, governments and other stakeholders on improving the environmental and economic performance of fisheries for nearly two decades. We have studied fisheries around the world to identify healthy and sustainable fisheries and then evaluated what makes them work. To put it another way, we wanted to understand the key ingredients for a healthy and sustainable fishery. (And we've used what we've learned, working with fishing communities, to restore abundance and profitability.)

The following is a brief summary of our results, the details of which can be found at www.edf.org/oceans/catch-shares-design-center. First a few words on terminology. For our work, we typically refer to these types of healthy and sustainable fisheries as catch shares. The term catch share encompasses a broad and diverse array of management types including Community quotas, Cooperatives, Sectors, Individual Transferable Quotas (ITQs), and Territorial

Use Right Fisheries (TURFs) and can be found in many types of fisheries all over the world. It is important to note: there is no one-size-fits-all solution to designing healthy and sustainable fisheries. However, there are some common characteristics. We use an easy-to-remember abbreviation to summarize the seven key ingredients of catch share fisheries--SEASALT.

Fishermen are provided, whether as individuals, or in groups or communities, a SECURE share of the fishery. The privileges conveyed to fishermen are ones that are recognized as EXCLUSIVE, meaning others cannot fish another individual's or community's share. In the case of a Territorial Use Right, this means a particular area. In the case of a community or individual quota share it is usually a percentage of the total allowable catch. ALL SOURCES of fishing mortality (landings and discards) are accounted for in the science based allowable catch. Management units are SCALED to appropriate biological levels, taking into consideration social and political systems. Participants in the fishery are held ACCOUNTABLE to stay within their allocated share of the overall catch. Fishery-level catches are LIMITED at scientifically appropriate levels. Shares in a fishery can be TRANSFERABLE among participants in the fishery both temporarily and permanently. Note that not all catch share fisheries allow transferability.

Twenty-four per cent of all countries in the world that have fishing in their waters have at least one catch share fishery. And catch share fisheries manage over 500 distinct fish species in over 300 programs in the world's oceans. While each fishery we identified had a critical number of the key ingredients, no two catch share fisheries designs are exactly alike.

Designing an effective catch share fishery depends on the biological and ecological factors as well as the social and economic goals of a particular fishery or fishing community. Some of the design features that can be used to meet diverse fishery goals include: limits to concentration of shares held by one participant or a group, incentives for owner-operator shares, limits on duration or transferability of shares, prioritization of important community conservation objectives, and many more.

A further breakdown of catch share fisheries around the world demonstrates that these key SEASALT ingredients are not exclusive to one region or continent. For example, using the International Monetary Fund classifications for economies as either "advanced", "emerging", or "developing", here's what we found:

- Half of the countries using catch shares (18) are classified as having 'emerging or developing economies'.
- Around 21 per cent (217) of catch share programs exist in countries classified as 'emerging and developing economies'.
- Around 16 per cent of all 'fishing countries' classified as having 'emerging or developing economies' use catch shares, while 67 per cent of those with 'advanced economies' use catch shares for at least one fishery.

European policy makers have an extraordinary opportunity to change the trajectory of European fisheries. Creating the policy framework with the SEASALT criteria mentioned would be an important first step in restoring the ecological and economic health of Europe's fisheries.

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What to do with all the fish?

IEEP's Stephanie Newman explores another key element of the CFP reform proposal -the obligation to land all catches.

'What to do with all the fish?' is not a question we expect to hear given the poor state of many EU fish stocks. But ironically it is a question we find ourselves obliged to ask when considering the proposed ban on discarding in the Common Fisheries Policy (CFP) reform proposal (COM(2011) 425). If it is made illegal to throw back fish, what will we do with it once it is landed?

Arguably one of the most radical changes to the CFP suggested in the proposal published in July was the obligation to land all catches of certain fish stocks (Art. 15). The objective is to 'eliminate unwanted catches of commercial stocks and gradually ensure that all catches of such stocks are landed' (Art. 3). The proposal calls for all fish stocks that are subject to catch limits to be retained on board the fishing vessels, and recorded and landed. For mackerel, herring, anchovy and other small pelagic species, and tunas, swordfish and other billfish this would be implemented from 2014. For cod, hake and sole, it would begin from 2015, and for haddock, whiting, plaice and other demersal and deep sea species, from 2016. The proposal states that catches of undersized fish smaller than the minimum reference size will be restricted to sale for reduction to fish meal or pet

food.

Largely due to the high profile FishFight campaign headed by Hugh Fearnley-Whittingstall that brought greater public awareness to the discarding problem, it is now common knowledge that discarding is a waste of jobs, a waste of money, a waste of resources and a threat to stocks.

In all managed fisheries, the ultimate goal should be to not catch the unwanted fish in the first place. Traditional measures to manage bycatch and reduce discards are well developed, including gear modifications and bycatch mitigation devices, spatial and temporal measures, move-on rules, catch-quota systems, etc. More recently, in Denmark and the UK there have been massive reductions in discards as a result of the CCTV trials, and there are plans to expand these further. Nevertheless due to the realities and practicalities of EU fisheries –particularly mixed fisheries– different solutions will have to be sought for different categories of vessels and fleets.

But what should happen to the unwanted fish when it is inevitably caught? This is an important question, as the answer will help to determine whether a discard ban will help to meet the objectives of the CFP. It is clear that a discard

ban will stop the discarding of unwanted fish. But whether it will help to meet the objectives of the CFP, and the conservation objectives in particular, is less clear and will depend on the detail. It is not a simple question to answer, but whatever the solution might be it should abide by a number of key principles.

Firstly, any over-quota landings should not be profitable for the catching vessel otherwise an inappropriate economic incentive would be created. It is important that a discard ban does not provide an economic incentive encouraging the landing of over-quota fish and increasing the pressure on fish stocks. Similarly, the concept of either finding or creating markets for fish that were previously unmarketable is problematic. This could have the effect of creating demand for fish stocks which, without proper stock assessment, harvest control rules and management measures could lead to unsustainable exploitation.

Although the landings of unwanted fish should not provide excessive economic benefits to the catching sector, they should not present undue costs either, be they economic or environmental. In finding a solution, the consequences for vessels, markets and the environment of taking the

entire catch back to port will have to be thoroughly examined. In particular, the costs of retaining, storing, landing, transporting, processing and disposing of the fish should be considered.

Discards arise as a result of the TAC and quota system. Suddenly penalising fishermen for the flaws in fisheries management by placing the financial burden associated with unwanted fish on them could be construed by many as unfair and unconstructive. This also includes the opportunity costs borne by vessels from retaining unwanted fish possibly at the expense of marketable catch.

It is also important to consider the costs of landing all fish on the ecosystem at large. Studies indicate that when unwanted fish is thrown overboard at sea, it is either consumed by birds or it becomes food for other fish and shellfish. Although wasteful to us, discards are actually an important part of the food chain, and removing them would reduce the biological productivity of the oceans. If we are to take an ecosystem approach to fisheries the logic must be applied to a discard ban too.

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The Institute for European Environmental Policy (IEEP) is an independent body for the analysis and advancement of environmental policies in Europe. While a major focus of our work is on the development, implementation and evaluation of the EU's environmental policy, IEEP has also been at the forefront of research and policy development in relation to the integration of environmental considerations into other policy sectors.

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