



## **TFCs – FUTURE ACCESS ARRANGEMENTS SHOULD REWARD RESPONSIBLE FISHING**

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The marine environment is a common resource, and it is in the public interest that activities having an impact on the state of fish stocks and the wider marine ecosystem are sustainably managed. Those who fish in the most sustainable way should therefore be given preferential access to fish resources. OCEAN2012 proposes that access to fish resources be based on a set of transparent criteria for environmentally and socially sustainable practices, rewarding those who perform well against these benchmarks. We therefore recommend that:

- The current proposal for a Transferable Fishing Concession (TFC) scheme be rejected as a mandatory, single-option solution (Article 27ff);
- Member States have the flexibility to choose from a range of options on how to allocate access to fishing resources; and
- That a criteria-based approach providing preferential access to the most sustainable operators be incorporated in relevant articles.

### **What is the issue?**

Overcapacity of the EU fishing fleet is one of the key problems of the current CFP. The Commission estimates that in a number of fisheries the EU fleet's capacity is two to three times the sustainable level<sup>1</sup>. At the same time, there are less and less fish. Of the assessed stocks in 2011, 63% in the Atlantic are overfished, 82% in the Mediterranean and 4 out of 6 in the Baltic<sup>2</sup>. The question arises: who should have access to the public resource of fish?

### **What is in the Commission's proposal?**

As a key tool to regulate access and address chronic overcapacity, the Commission is proposing a mandatory allocation of the privilege to exploit fish resources in the form of transferable fishing concessions (TFCs) (Art. 27), for a period of at least 15 years (Art. 28). A TFC is an individual user entitlement to a specific part of a Member State's fishing opportunities which can be transferred to other holders of such entitlements. All vessels over 12 metres in length and all vessels under 12 metres using active gears (e.g. trawls) are to be included in the new TFC system. It is left up to Member States whether to also include vessels under 12 metres using passive gears (e.g. set nets)

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<sup>1</sup>European Commission (2009) Reform of the Common Fisheries Policy, COM(2009)163 final.

<sup>2</sup>Communication from the commission concerning a Consultation on fishing opportunities COM(2011) 298 final.

(Art. 27.2). According to Commissioner Damanaki<sup>3</sup>, the TFCs would also serve as a potential provision of funds for retiring fishermen – a “pension fund”.

In discussions following the publication of the reform proposals, individualised quotas (IQs) have been put forward as an alternative method of managing access to fisheries. This system is different from TFCs, as it is a tool used on an annual basis to simply divide up the national total allowable catch (TAC). Several Member States already have a version of such a system in operation, for example Germany, where the annual fishing licence is accompanied by species-specific, non-transferable quotas. These are either assigned to an individual fishing vessel or to a Producer Organisation, which in turn distributes individual licences to its members.

### **Comments on the proposals**

The Commission proposals on TFCs are close to a compulsory near-privatisation of marine resources and will result, without the appropriate safeguards, in a concentration of fishing rights in the hands of the economically most powerful actors, rather than those who fish more sustainably.

TFCs are neither a conservation tool nor an effective tool for fleet management. They are only one, very specific, market-based type of allocation scheme. While they can lead to a decrease in the number of active fishing vessels, they are a blunt instrument which does not, on its own, ensure that the remaining fleet operates in an environmentally and socially sustainable manner. Instead of being obliged to use only one tool, Member States should be able to choose from a range of schemes to meet the specific challenges of individual fisheries on regional levels.

The TFC system proposed by the Commission does not include mandatory fees to compensate the public for handing a public asset over to individual operators, and if new fishers want to enter the fishery, they would have to pay the owners of the concessions and not the government. Thus, the possibility of funds going back to society through the auctioning or licensing of resource extraction rights is wasted. Moreover, there are no provisions to safeguard the Member States from financial claims, should they decide to withdraw the TFCs, or to reward those fishing in a more environmentally and social responsible way by awarding them greater access.

Provisions must be introduced in the legal text to ensure that, should TFCs be adopted, sufficient safeguards are in place to prevent overfishing and other undesirable side effects. Such safeguards include:

- limitation of tradability and restriction of concentration of concessions;
- a clear possibility of revoking concessions without any cost to society; and
- setting aside certain fishing zones, or giving preferential access when allocating concessions, for the most socially and environmentally sustainable operators.

Another risk with the proposed TFC system that has not been much discussed is that in order for operators to increase their quota holdings, they will invariably need to take out loans or mortgages to finance such acquisitions. The transitions to such management schemes over the past decade have taken place at times of historically low interest rates, which have made repayments more feasible. However, at a time of financial crisis, with clear inflationary pressure, there is a significant risk of escalating interest rates in the coming years. This could force both fishermen and managers into a financially risky situation, where a prioritisation of environmental sustainability would become untenable.

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<sup>3</sup>Commissioner M. Damanaki (2011) to the UK Environment, Food and Rural Affairs Committee - Minutes of Evidence HC 1563-ii (2011, October 27). Retrieved from <http://www.publications.parliament.uk/pa/cm201012/cmselect/cmenvfru/1563/111027.htm>.

Other options include individualised quotas (IQ) which stop the annual “race for fish” that often occur under so called “open access” under a quota, and may also regulate capacity by granting licences and quota only to existing fishers/vessels. New vessels may only enter if there is a surplus of resources capacity in the appropriate fleet segment. As quotas are allocated on an annual basis, public ownership of fish resources and control of fishing access is maintained. Moreover, the lack of transferability avoids concentration of ownership and prevents the establishment of “slipper skippers”, that is inactive skippers who profit from the leasing of their fishing rights to other companies/fishermen. However, there is a concern that IQs may act as a gateway to TFCs, if the non-transferability of the quotas is revoked.

### **A new way forward: a criteria-based approach**

To prevent overfishing, it is necessary that fishing limits do not exceed scientific advice, so as to restore and maintain populations of harvested species above levels which can produce the Maximum Sustainable Yield (MSY) no later than 2015 where biologically possible. For those stocks where this is not possible for biological reasons, fishing pressure (F) has to be reduced immediately to below levels that will restore stocks to levels which can produce MSY.

To promote sustainable fishing, environmental and social criteria, awarding those fishing in a way that delivers the best value to society, should be introduced as the basis for allocation of access to resources<sup>4</sup>. The Commission’s proposal provides a possibility for such criteria to be introduced by Member States when allocating TFCs, and five percent of their quotas may be set aside for this purpose (Art. 29.4). Over time, we would like to see this percentage increased to cover all access allocation. A gradual application over a reasonable timeframe will provide fishing operators with the opportunity to adapt.

Operators from fishing communities in a given area, complying with the criteria, should have primary access. Fishing interests from outside the area complying with the criteria can apply for access if they can demonstrate that their fishing activities will benefit the area. Such a decentralised access-allocation process will provide job security and strengthen local fishing communities.

Access criteria would provide for a principle-based approach; such principles could be applied at all levels of management, from the basic Regulation (where the headline criteria should be inscribed) to the national level (where Member States could prioritise the headline criteria, add to them, and/or further define them). Finally, it would be operationalised at the fishery level (regional or local), where, for example, a certain percentage of bycatch would be deemed acceptable; that percentage would naturally vary from fishery to fishery.

The set of environmentally and socially sustainable headline criteria proposed by OCEAN2012 would provide priority access for fishing operators who, for example:

- use more selective fishing methods, gears and practices with low bycatch and low impact on the marine environment;
- use vessels and fishing methods consuming less energy per tonne of fish caught;
- are able to demonstrate associated benefits to coastal communities;

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<sup>4</sup>new economics foundation (2011) Value Slipping Through the Net, pp. 8–12.  
<http://www.neweconomics.org/publications/value-slipping-through-the-net>.

- ensure more, good quality employment in line with relevant international standards, notably the 2007 Work in Fishing Convention of the International Labour Organisation<sup>5</sup>; and
- have a good record of compliance with the rules of the Common Fisheries Policy.

### **Tradable fishing rights – lessons learnt<sup>6</sup>**

Several countries around the world, such as Canada, New Zealand, the USA and Denmark, have introduced rights-based management tools similar to TFCs, most often called Individual Transferable Quotas (ITQs), in fisheries management to improve the performance of the sector. Despite some sought after effects that include a decrease in the number of vessels, better possibilities for fishers to plan their fishing in a financially optimal way and preventing a “race for fish”, experience shows there are many downsides to these tools.

In many cases where ITQs or similar tools have been used, they have had detrimental impacts before they even became operational. As ITQs are often based on “historical” catch records (the catches of vessels/licence holders during the last few years), the changes to the quota allocation system are often anticipated by the industry, which then adjust or even increase landings in the preceding years to secure a greater allocation of rights. By basing quota allocations only on quantity, large scale operators rather than socially and environmentally sustainable fishers are treated preferentially.

There are indications that discarding of small and immature fish as well as highgrading continues to be a serious problem under ITQ systems, maybe even escalates<sup>7</sup>. Under a more market-based system, the incentives to maximise the value of the catch will be stronger. Therefore, fish of low economic value may be discarded to allow for subsequent catches of higher value fish. Discarding also occurs when fishers receive information about low market prices on the way to port and decided to dump parts of the catch to allow for more profitable fishing operations later in the year.

Underreporting (also called ‘data fouling’ or ‘quota busting’) also seems to increase under ITQ systems, which undermines the quality of the scientific assessments required to set quotas for future years. Both underreporting and discarding appeared increasingly towards the end of a fishing year, when purchase prices for additional quota were high. These actions can partially be dealt with by increasing control efforts, but that will come at a cost.

The Commission non-paper on TFCs states that “international reports indicate that different forms of TFCs halts, and even reverses... widespread [fishery] collapse”<sup>8</sup>. However, there are several international examples of fisheries that collapsed even though they were managed through Individual Fisheries Quotas (IFQs), such as the New Zealand snapper fishery and the Canadian east coast cod and groundfish fishery<sup>4</sup>.

Some of the most serious lessons learnt from international examples relate to socio-economic issues. The consolidation of the sector that takes place when fisheries managers implement an ITQ system – concentrating fishing rights in the hands of fewer owners and vessels – has had significant ramifications for local communities. Fishing effort tends to be concentrated in larger harbours, reducing income in local communities and also leading to a loss of professional expertise and

<sup>5</sup><http://www.ilo.org/ilolex/cgi-lex/convde.pl?C188>.

<sup>6</sup>These references are taken from case studies in the Ecotrust report “Community Dimensions of Fisheries Catch Share Programs”, the Pew report “Design Matters: Making Catch Shares Work” and The Marine Fish Conservation Network report “Individual Fishing Quotas: Environmental, Public Policy and Socioeconomic Impacts”.

<sup>7</sup>Individual Fishing Quotas: Environmental, Public Policy and Socioeconomic Impacts. The Marine Fish Conservation Network, 2005.

<sup>8</sup>Costello, C., Gaines, S.D. & Lynham, J., 2008. Can Catch Shares Prevent Fisheries Collapse? Science, 321(5896): pp.1678–1681.

knowledge. Beyond that, it has caused disruption of fishing communities, elimination of fishing traditions, and a loss of social stability.

In Denmark, 36 of 246 harbours have seen a complete cessation of fishing activities between 2005 and 2011, and another 35 now service less than half the original number of vessels<sup>9</sup>. Due to a lack of geographical restrictions in the Danish TFC system, the majority of quota for Baltic cod is now held on the west coast of the country. Local harbours have been amongst the most affected by quota transfers within the country. Moreover, the quantity of cod quota for the Eastern Baltic stock that is held by trawlers has more than doubled during this timeframe, exemplifying the manner in which fishing rights have concentrated on economically more efficient but environmentally more damaging vessels

It has been observed that the initial TFC allocation process is flawed and causes societal damage. Where traditionally fishing access benefited the whole crew, ITQ systems usually make the vessel owner the sole holder of the quota right. When the owners sell the quota, all of the profit cedes to them. Thus, the “pension fund for retiring fishermen” only applies to the quota holder, covered by losses from crew members, as well as from the transfer of ownership from the public to private operators. Other economic effects are the likely increase in control and enforcement costs and the financial difficulties for future generations to gain access to fishing rights.

Finally, as a market-based system does not generally include the costs of so called externalities, and as fishermen are rarely forced to care or pay for destruction of the marine environment caused by fishing operations, TFCs may lead to a general neglect of environmental issues.

*OCEAN2012 is 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.*

*OCEAN2012 was initiated, and is co-ordinated, by the Pew Environment Group, the conservation arm of The Pew Charitable Trusts, a non-governmental organisation working to end overfishing in the world's oceans.*

*The founding members of OCEAN2012 are the Coalition for Fair Fisheries Arrangements (CFFA), the Fisheries Secretariat (FISH), nef (new economics foundation), the Pew Environment Group and Seas At Risk (SAR).*

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<sup>9</sup>Høst J., 2011. Codfish, catch and quota concentration in Denmark – Changes in distribution of fishing rights and actual catch in the Vessel Quota Share system between introduction in 2006 and 2011. University of Copenhagen.