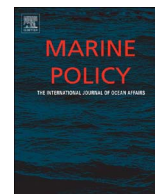




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## Fishers' opinions on marketization of property rights and the quota system in France

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### ABSTRACT

After many years of Common Fisheries Policies in the European Union, 88% of stocks are still being fished beyond their Maximum Sustainable Yield. While several Member States and the European Commission are moving toward Individual Transferable Quotas as a solution, France has declared its opposition to such marketization of fishing access rights and a national law has classified fisheries resources as a collective heritage. This paper discusses the evolution of the French system, principally its distribution of access rights by the Producer Organizations instead of the market. However, the Producer Organizations, which are more linked to the industrial fleet organizations, have not always modified their sharing formulae to include small-scale fisheries, resulting in a demand for more transparency and equity.

### 1. Introduction: Common fisheries policy in Europe

The European Union (EU) treaties establish marine fisheries management as one of the exclusive competencies of the European Community. This competency seems to find its root in the past and it is related to the fact that fish can run across national jurisdictions and fishers have to move to catch the fish. Before the introduction of Exclusive Economic Zones (EEZ's) and the Common Fisheries Policy (CFP) fishers moved from place to place. To guarantee equal access to the fish resources for fishers of all Member States an exclusive competency in this domain was given to the EU. The first CFP was set up in the 1970s and has since been revised several times. The latest revision is dated December 2013 and came into force in January 2014.

France, like all other members of the EU, has to implement the objectives and rules defined by the CFP. National decisions related to fisheries management take into consideration the objectives defined by the CFP. The main policy areas covered by the CFP are fisheries management, international policy, market and trade policy and finally funding policy.

While the CFP gives equal access to EU waters and resources, National States still have the competency to manage fishing activities within their 12 nautical miles zone and vessels of other Member States having historical activity in this space cannot be excluded. To conserve the resource, the CFP aims to manage fishing effort through limitation of fleet capacity, restricted days at sea, and technical measures regulating fishing areas, gear and catch. The management of

European fish stocks is based on total allowable catch (TAC) or fishing opportunities set up for a great number of commercial species. The European Commission (EC) prepares a proposal, based on scientific advice on the stock status from the International Council of Exploration of the Sea (ICES), Scientific Technical and Economic Committee for Fisheries (STECF) and the decision is made by the council of Ministers and the Parliament which are often accused of making decisions without following formulated recommendations [1,2]. TACs are shared among the different Member States based on a historical rights criterion [1–3]. For each stock a different percentage allocation of the TAC or quota is assigned to each Member State. This fixed percentage is known as the relative stability key. The CFP authorizes the exchange of quota between Member States [4].

Within this complex context, the CFP recommends that national authorities use transparent and objective criteria including the sharing of fishing opportunities among fishers to ensure that quotas are not overfished. When the national quota is reached the country must close the fishery. In the past, the CFP did not mention the quota distribution to small-scale fisheries (SSFs). During the last revision of the CFP some advances were made with the introduction of Article 17. This article calls on Member States to “use transparent and objective criteria including those of an environmental, social and economic nature” [5].

According to the Green Paper (GP) the reform of Common Fisheries Policy based on TAC and quota systems seems to have failed to achieve its objectives, as shown in the following quotation: “... 88% of Community stocks are being fished beyond MSY and 30% of these

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stocks are outside safe biological limits, which mean that they may not be able to rebound” [6]. To remedy these negative results, the GP suggests the introduction of more neoliberal policies including the creation of transferable fishing rights because the “use of market instruments such as transferable rights to fishing” [6] will reduce overcapacity as the industry will adapt its fishing rights in order to achieve economic efficiency. To “avoid excessive concentration of ownership or negative effects on smaller-scale fisheries and coastal communities” the GP added some safeguard clauses [6]. During the public consultation on the proposals of the GP the French fishing industry reacted strongly against the recommendations about Individual Transferable Quotas (ITQs, referred to in the GP as Individual Transferable Concessions) in Europe and more particularly in France.

This paper aims to present the main arguments expressed during the public consultation in France on ITQs and how these discourses influenced the National Fisheries law, how the quota system evolved and how these changes are viewed by SSFs and Environmental Non Governmental Organizations (ENGOs) as well as power relations within the Producer Organizations (POs). This article is based on various written sources: EU regulations and documents, academic literature and the minutes of all public consultation meetings, newspapers and reports published by the French Parliament and Senate. Face-to-face interviews with small-scale fishers, originated from different coastal areas, were also employed.

## 2. Debate around the last CFP revision in France

After the publication of the GP, French authorities undertook a substantial consultation with the French fishing industry and other stakeholders. Regional meetings in 2009 brought together fishers, territorial authorities, representatives of national authorities at regional levels, scientists and ENGO's. Participants were asked to address the following four issues: governance, management tools for EU fisheries, market regulation and how fishing products can best have added value. In the regional meetings the different visions of ITQs promoted by the GP were discussed.

For Brittany fishers the implementation of ITQs represented high capitalistic risks which may end with “uncontrollable quota uptake”. They feared speculation in quota prices and believed that the use of such a tool would not impact positively on resource conservation. For them, Member States should be free to manage national quota “in a more adaptive manner” and they called for a more “collective management” at the local level with fishers as active players [7].

Lower Normandy fishers underlined their attachment to the “relative stability principle” and called for the application of the subsidiary principle in the matter of the management of “fishing opportunities”. They were not fully against the idea of Individual Quotas in fisheries but did not agree with adding the “transferability” aspect. For them, liberalization of the European market for fisheries quota would mean “abandoning relative stability” and concentration of quota in the hands of few big fisheries enterprises [7].

Fishers of Upper Normandy were in favor of the implementation of non-transferable Individual Quotas (IQs) that would increase predictability for fisheries enterprises. However, they considered that quotas, even individual ones, must be managed by Producer Organizations (POs). Fishers from the South Atlantic regions reacted to the proposed implementation of ITQs. Pays de la Loire fishers said that they “completely mistrust the term transferable rights” which for them is synonymous with the privatization of fishing resources. Poitou-Charentes fishers thought that ITQ would lead to “an excessive concentration of quota without any attachment to territories”. For Aquitaine fishers it was impossible to introduce the ITQ system because “fishing resources are a public good”. All agreed that the collective management of quotas, within POs, is the best system to achieve resources conservation [7].

French authorities conveyed to the European Commission (EC) the ideas expressed by fishers during these public consultations. So France could accept the principle of individual quotas if they were collectively managed, for example by POs, but “... remains against the compulsory introduction of ITQs to monetize a system [which would be] ... conducive to speculation and to excessive concentration of quota through the establishment of a free market” [8]. During the public debates it appeared that French fishers viewed IQs as a good tool if it was managed collectively within the POs framework. But they were vehemently against the concept of privatization and transferability of resource access. Transferability of quota was seen as a way to jeopardize the relative stability and concentrate quota in the hands of a few fishers. Concentration of fishing opportunities would impact negatively on employment and other social aspects within fishing communities.

ENGOs participated in the public consultation and also expressed their disagreement with the implementation of ITQs in France. The French branch of Greenpeace, for example, had the same position as French fishers: that such a system would concentrate fishing rights without reaching the main objective of the CFP: the “reduction of fishing pressure on the resources” [9].

During the 2009 public debate only a few comments were expressed about the protection of SSFs. One of these was formulated during the meeting in Boulogne-sur-Mer and it concerned the distinction between small-scale and industrial fisheries made by the EC. Participants could not understand why the EC divided fisheries into two categories, because in France there is no such distinction, as all are members of the same organizations. Participants wondered if this distinction would impact on the distribution of the fisheries fund dedicated to France [7]. This second concern was expressed by Greenpeace which noted that “... the CFP didn't pronounce any specific measures for SSFs, which constitute 80% of the total employment in fisheries and 20% of the landings in the EU [9]”. In their opinion, the CFP should promote access to resources for vessels having less impact on the ecosystem. The following section examines the French quota system in which SSFs operate and SSFs opinion of that system.

## 3. The French quota system

Despite the introduction of Total Allowable Catches (TACs) at the European Union level in 1983, France did not implement this system at a national level until 1990. The first sharing of national TACs concerned only six species: cod, pollock, hake, mackerel, plaice and sole. The national TACs were divided among the different coastal regions of the EU except the Mediterranean Sea where the TACs are not applied. The division of TACs or quotas among regions was monitored by the national committee of quota management established for that region. The main concern of the French authorities was the way the quota becomes a sub-quota for each region, itself divided by harbors and vessels. A national committee was established to monitor the quota allocation per region and advise the national administration. Aside from the national fisheries administration, the other members of the committees were the POs which were in charge of the organization of fisheries markets and the National Committee of Maritime Fisheries (CNPM) which has been responsible for resource management within national territorial waters since 1993 through its regional committees (CRPM).

The first distribution of the national quota was redefined by the Fisheries law in 1997 which asserts the role of the State in the allocation of fisheries licenses and quota and declares the non-individual and non-transferable character of the quota. The 1997 Fisheries Law states that national quota should be shared among vessels operating under the French flag and having economic links with the country. But EU rules on freedom of establishment allow fishing companies from one EU member country to be established in another country's fishing waters and therefore under its quotas. To preserve the

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