

CFP reform - Transferable Fishing Concessions

Why does the Commission propose Transferable Fishing Concessions (TFCs)?

The CFP has failed to resolve the problem of overcapacity. We will have spent 2,73 billion € from 1994 until 2013 to scrap fishing vessels, but despite this massive spending our fishing capacity is still increasing by about 3 % every year. None of the past policies to tackle the overcapacity (Multi Annual Guidance Programmes, entry exit ratios, capping the maximum fleet size, public scrapping schemes) have worked. The Court of Auditors is questioning the use of taxpayer's money to address overcapacity. In light of this the Commission proposes to draw upon the positive experience of a number of Member States (MS) with TFC like systems. International reports indicate that different forms of TFC "halts, and even reverses,...widespread [fishery] collapse" (Costello et al., 2008) and helps drive economic growth (World Bank and FAO, [FAO], 2008).

If designed correctly TFCs can be an effective tool for vessel owners to plan their fishing activity along market developments, land all catches and plan their investments. They also offer the possibility to fishermen to leave the industry in exchange for financial compensation. Experience shows that TFC like systems also increase operators responsibility and facilitate discard reduction.

What is the Commission proposing?

As of 2014, MS are obliged to introduce TFCs while following strict principles. First marine resources are and must remain a public good. TFCs can not confer property rights over marine resources, but only user rights to exploit them for a limited time. After the time is up the TFC has to fall back to the MS, who is free to allocate it again using the same allocation criteria or different ones. Second, selling, leasing or swapping of TFCs can only happen under strict conditions as only owners of registered and active vessels with the purpose to use them on a licensed and active vessel, can buy TFCs. Third, relative stability must be respected. Fourth MS have to withdraw TFCs in case of a serious infringement by the vessel owner and fifth, they have to reserve quotas and TFCs for new fishermen who are looking to enter the fishery.

While respecting the above five principles MS have to introduce TFCs at national level in an obligatory system for all species under TAC and quota or effort limits and for all vessels above 12 metres as well as for all vessels with towed gear. TFCs are only user rights distributed by MS to vessel owners for certain periods. They are a fixed percentage of the national quota for a specific fish stock. Where fishing effort is used, as in the Mediterranean Sea, TFCs would apply to effort allocations. Fishing opportunities not regulated under a quota or effort regime of the EU or those under a sustainable fisheries agreement with a third country would stay outside a TFC system.

How should quotas and TFCs be allocated?

The proposal foresees flexibility for MS, but the Commission would prefer the following: MS should set national or regional priorities allocating a certain % share of the national quotas to the small scale fleet. The rest of the quotas would be managed under TFCs. MS should design their national TFC system together with stakeholders as their close involvement would ensure that the national TFC system is adapted to the specificities of the relevant MS and is accepted by stakeholders. When designing the TFC system MS and stakeholders should favour coastal communities dependant on

fishing, more environmentally friendly fishing practices and the artisanal fleets. They should set aside up to 5% of the quotas or TFCs for new entries. MS and stakeholders should thus use this system to prioritise fishing practices that they consider more desirable, be it for social or environmental reasons. Denmark for example has used TFCs to support coastal communities by giving vessels of less than 17 meters a 10% increase in their quotas for cod and sole.

What safeguards can MS put in place?

Experience in MS where a TFC system is used shows that risks can be avoided through design. In designing the system MS and stakeholders must therefore take care that the TFC system leaves no room for speculations or situations that are detrimental to regions dependent on fisheries and related activities. They must also strictly regulate a TFC system and ensure that public authorities in the MS are able to act at all times to ensure that TFC holders play by the rules. To this end MS should use a toolbox of measures, such as:

- excluding small scale fishing (<12m with passive gear), in order to ensure that fishing rights of this important segment will not be sold to larger vessels,
- preventing excessive concentration by avoiding that too many fishing rights end up in the hands of a few vessel owners. This must be done by setting maximum percentages of a given resource that can be held by any given vessel owner,
- reserving a part of national quotas for coastal communities that depend on small-scale fleets,
- limiting the transferability to inside specific fisheries (e.g. whitefish concessions can only be traded with other whitefish concession holders, not to a pelagic concession holder);

Will small scale fleets not vanish from Europe's coastal regions?

No, because MS will exempt them from TFCs. This means that across the EU 60% of vessels can be permanently outside a TFC system. In Denmark, for example, the small scale segment of 6 to 10 meter vessels is managed outside the Danish TFC system and it decreased much less compared to the rest of the Danish fleet.

How could Producer Organisations (POs) manage TFCs?

In many MS, POs pool the quotas of their members. They monitor uptake and marketing of landings, and swap with other POs to manage quota uptake. They could also manage TFC selling and leasing among their members. Collective management by a PO of several members' TFCs could allow for real-time swapping and proper production planning. Furthermore fishing communities often rely both on capture fisheries and processing industries as a source of income. Bringing these businesses together through Interbranch Organisations that manage collectively the pooled TFCs of their members can be an advantage for fishing communities.

What is expected in terms of consolidation for the EU fleet?

In a number of MS TFCs have helped to rationalise the fleet. In Denmark TFCs were introduced in 2003 for the pelagic fleet, which had since decreased by 50%. For the demersal fleet TFCs were introduced in 2007 and this fleet has shrunk by 30% since. Profits for both segments increased. Estonia introduced a TFC system in 2001 and by 2009 the fleet has decreased by around 40%. In Spain the so called Gran Sol fleet decreased by 30% between 1992 and 1997 with the use of TFCs.

CFP reform – the discard ban

Why does the Commission propose a discard ban?

Discards are among the best examples for the shortcomings of the CFP and they are impossible to justify to fishermen or the public. Fishermen across Europe have taken a number of good initiatives to decrease discards, but the initiatives are still too scattered across Europe. In the meantime public opinion is quickly building up against this wasteful practice.

The Commission is proposing a gradual approach in three steps: pelagic species in 2014 (including in the Mediterranean), most valuable demersal species (cod, hake and sole) in 2015, and other species in 2016. The discard ban would cover the listed species, regardless of whether they are managed with quota or effort.

A clear timetable for a discard ban will foster better co-operation between scientists and fishermen. It will also be a driver to avoid unwanted catches and will deliver a level playing field to change the fishing strategies of fishermen.

How would a discard ban work in practice in mixed fisheries?

First of all as part of regionalization fishermen will work hand in hand with the administrations to develop concrete measures avoiding unwanted catches in the first place. These measures can be more selective gear, restricting access to juvenile aggregation areas, real time closures etc. Furthermore vessels likely to have a mixture of for example cod, haddock and whiting in their hauls should have quotas for all of these species. Small scale vessel owners would need to receive the right quota mix from national administrations. All other vessel owners should receive the right mix from the national administration in the form of transferable fishing concessions (TFCs). These allocations need to reflect as much as possible the actual fishing patterns of vessels and their likely catch composition. Vessel owners could pool their concessions for example in a producer organization (PO). In addition a vessel owner can buy transferable fishing concessions from another vessel owner in the same Member State (MS) be it for one fishing trip, for a whole year or for longer.

Over time hauls will become more selective saving fuel and time consuming handling on board and lead to less pressure on stocks. Stocks will be able to recover faster and produce larger fish fetching better market prices, thus increasing the financial return for fishermen.

What can national administrations do to help implement the ban?

MS will have to better match quota allocations of individual vessels with their likely catches. If a MS has too few quotas for some species to do this, it should swap quotas with other MS. This happens already today and should be further encouraged. The Council could also set aside so-called "by-catch quotas", as part of the Fishing Opportunities set by Council each year. They would not be immediately allocated to the MS, but rather as needed in the course of the year, as a by-catch reserve on a fishery-by-fishery base. Finally the MS could set aside by-catch quotas per fish stock, which are not allocated to any vessels. Landed fish not covered by individual quotas could be counted against this overall by-catch quota. MS can also bank and borrow small quantities of their own quotas from one year to the next to have extra flexibility.

How can Producer Organisations (POs) best manage fisheries under a discard ban?

POs can monitor and manage their members' fishing activities and uptake of fishing opportunities. POs or other fishermen's organizations can set up real-time swapping tools, within and between organizations. The European Maritime and Fisheries Fund (EMFF) would support POs and fishermen to this end. They would also receive support from the EMFF to implement the discard ban and handle the landed catches, including storage aid, support for building extra storage facilities on shore and funding marketing campaigns to promote the consumption of lesser known fish by consumers.

What happens in case of unintentional catches despite improved selectivity?

Fish with known high survival rates should be identified and released alive back into the sea. All other fish caught would be landed and counted against the quotas. These catches would be handled as follows:

Undersized fish. Minimum conservation reference sizes will be set on biological grounds. These will be the yardstick for developing the best gears to minimize catches of juveniles. The measures can then be adapted at regional level via regionalization to obtain the best results. Fish below this minimum size can only be sold for fish meal or pet food production. Fishermen can thus cover the landing costs, but without generating financial gain.

Fish caught in excess of individual quota. Fish caught in excess of individual quotas can be marketed normally. Where vessel owners are about to run out of one or more of their quotas they need to buy or lease quotas from another vessel owner in the same MS. Where this is impossible quota overshoot rules apply as it is the responsibility of the fishermen to ensure that they have all quotas necessary to land their catches.

Overshoot of national quotas has to be dealt with by the MS through by-catch reserves, borrowing or banking of quotas between years, or swapping quotas with other MS. If this is not sufficient the overshoot amounts would be deducted from the following year's quota.

Under *effort management systems* all commercial species which are above the minimum size can be marketed and sold normally as long as the effort allocated is not exhausted.

How would the discard ban be controlled and enforced?

The reform enables fishermen to play an active role in designing measures to avoid by-catches in the first place and to land all commercial species that are caught. POs can contribute by ensuring that members comply with the agreed decisions. This will foster industry involvement and self-compliance.

To ensure full reporting of fishing and processing activities, vessels need to be properly equipped (electronic logbook, VMS, CCTV, other new technologies, observers). Modern electronic tracking, reporting and analysis technologies will improve real time monitoring. Modern traceability tools (barcodes, radio frequency identifications, electronic chips, etc.) will also facilitate controls by MS authorities. The EMFF foresees funding of such innovative monitoring technologies.

Ex-post assessment of possible discarding practices may help to determine compliance levels and to develop a risk-based approach to control.

What incentives would there be to accompany the discard ban?

The new CFP would offer incentives to increase selectivity and to land all fish caught. Under the EMFF vessel owners would receive financial support for innovation (new technical and organizational knowledge), for increased gear selectivity (on size and species), to reduce incidental/accidental by-catches. Vessel owners and fishermen working on board vessels would also receive financial support for participating in trials and pilot projects and for collaborating with scientists. POs will also receive funding to help implement the discard ban, for better labelling of products and for the marketing of new products.

Incentives can also take the form of quota allocation within Member States. Under the TFC system, Member States are free to allocate their national quotas to different vessel segments, giving for example more quotas to vessels that fish more environmentally friendly.

CFP reform – Maximum Sustainable Yield

Why should the new policy be based on Maximum Sustainable Yield 2015?

75% of EU fish stocks are overfished, compared to 25% on average world wide. This overfishing in the EU damages fish stocks, leads to uncertain catches and makes our fishing industry financially vulnerable. Fragile fish stocks lead to suboptimal catches and this in turn leads to more fishing. Today, overfished stocks are mostly made up of smaller and less valuable fish. These are discarded back into the sea either because of their low commercial value or because they are below the minimum size.

We have to break this vicious circle. This is the idea behind MSY, which is the largest catch that can be taken from a fish stock over an indefinite period without harming it. Managing stocks according to MSY will mean going from fishing desperately on smaller fish stocks to fishing rationally on abundant ones. It will lead to larger stocks, and thus higher catch potential, higher profit margins and higher return on investment –in other words, an additional income for our fishing industry. It will also bring larger fish in the catches fetching higher market prices per kilogramme. With less undersized fish in the hauls there will be less pressure to discard. Furthermore as it takes less fishing time to catch a tonne of fish from an abundant stock than from a smaller one, this will also reduce fuel expenditures as well as carbon emissions of fishing vessels. Finally consumers will have a much wider choice of fish from healthy EU stocks.

Member States (MS) and the EU subscribed to the MSY objective almost thirty years ago in the 1982 UN Convention on the Law of the Seas. They then reiterated it in the 1995 UN Fish Stock Agreement, in 2002 in the Johannesburg Declaration and finally in 2010 in Nagoya. Important international partners, such as the United States and Australia, have already moved in this direction and the EU is lagging behind.

How would MSY be achieved in EU fisheries?

The best way to manage fish stocks according to MSY is through multiannual plans. Fixing the fishing mortality to be achieved by a plan is the best management measure to ensure stability from one year to the next. The multiannual plans should fix mortality rates at a level that can help us obtain larger stocks over time.

What progress has the EU made to date on MSY?

A number of existing long-term management plans are based on the MSY principle. Since 2010 the Commission bases its proposals for annual TACs and quotas on scientific advice and on achieving MSY by 2015. The fishing industry in Europe has proven that it is possible to move to MSY, because we have already achieved it for 11 stocks, namely sole in the Skagerrak, Kattegat and Baltic Sea, in the western Channel, in the Celtic Sea; North Sea haddock, Rockall haddock; herring in the North Sea, the west of Scotland and the Celtic Sea, megrims off Spain and Portugal and North Sea Nephrops. All of these stocks are today fished sustainably with increased landings and incomes for the fishermen and the coastal communities. Furthermore for a number of other stocks we are on a good way towards MSY 2015. Eastern Baltic cod is a show case where determined action has brought the fisheries from serious overexploitation to sustainable exploitation and quotas are increasing year on year.

How would MSY be achieved for stocks with a lack of data?

In order to have reliable information to determine MSY we need to have reliable data on fishing. Two developments under the reform will bring about this reliable data: firstly, the obligation to land all catches (as opposed to the current estimates of discard data); secondly, the new partnerships between fishermen and scientists. These will improve the collection of more reliable catch data and will significantly improve the knowledge base to determine MSY.

How should MSY be dealt with in mixed fisheries ?

In mixed fisheries, it should be the most vulnerable stock that determines the limits of exploitation for all other fish taken in the same fishery. This is the only way to ensure that MSY is reached for all stocks in a fishery. For instance, reaching MSY in the sole fishery requires adjusting the fisheries for plaice (and for other by-catch stocks) accordingly, and may imply a fishing mortality lower than MSY for plaice. At the same time fishermen can decrease the impact of fishing on the most vulnerable species by using more selective gear. Selective gears will be part of multi-annual plans and technical measures and they can be adapted by the MS via regionalization to the specific requirements of the fishery in question.

In a number of fisheries the most vulnerable stock is at the same time the most valuable one. This is for example the case for cod in the whitefish fishery and sole in the flatfish fishery. Establishing the corresponding fishing opportunities in such mixed fisheries will require fixing MSY rates for each of the stocks and ICES is currently working on this.

MSY in the international context

In the international context the EU needs to apply the same principle as for itself. When acting on behalf of the EU, the Commission will seek to integrate the MSY objective in its negotiating position, basing itself on scientific advice or input.

What do we do in meantime?

There is consensus that in the medium term MSY will ensure environmental, social and economic sustainability. The issue is how to get there and the Commission is determined to help the fishing industry and the coastal communities cope with the transition. It has therefore proposed a strong EMFF with a whole catalogue of funding possibilities for the fishing industry including funding

- for the fishing industry to develop more selective fishing methods
- for vessel owners and fishermen to participate in selectivity trials
- for social dialogue meetings of the fishing industry in and across MS to exchange ideas and best practises
- for training and professional qualifications to become familiar with innovative gears
- for diversification of small scale fishermen
- for the fishing industry to collect specific data, be it biological or socio-economic data

- for marketing initiatives to develop products brands, such as "MSY fish"
- for fishermen to participate actively in regionalization by coming forward with concrete proposals on how to achieve MSY 2015.

CFP reform – regionalisation

Why do we need regionalisation?

The purpose of regionalisation is twofold: moving away from micromanagement at Union level, and ensuring that rules are adapted to the specificities of each fishery and sea area (“region”). Regionalisation can build on existing co-operation among Member States, such as Baltfish or the Scheveningen group. While these are not formalised, they have nevertheless developed into very effective co-operation mechanisms among Member States. In other sea basins more work is needed to allow MS to work together, but there are positive examples like the co-operation between France and Spain on anchovy in the Bay of Biscay.

What is the legal and procedural framework for the seabasin approach proposed by the Commission?

Example 1 Long term management plans

On proposal by the Commission the European Parliament and the Council would decide on a long-term plan for hake, prawns and cod (the plan). This plan would set goals and the timeframe for these to be achieved, i.e. achieving Maximum Sustainable Yield (MSY), a lower fishing mortality or a higher biomass. The plan could prescribe selective gear and measures to avoid discarding. The plan would also have a flexibility article in order for new scientific advice to be taken into account quickly. The goals to be achieved will apply uniformly for all Member States (MS) fishing on the stocks covered by the plan in order to provide a level-playing field for all fishermen.

Via the plan the EU legislators would empower MS of a seabasin to set national measures to make the plan operational. In the framework of the seabasin approach the MS fishing these stocks would meet with fishermen, stakeholders and Advisory Councils to design these concrete national measures that can best manage these stocks and that can achieve the objective of the plan. Fishermen and other stakeholders would propose specific gears, area or seasonal closures, control measures, measures concerning fishing vessels or whatever other measure they believe will deliver the best results for their specific fisheries. They could also propose measures to implement the discard ban.

The heart of the seabasin approach is that MS implementing the plan could set up a co-ordinating system, meet in the region and exchange and agree on common measures and subsequently would enact these measures nationally. These measures would be the same in all MS implementing the plan. It is important to stress that MS have to work together and agree on measures. If they are unable to do so then the necessary conservation measures would be set by the Commission via delegated acts or by the EP and Council in the co-decision procedure.

Example 2 Framework technical measures

The same would be done for technical measures. On proposal from the Commission the EU legislators would adopt a framework regulation with broader technical measures proposed by the Commission. This framework regulation would be geared towards the key driver fish stocks in a given fishery, such as nephrops in the Irish Sea, hake and cod in the Atlantic or sole and plaice in the Channel. This regulation would define for specific driver fish stocks baseline standards on gear selectivity, on twine thickness and cod ends, as well as baseline standards on minimum sizes for commercial stocks. It would be less detailed than the current technical measures regulation.

In the framework of the seabasin approach the MS would meet with fishermen, stakeholders and Advisory Councils to design concrete national technical measures that can best manage stocks at a sustainable level and that are favourable to the marine environment. Stakeholders could propose alternative gears, which can achieve equivalent selectivity results to the baseline standards in the framework regulation and other technical measures they believe will deliver the best results for their specific fisheries. Again here the heart of the seabasin approach is that MS would meet in the region, exchange and agree on common measures and subsequently would enact them nationally. These measures would be the same in all MS implementing the plan.

Under both examples, the long term plans and the framework technical measures, the research institutes in the MS should support stakeholders in developing technical measures such as increased size selectivity for trawls, new fishing techniques etc.. Positive national examples already exist such as the Seltra trawl in the Kattegat, the more selective flatfish trawl from the 50% project in the UK, the nephrops panel from France to name only a few. In this way regionalization could improve the collaboration between research institutes and the fishing industry.

As a vital element of regionalization the sector should receive responsibility to manage fisheries. Producer Organisations (POs) or other associations of fishermen could manage the quota uptake of their members and work out a marketing plan. This brings better planning and a stronger role towards wholesalers to get a better price for their product. A proactive role for the fishing industry would foster a culture of involvement, responsibility and compliance.

The Advisory Councils could develop their role and support research institutions in following up management decisions.

Is the Commission trying to grab more powers?

No. It would only act as a last resort to avoid the risk of legal gaps, as this would have an adverse effect on conservation and on business security. The objective of regionalization is that MS agree to take the same measures. There is however a need to cater for the situation in which the MS concerned take no action or late action. In these cases, as a last resort, the EP and Council would empower the Commission to adopt delegated acts on the fisheries specific measures in question. The delegation to the Commission is limited to the types of measures that MS were empowered to adopt at national level, with the same objectives and targets that apply to all MS. The Commission's measures could only enter into force if no objection is expressed by either the EP or the Council and the delegation could be revoked any time by the EP or the Council. The same would happen in cases where the actions agreed by MS are proven by scientific advice not to reach the conservation targets fixed in Union law. The alternative would be co-decision by EP and Council.

What is the impact on control and implementation?

Union Regulations will continue to apply to all vessels fishing in Union waters. Furthermore rules adopted in a seabasin approach by MS under regionalization would be the same rules, with the only difference that instead of EU legislation they would be national laws. These laws would be notified to the MS, the European Fisheries Control Agency and the Commission so that they can be controlled by national inspectors in a uniform manner guaranteeing a level playing field.

What will be the administrative cost of regionalization?

The experience in the Baltic Sea and North Sea shows that cooperation at regional level should be feasible with the same level of resources. The better the involvement of industry and stakeholders in designing the measures, the better compliance will be. Because of less micromanagement at EU level the amount of work related to the discussion, negotiation and follow-up to the very complicated 'micro-management from Brussels' would be considerably reduced. All of this should lower costs for national administrations.