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Introducing Transferable Fishing Concessions

- A check list for issues to consider

1. Background

Fishery managers and stakeholders have been increasingly interested in catch shares for managing fisheries. This interest has been supported by reports indicating that catch shares “halts, and even reverses,...widespread [fishery] collapse” (Costello et al., 2008) and helps drive economic growth (World Bank and Food and Agriculture Organization of the United Nations, [FAO], 2008).

“Catch shares” is a broad concept. Other common names for catch shares include: Individual Fishing Quotas, Access Privilege Programs, Rights-based Fisheries Management and more. Catch shares may be allocated to individuals or groups such as cooperatives, permit banks or Community Fishing Associations. Area based and effort-based management shares are not considered here.

This paper deals with the main considerations to take into account when designing Transferable Fishing Concessions (TFC’s). It is based on international experiences, the Danish TFC management, the EU Commission proposal and public discussions in this context.

2. What are TFC’s

For the purpose of this paper Transferable Fishing Concessions are allocated by EU Member States (MS) to legal or natural persons to be used on a given vessel. TFC’s consist of a share (percentage) of the available fishing opportunities and a yearly resultant quota allocation in tonnes. TFC’s may be fully or partially transferred within the Member State among eligible holders of concessions, and holders may pool or otherwise cooperate on the use of the concessions.

Shares may relate to landings or to total removals as proposed by the EU Commission (“All catches of the following fish stocks shall be brought and retained on board the fishing vessels and recorded and landed” COM(2011) 425, Article 15)

EU Commission: Proposal for Regulation on the Common Fisheries Policy; 13th July 2011,COM(2011)425)

Art 27-32

“Each Member State shall allocate transferable fishing concessions on the basis of transparent criteria, for each stock or group of stocks for which fishing opportunities are allocated..”

And,

“Transferable fishing concessions may only be allocated by a Member State to an owner of a fishing vessel or to legal or natural persons for the purpose of being used on such a vessel. Transferable fishing concessions may be pooled together for collective management by legal or natural persons or recognized producer organisations.”

And,

“Transferable fishing concessions may be fully or partially transferred within a Member State among eligible holders of such concessions.”

2. Why TFC

The rationale for TFC's are the following

- By allocating participants a secure share of the catch, participants obtain a long-term stake in the fishery and thus align the business interests of fishermen with the long-term sustainability of the stock.
- Fishing operations can be planned according to catch availability and market developments as the race for fish minimized is with a secure share
- In fleets with overcapacity shares will be reallocated to balance the fleet with fishing opportunities thus reducing costs and pressure on stocks (permanent structural adaptation)
- In fleets with variability in catch compositions or with mixed fisheries day-to-day quota availability may be adapted to catches (temporal leasing or swapping)

At the same time transferable quotas are often considered as leading to capital concentration and elimination of small scale fisheries and coastal communities.

The achievement of the first and the avoidance of the second lie with the design of the system and with the political commitment to the set priorities.

3. Introducing TFC

3.1. The type of right and eligibility

The right is given as a share of a defined TAC/quota. The TFC and its use can be restricted in a number of ways: It can be,

- allocated to persons qualified as fishermen
- allocated permanently or subject to notice of termination
- restricted with regard to transferability e.g. within given fleet segments or regional boundaries
- conditioned by its use on registered vessels (i.e. to avoid “slipper skippers”)

With regard to duration of the right the most common view is that fishing opportunities is a public right and that the user rights should be revocable. The Danish model allows the rights to be revoked with 8 years notice. The length of this period has had no negative implications with regard to financing the fishery.

3.2. Initial allocation

TFC's can be allocated in a number of ways:

- By auction. This method ensures that the value of the right (the resource rent) is immediately taxed by the public. In cases of severe over capacity the value is low. Auction is a relevant method for allocating new fisheries.
- Allocation to vessels according to physical or economic characteristics (the author knows of no examples)
- Allocation according to the individual vessels' or owners' historic catches seems to be the most common method and it reflects both tradition and past performance. Due to the considerable variability in vessel activities the initiate allocation will challenge the legal and administrative process of transformation.

As TFC's often result in improvements in economic profitability it is possible to reserve quota shares for prioritized purposes – e.g. as TFC premiums for the coastal fishery, without compromising the overall objectives with the management.

Likewise the MS may decide that the basis for quota allocation is lower than the quota allocated to it by EU. See the FishFund section 3.4.

3.3. How the right can be used

Following the initial allocation of the rights, the terms for the use of the TFC's have to be decided. Transferability is what makes the TFC work. But it can be regulated or restricted in a number of ways.

Trading the shares favour structural changes and permanent capacity reduction while leasing part of the yearly quota amount favours adaptation to day-to-day fishing opportunities. In its extreme flexible form – as in Danish fisheries, a fisher having caught more than his vessel quota can lease the necessary fish after having landed and sold the catch.

The trading of TFC's can be restricted in relation to

- geography, which is difficult to enforce
- vessel segments – e.g. to protect coastal fleets

The main concern is often the risk of unacceptable concentration of rights. One must bear in mind that in a situation with overcapacity and an aged fleet the result of TFC's will be fewer vessels in the harbours and a creeping increase in average vessel sizes to take account of modernized handling and accommodations onboard.

Leasing of TFC's within the quota year can be

- made free, prohibited or restricted
- bound to pooling schemes (producers organisation or the like)

The main concern in relation to leasing is normally the risk of "slipper skippers" – fishermen owning fishing shares, leasing out the yearly quotas after having ceased to be active fishermen.

In the TFC proposal rights are allocated to natural or legal persons to be used on a vessel. The proposal does not directly point to group allocation of concessions. It is possible however to combine individual and group approaches as fishermen may choose to create agreements among themselves and act as a group. The Danish small scale community, ThorupStrand illustrates this: The fishermen coordinate the use of their individual shares combined with a community based use of a fishing right attributed to a vessel organised in the legal entity of a coop.

Working in a fishers' coop offer some challenges. The main difficulty being that the decision making is not done by the individual but between peers. This requires a well functioning cohesive social structure. However as the fishing becomes more community based it may contribute to the social fabric that can ensure development and investments in harbours, landing facilities, market activities et cetera. Coordination of fishing activity may also be effective in advancing quota utilisation, especially if there is a likelihood of encountering prohibited by catch of species with low catch limits.

3.4. Resource rent

An introduction of TFC will result in a capitalization of the right. In most cases fishermen already enjoy a privileged access to fishing. The value of TFC's here relate to the cost savings in the industry due to fleet capacity reduction and better planning of the fishery. The "resource rent" in this case is the capitalized result of a more efficient production. Fishing is an expensive production and the savings can be considerable.

The general economic theory suggests that the resource rent could be confiscated for the good of society. Some economists argue that letting fishermen keep the rent (grandfathering) will induce investments and innovation in the fleet that exceed the benefit from the confiscated capital (R. Arnason). If resource rent is introduced the mechanism should be known well in advance of the first allocation of rights.

Some types of resource rent:

In money,

- Yearly payment e.g. based on average earning indicators for the year
- Revenue from auctioning the fish. This is a once and for all payment
- Payment in connection with revenues from sale of rights.

In fish

- A certain share of the TAC is reserved for allocations for other purposes (Fish Fund)
- A certain share of the individual vessel quota is taxed in connection with sale of rights

An alternative to confiscation or grandfathering is to redistribute some of the gains within the fisheries sector. An administratively attractive way is to redistribute some of the fish at the initial allocation. Likewise the establishment of a “FishFund” may allow for yearly adaptations of quota allocation in order to correct allocation problems – e.g. in relation to by catch issues or to benefit for example young fishermen investing in the fishery. The share for Danish FishFund is fixed on a yearly basis. The resultant quota is deducted prior to counting the quota amount that the fishermen receive on basis of their share. This model allows for some reallocating or rolling-back of quotas. It should be used cautiously not to disturb the market function of the system.

3.5 Taxation

Taxation will have to be dealt with according to national law. The consequences of the initial allocation may have to be dealt with according to special rules if the allocation of the right is considered to be a new economic profits and not just a continuation of an already given right. At the first sale of the right after a TFC introduction normal taxation practise should be applicable.

3.6 Social and policy considerations

TFC management can be designed to serve societal policies in relation to:

Structural development of the fleet

- Restriction of capital- or owner concentration
- Defining fleet segments with no cross-border transferability

Allocation priorities

- Premiums for coastal fisheries or geographical regions
- Facilitating new entry e.g. young fishermen’s entry

See section 3.4

3.7 Mortgage and property right registration

An important feature of TFC’s is that the property right makes financing of the fishery easier as financial institutions can gain mortgage in the rights. National law should take account of this possibility and it should ensure the necessary mortgage registration and ensure financial security and a flexible trade and leasing of fishing rights.

4. Conclusion

TFC's is an instrument to balance fleet capacity with fishing opportunities and to balance vessel quotas with day-to-day catches. Given that over capacity exists, TFC's may release the costs bound in excess fishing capacity for other purposes.

TFC is a market based construction as opposed to public regulation of the industries activity. It thus entails consequences normal for market based economies.

TFC design is about balancing the benefits of the market based approach with the socio-political priorities. Looking at the present state of fishing capacity and the state of fish stock utilization the potential for a better result should not be questioned.

References

Catch Share Design Manual - *A Guide for Managers and Fishermen*
<http://www.edf.org/sites/default/files/catch-share-design-manual.pdf>

This paper and more material can be found at www.fvm.dk/yieldoffish