

# Fishing: The Great Betrayal

*The Common Fisheries Policy began as a land (or rather, sea) grab, evolved into a stitch-up and grew into an environmentally devastating and commercially disastrous scandal. The EU, UK government and avaricious commercial interests are all to blame – and we're far from being out of the woods yet, writes business journalist **Ruari McCallion**.*

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In the 1960s, on our regular family holiday to Tarbert, Loch Fyne, a fishing village in Argyllshire, Scotland, the local herring fishing fleet was so big that one could, quite literally, walk from one side of the harbour to the other on the decks of the boats tied up to each other and moored to the quay. The harbours in Campbeltown, Carradale and Ardrishaig and on the islands of Arran, the Cumbraes and Bute – indeed, all around the Firth of Clyde – were much the same. These relatively small—usually four-man—drifter boats mostly fished the ‘inland’ coastal waters in the Firth of Clyde, with some adventurous souls sailing through the Crinan Canal to the Sound of Islay, Jura and the rest of the Inner Hebrides. It was a way of life that reached back to Viking times; boat construction still reflected their clinker-build style, although oars and shouts of encouragement had long since been replaced by diesel engine-powered propellers and cranes for lifting the catch into the hold.

When we visited in September 2019 it was still nearly possible to walk dry-shod from the north side of the harbour to the quay on the south, but it would be on the decks of privately-owned leisure vessels; the fishing fleet is not even a tenth of the size it was 50 years ago.

In 1970, unnoticed by me – I was much more interested in the launch of Jackie Stewart's Tyrrell-Ford Formula 1 racing car at Cheshire's Oulton Park racetrack – Europe's Common Market countries (the Inner Six, as they were then called) had, in June 1970, proposed Council Regulation 2141/70, which gave all Member States "equal conditions of access to and use of the fishing grounds for all fishing vessels flying the flag of a Member State and registered in Community territory". This was just after the UK, Denmark, Norway and Ireland, then EFTA (European Free Trade Area) members, had submitted applications to join the European Economic Community (EEC).

## **Shaky foundations for the CFP**

By a remarkable coincidence, the combined marine resources of the applicant countries dwarfed the EEC's existing fishing grounds, primarily in the Mediterranean (Italy and France) and the Bay of Biscay (France). Between them, the four applicant countries had fishing grounds more than four times the size of the EEC's at the time. Regulation 2141/70 was adopted in October that year and formed the basis of what would become the Common Fisheries Policy (CFP), which would prove to be the leading cause of the collapse of what had been the main industry and source of employment in that fishing village in Argyllshire and in villages and towns around the coasts of Great Britain, including Fleetwood, Fraserburgh, Grimsby and Lowestoft. The fish processing industries of Grimsby, Lancashire, southern England and eastern Scotland all declined into shadows of their former selves, where they continue to survive at all.

An industry that was once so big it inspired songs about the migrant workers who followed the shoals of herring, cod and mackerel around the coasts, has been eviscerated. There's really no other word for it: the landed catch in the 21<sup>st</sup> Century is less than it was in the 19<sup>th</sup>, despite increased

demand and larger, more efficient boats.

It would be easy but ultimately pointless to dwell in the past and engage in weeping and gnashing of teeth for a time long gone. However, understanding the history is important in appreciating the need for massive reform of fishing in the waters of the independent UK, both to restore an industry that has always been rather more important than its proportion of GDP – in the same way as agriculture and manufacturing are – and, even more important, to protect and restore the marine ecology.

The CFP was not always part of the European Common Market, Community or Union; it is not even mentioned in the original Treaty of Rome. It was concocted in haste and on doubtful legal premises in 1970, when the UK, Republic of Ireland, Denmark and Norway were in the process of applying to join the EEC. A cornerstone of successful application to join the Community/Union, then as now, is acceptance of the *Acquis communautaire*: the cumulative body of European Community/Union laws and regulations.

## **No price too high for Heath**

When the UK and fellow EFTA countries announced they were applying for membership, earlier in 1970, the basis for the Common Fisheries Policy did not exist. By the time the applications were submitted, in Autumn of that year, the framework was in place. In order to be accepted the UK had to agree to the *Acquis communautaire*, which now included the 'equal conditions of access to and use of the fishing grounds for all fishing vessels flying the flag of a Member State and registered in Community territory'. Then Prime Minister Edward Heath did so, in public, after a formal lunch with French President Pompidou, and at his request, during the Summit meeting in May 1971.

“Britain could reasonably regard it, I think not unfairly, as a hostile act on the part of the six, to open a Common Fisheries Policy and begin negotiating it and completing it before Britain actually joined, so that her, or our, interests suffered from it.” – Prof. Vernon Bogdanor.[1] Why did the UK acquiesce so tamely to a policy that was so inimical to its interests, especially when Norway rejected EEC membership, specifically on this issue?

According to Sir Con O’Neill, who led the British delegation in negotiations to join the EEC, then Prime Minister Edward Heath was so determined that negotiations would succeed that he was prepared to pay any price; the only thing that mattered was accession. “Swallow the lot and swallow it now,” were the instructions, it was reported. Sir Con acknowledged later that the negotiating team “failed to foresee the way in which, and the intensity with which, political pressures on the question of fishing limits would develop”. Ultimately the abject failure of the UK to defend its fisheries asset, which it underestimated, was regarded as so embarrassing – or “sensitive”, in diplomat-speak – that the official report was suppressed for 19 years. The way the fisheries were so undervalued, while clearly being regarded as a ‘Crown Jewel’ by the EEC, makes one question the value of the high-powered education the negotiating team had received at Oxbridge, and the lessons gained from their undoubted experience in foreign and trade affairs.

## **Lie, lie and lie again**

But there is evidence that the enormity of the error was realised in high places. Sir Edward Heath tried to get the Norwegian Prime Minister to publicly lie about the effect the CFP would have. Sir Con O’Neill was more concerned about the ‘political pressures’ than the fisheries and their communities themselves. The White Paper in 1971 promised that Britain

would not sign an accession treaty until the Common Market's fisheries policy was changed. Geoffrey Rippon, then Chancellor of the Duchy of Lancaster and the parliamentary leader of the negotiations, repeated this promise to Parliament and to the Tory Party conference. In November, Heath determined that the fishing policy had to be accepted as it stood, or the scheduled 1973 accession would not happen. He instructed Rippon to give way. When questioned about this in the House of Commons on 13 December 1971, his answer was a lie: he assured the House that claiming that Britain had retained complete control over the waters round its coastline. The reality – that the Heath and subsequent governments ceded all fishing rights to the EEC – continued to be denied and concealed for at least the next 30 years.

Norway rejected membership; UK governments repeatedly assured Parliament and the public that, "proper account would be taken of [the fishermen's] interests". A secret Scottish Office memo, dated November 9, stated that, "in the wider UK context, they must be regarded as expendable". We are hearing much the same argument today.

1971 was not the end of the initial betrayal, or incompetence, or failure of nerve or negotiating skill – call it whatever you wish: it was barely the start. The CFP proper was not finalised until 1983, a fact that merely served to underline that the initial imposition had no real basis in existing EEC Treaties.

## **Policies of disaster**

Measures taken along the way include the extension of territorial fishing limits from 12 miles to 200 miles in 1976 and the establishment of quotas in 1983, based on 'historical catches', which stretched the definition of 'historical' somewhat; they were by reference to landed catches in the

1970s, after the UK had become part of the EEC and acquiesced to the putative CFP. That scheme was an incentive to all the EEC members, even those without historical fishing industries, to engage in a free-for-all to maximise their 'historical catch', even if the landed marine life was inedible. The 'scrap and build' incentives in the 1980s encouraged the destruction of traditional fishing fleets and building of new vessels that were even more efficient at hoovering up fish that were already heading towards endangerment.

The unregulated competition for quota led to the UK's share of fish in seas that were its historical back yard was cut, from pretty much all to less than 30%.

The dangers of overfishing were finally, belatedly, acknowledged by the EU and the first major reform of CFP was promulgated in 1992. It barely tinkered at the edges of the problem; it was not until a second reform, in 2002, that grants for new boat construction were scrapped and premiums for decommissioning existing boats were increased. That reform also saw the introduction of recovery plans for threatened species and management plans for existing stocks. In recognition of the urgency of the situation, it was decided to set up the Community Fisheries Control Agency, operational from 2007 – five years later. The 2002 reforms still did not address and overcome the problem of 'discard' – fish caught in excess of quota having to be thrown back into the water. They were usually already dead. In 2007, 23,600 tonnes of cod, 31,048 of hake, and 6,000 of whiting were discarded in the North Sea.[2]

The EU had still failed to bite the bullet of conservation by imposing effective limits on catch sizes, boat sizes and fishing seasons. And the UK's quota share remained below 30%.

## **Third time lucky?**

And so, a third round of reform was initiated, with the publication in 2009 of an EU Green Paper that set out what was described by the Fishing Commissioner, Joe Borg, as an “ambitious vision” for a ‘healthy European fishery and sustainable fish stocks by 2020’.

“The current CFP has failed. It has not given us healthy fish stocks and it has not delivered a sustainable living for our fishing industry. Only genuine fundamental reform of this broken policy can turn around these failures,” said Richard Benyon, UK Fisheries Minister, in 2011. “I am confident that we can make the case for the radical reform that is needed, alongside our allies at home and abroad, to grasp this once in a decade opportunity.” He wasn’t the only one to voice concern and optimism.

“The report of the Court of Auditors reinforces my conviction that business as usual is not an option. We need new ideas. In our proposals for a new Common Fisheries Policy we want to break with the past.” That was Maria Damanaki, Maritime Affairs and Fisheries Commissioner, speaking in 2011 in response to a European Court of Auditors report on fishing overcapacity. It concluded that “a new approach may be needed”; a view that may have prompted a variety of responses, not all of which would be entirely complimentary.

Borg was convinced that a healthy and sustainable fisheries policy could be achieved by this year; the sight of Dutch supertrawlers plundering the Channel and southern Irish Sea earlier in 2020 suggests that his faith may have been misplaced.

All this is before the scandal of ‘flags of convenience’ and the sale of quotas to those with the deepest pockets. The European Court of Justice ruled in December 2000, in the Factortame case, that the UK could not prevent British fishing

quotas being owned by non-UK vessels – Spanish, in this particular case. Any lingering doubt that the UK could protect its own waters or that the CFP could control commercial over-exploitation disappeared.

## **There is no alternative**

After 40 years of trial and undeniable failure, of denuded fish stocks, species driven to the brink of extinction and the despoliation of the marine environment, it is impossible to deny that the CFP has failed. As there have been so many attempts and each has foundered on competing national and commercial interests, it has to be recognised that the CFP is simply unreformable. If we are to protect the marine environment, develop sustainable fisheries and enable threatened species to recover, we simply must take full control of our Economic Zone waters and protect them from the exploitation that is turning them into watery deserts.

The concern is that, once again, the fisheries will be ruled a 'minor' part of the UK economy and a price 'worth swallowing', as in the Heath days. If someone like Patrick Minford can make such an assertion in the case of manufacturing, which is directly worth approximately 10% of GDP and indirectly feeds 25-30%, what hope would fishing have? But the arguments remain the same: if fishing is so valuable to France, Spain and the Netherlands, why can the UK government not see it in the same light? What is preventing it?

That question is, ultimately, very hard to answer – unless it is simply that, as with manufacturing, the civil service departments simply do not understand.

In the event that the UK secures complete control over its fisheries within the maritime economic zone – up to 200 miles from the shoreline – it is still going to be faced with challenges on what to do and how to build, deliver and sustain



an economically vibrant and environmentally sound industry. The reality is: this cannot be done overnight on 31 December 2020 in time for a brave new world on 1 January 2021.

Therefore if the EU were to finally start behaving reasonably, yearly negotiations with the UK based on zonal attachment, as they already do with Norway, could be quickly agreed. However, if they continue to demand 100% of the status quo, and carry on making ridiculous assertions about the UK regaining sovereignty over its waters but it being 'another story, speaking about the fish which are inside those waters' as Barnier did recently, then under no-deal, EU fishing boats should be excluded and UK fishing stocks would replenish while we rebuild our fishing industry. Perhaps then the EU might finally see sense!

## **Annex: Milestones on Fishing's Timeline of Tragedy**

- 1970: EEC countries hastily proposed Council Regulation 2141/70, which gave all Member States "equal conditions of access to and use of the fishing grounds for all fishing vessels flying the flag of a Member State and registered in Community territory. This became part of the 'Acquis communautaire' – the body of existing EEC law.
- 1971: Ted Heath, UK Prime Minister, publicly commits to accept the Acquis communautaire after a lunch with President Pompidou of France.
- 1983: Common Fisheries Policy (CFP) comes into force. All EU fishing grounds are managed as a "common pond".
- Each country's quota – its share of the fish that can be caught – is based on its "historic track record"; in practice, this means the catches its fleet recorded in the mid- to late-1970s.
- The mid-1970s saw a huge influx of Belgian and Dutch 'beam trawlers' catching sole in the Irish Sea, building

up their nations' track record – which had, previously, been very small, compared to GB & I.

- In the early 1990s, the UK Government formalised the right of “sector” fishermen to move licences and track records between vessels, opening up a new kind of trade in quota.
- 1999 – UK replaced track records with Fixed Quota Allocations (FQA), which give the holder an unchanging share of the UK's quota. These were based on their catches in the mid-nineties.
- The value of “track records” increased to such a degree that most individual fishermen find it impossible to compete with the financial power of large companies, according to (John Goodlad; Scottish Fishermen's Federation).
- These liberalisation measures opened up the industry to “quota hoppers”: foreign owners of ‘flagships’: vessels that fly a flag of convenience in order to access and own British Fixed Quota Allocations.
- By mid-1996 there were around 150 quota hoppers on the UK register.
- By 1999, according to Iain MacSween of the Scottish Fishermen's Organisation, “very considerable quantities of what were once UK quotas have been bought particularly by the Dutch”. Virtually every licence sold in the previous year and a half for “pelagic” midwater fish like mackerel and herring had “ended up in the ownership of the Netherlands freezer trawler fleet”.
- EU's decommissioning programme in the late 1990s - intended to reduce overfishing by cutting capacity – drove up demand for quota and galvanised the trade, attracting quota hoppers and speculators into quota trading.

*According to a report by Unearthed, in 2018:*

- The five largest UK quota-holders control around 37% of

UK fishing quota, including 29% directly, with the balance by investment in other fishing companies.

- Around half of England's quota is ultimately owned by Dutch, Icelandic, or Spanish interests.
- The North Atlantic Fishing Company, a UK subsidiary of a Dutch multinational, controls around a quarter of England's fishing quota.
- Thirteen of the top 25 quota holders have directors, shareholders, or vessel partners who were convicted of offences in Scotland's £63m "black fish" scam in which trawlermen and fish processors worked together to evade quota limits and land 170,000 tonnes of undeclared herring and mackerel.
- The 'track record' system worked against efforts to curb overfishing by encouraging a "race to fish" – trawlers would fish when prices were too low, just to maintain their track record. It also encouraged "ghost fishing" –reporting larger catches than actually landed, to bump up quota.

*Ruari McCallion is a freelance business writer and journalist, specialising in manufacturing and productive industries. His articles and reports have been published in the UK, Europe, USA, China, Africa and Australia.*

Notes:

[1] Emeritus Gresham Professor of Law, current Visiting Gresham Professor of Political History, Research Professor at King's College London, a Fellow of the British Academy and an Honorary Fellow of the Institute of Advanced Legal Studies. Prior to 2010, Professor Bogdanor was a Fellow of Brasenose College and Professor of Government at Oxford University.

[2] Which goes on to say, "...when others also look agog at why

trawlermen are still campaigning when the Brexit referendum was won, the answer isn't complicated. It's because successive governments have each in turn let them down in the past."