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**ENDURE POSIBILITIES OF COMANAGEMENT IN THE EUROPEAN UNION
FISHERIES: THE CASE OF CANTABRIAN SEA COASTAL AND ARTISAN FLEET.**

Abstract

The artisan fleet takes the greater part of its catches in the territorial waters of individual countries, that is, outside the bounds of European Union regulations. These waters lie between the continental shelf and the bank, which, in the Cantabrian, consists of only a very narrow band.

These conditions place this sub-sector in a singular situation, since, by not sharing management tasks under the joint sovereignty of the EU and the State, they are left in the position of the cofradías as a whole before entry into the EU, when regulatory tasks were shared between the state fishing authority at its various levels, (central State administration, and Autonomous regional fishing administration) and the cofradías themselves. Although they are bound by EU legislation as far as marketing is concerned, when it comes to regulations on fishing methods they have greater normative capacity and therefore more autonomy. The EU has no jurisdiction over the area in question and the sharing of responsibilities between the State administration and the cofradías makes for greater flexibility. One of the clauses in EEC Regulation 3760/92 from the Council of 20th December, proposes a change in conditions for access from the year 2002 onwards.

Although, as this text from the year 1992 shows, there exists no prejudgement regarding future restrictive rulings nor any indication of direction in which changes will lead, in recent times proposals have been discussed in favour of opening the 12 mile limit to the free access of fleets belonging to the EU, whether these be made up of artisan or semi-industrial vessels. Obviously, a move of this nature would bring about a profound crisis in the management model that has been functioning up to now. It would cause the break-up of the delicate balance, which has been built up over the years, at least in the case of fisheries that have been regulated through the co-management methods of the fishing administrations and the cofradías. If these organisations are hoped to survive, a conversion to free access will be a severe blow to European fleets working within the 12-mile limit.

Something similar has occurred with commercialization aspects because UE legislation asks Producers' Organizations for fish sales and they are large agrupations of productors. It must be remembered, however, that the reasoning behind the historical functioning of the cofradías evolves at local level in each port, with auctions taking place in the port fish markets and with a local view also with local regard to pricing mechanisms and ways of defending them. The Producers' Organizations, meanwhile, function along lines decided at provincial level at the least. This has led, in certain cases to various types of conflict: between ports, between the users of different fishing techniques and some arising from other causes. This situation has held back the creation of Producers' Organizations while leading some sectors of the cofradías to create their own Producers' Organizations, heedless of joint decisions, thereby giving rise to further conflict and break-ups. The application of the CFP (common fishery policy) has been a trying test for the resilience of these institutions in some aspects of their functioning and, therefore, casts some shadows over their future.

Key Words: Cofradías (guilds) of Fishermen, Cantabrian Sea, common-pool management, co-management, Common Fishery Policy.

0. INTRODUCTION

As the Common Fishing Policy (CFP) comes up for revision, it is time for the European Union to take account of what this policy has actually achieved. Generally speaking, though there has been considerable progress on some fronts, it must be admitted that results show clear signs of a need for improvement in the management methods being used in some fisheries. This indicates a

need to go back and weigh up the advantages of other, perhaps traditional, methods with which to better the situation in the fisheries in question.

Though empirical evidence has taught us to be cautious when viewing the theoretical virtues of many regulatory systems, it must be emphasised that, over the last few years, there has been increasing agreement over the fact that it is the actual agents involved who should feel the incentive to protect resources, while recognising that inefficiency arises as a result either of external effects not being internalised or of non-existing or poorly defined ownership rights. Let it be stressed that in the case of fishing resources, "ownership" must be understood as the "the right to fish" and, therefore, historical rights over certain stocks are internalised by agents as a form of ownership.

With the need to provide agents with their own incentive, the prevailing tendency has been to equate the term "ownership" with that of private property, while ignoring the fact that some groups have long entrusted the management of resources to institutions other than the State or the market. This misuse of terms may be partly due to confusion arising from an inaccurate interpretation of the "tragedy of the commons".. Many economists who have then gone on to mistake common ownership for no ownership at all, or, as it is more commonly known among economists in the fishing sector, open access. Empirical evidence provides ample proof of the fact that though there exist, or have existed, some properly managed common pool resources (robust common pool resources) there are others that have been managed in such a way as to result in totally inefficient allocation of resources.

After studying a wide variety of CPRs, Ostrom (1990) distinguishes a set of regularities present in properly managed CPRs. We will briefly summarise the above- mentioned regularities in the next lines. 1) The membership and the extent of the common goods must be clearly defined. 2) Rules of ownership and maintenance must suit local conditions. 3) Agreements must come about as the result of group decisions. 4) Mechanisms are present for control and sanctions. 5) The opportunity to solve conflicts at local level is readily available for both resource users and for arbitrators 6) Certain minimum rights of self-management are recognised by outside authorities. 7) The nesting of organisations one within another is possible. On the other hand, Schlager et al (1994) established that factors such as mobility and the non-existence of storage capacity for the resources have a negative effect on the degree and extent of the problems of appropriation and provision, and accordingly on the likelihood of success via self-management¹.

¹ Mobility increases information needs, making it more difficult to pinpoint the cause of a hypothetical reduction in stock and less likely for users to reach agreements. On the other hand, the possibility of storage may help resource users to solve appropriation and

This paper sets out to analyse the Fishermen's Cofradías or Guilds of the Cantabrian as institutions which, at least in the past, and this from time immemorial, have managed coastal fishing resources under a common pool regime. They managed in accordance with rules decided upon by self-management on the part of the users or appropriators themselves. Though the Cofradías continue, even now, to maintain some of the features of the institutional regime of the past; their activities have gradually become subject to State rulings that have turned their regime into one more akin to co-management, and subject to outside arbitration on the part of the European Union. Although this paper is not so ambitious as to attempt to assess the success or failure of the Fishermen's Cofradías in managing their coastal resources, we still consider that it is worth knowing more about the regulatory potential of an institution that has survived since the XIIth century by continually adapting itself to the prevailing circumstances at each point in history.

1. COFRADÍAS OF FISHERMEN: CHARACTERISTICS AND FUNCTIONS

1.1. A brief preliminary definition of the term Cofradia

A Cofradía (guild or fraternity) is a Corporation or grouping by sector with an internal organisation that accommodates both vessel-owners and workers in the fishing sector and that represents the common interests of each of these. The basic functions it has undertaken, while adapting itself to the changing conditions in each period of history, include, among others, the thorough regulation of productive activities. They have undertaken focussing, not only on the use of marine resources and the organisation of access to them, but also on the commercial aspect, which involves the first sale of the fish.

1.2. The history of the Cofradia.

* Although many date back as far the XIth and XIIth centuries, they did not become fully consolidated and widespread until the XVth and XVIth centuries. They constitute a product of the Ancien Regime during which the organisation of production within society was undertaken by the craftsmen's guilds. The fisheries within their domain were managed as a common pool resource and their influence affected practically the whole organisation of the sector since they regulated virtually all the activities involved in the seafarer's craft. One aspect of their influence which is particularly important for the purposes of our study is the emphasis which, throughout the ages, they have

supply problems, through a wide variety of agreements designed to put the brakes on exploitation of the resource when stocks run low.

always attached to the need to control catches. They have determined which species might be fished during each season, what fishing gear must be used and what measures must be taken to avoid over-fishing resources. The Cofradías were also distinguished by their undoubted role in religious and welfare matters; the name they bear to this day clearly reflects this aspect of their origin.

During the time of the Illustration, the guilds in general, and with them the Cofradías, were vigorously attacked both for their ideology and their organisational system. They were held to be opposers of free enterprise and therefore a serious stumbling block to economic development². The passing of the law allowing freedom to fish, which meant that anyone –whether or not he be a member of a Cofradia – might take up the activity, put an end to the exclusive rights of the Cofradías over fishing and the sale of catches. This, together with the advent of more intensive fishing techniques, particularly steam trawlers, which had been rejected by the Cofradías from the start because the gear they used in coastal fisheries allowed for much larger and much less selective catches. Consequently artisan fishers were persuaded that trawlers had an adverse effect on the fishing of species and in their traditional fishing grounds, until then fished as a common pool resource. It led to the formation of new sub-sectors in fishing (deep-sea fishing) which soon spread, independent of the Cofradías.

Although the beginning of the XXth century saw the ability of the Cofradías to adapt to the new conditions, it also witnessed the price they had to pay in terms of the loss of their exclusive rights over resources and the gradual intervention of State control in their organisation and functions. It must be mentioned that during the Franco regime (1939-1975) the Cofradías were integrated into the vertical trades union that was based on a cross-class conception to which they were ideally suited. From the earliest times of the Franco regime, the Cofradías of Fishermen were acknowledged as the representative and disciplinary body of all the productive workers involved with the sea and they were given the legal status of “Public Corporation”. In fact, they included only the artisan and coastal sub-sectors.

1.3. The Cofradías of fishermen in the present day

² This situation gave rise to the decree of July 10th 1864 abolishing sea-farers’ guilds or Cofradías. Not all of them suffered the same fate, however. The majority were formally dissolved but kept up their activity either by converting to the status of mutual aid societies (organisations for the mutual provision of social welfare for workers), “pósitos” (initially institutions for agricultural credit and distribution of resources), or under the legal protection provided by arts. 35 to 39 of the Civil Code, since the former guild regulations had been substituted with others, enabling them to carry out the same functions under different legal forms. The Basque Cofradías were the only ones to maintain their legal status and continued to function as such because of their origin in territories enjoying special privileges and thanks to the role they played in recruiting sailors for the Royal Navy. A law passed on the 22nd March 1873 abolished this special

From 1975 onwards, the replacement of the vertical structures with those introduced by the new regime brought about the need to change the framework within which the Cofradías would function³. Thus, the legislation governing the Cofradías (Decree 670/1978), still in force named them as “*society-based organisations with a welfare and social purpose*” and, they received, as they had during the Franco regime previously, the title of *Public Corporations*. In consequence they are consultative bodies to work in collaboration with the Administration in the working out, drawing up and enforcement of rules affecting the general interests of the fishing sector. Furthermore, article 15 of the Law on the Process of Autonomy (dated 14th October 1983) recognises the specific status of the Cofradías and provides the legal framework within which the Autonomous Communities or Regions must function⁴. Article 15.1.c) of this law accords the Cofradía the following functions:

- To act as a consultative body in collaboration with the Administration.
- To act in representation and defence of the social interests they group together.
- To render services to their members.
- To carry out the strictly administrative functions corresponding to their legal or administrative capacity.

These functions are basically intended to reinforce the role already played by the Cofradías in the management of fisheries, the marketing of the fish caught and their efforts to ensure the sustainability of the fisheries under their domain. This challenge includes their legal battle against non-selective fishing methods.

1.3.1. The marketing role of the Cofradías

An important aspect of Cofradía activity in general, and especially of those of the Cantabrian is the marketing of their catches. The Cofradías took up this responsibility early on in history, as the

regime of recruitment but did not dissolve the Basque Cofradías, though it did force them to comply with free enterprise, that is, with voluntary association, as provided for by law.

³ The Cofradías are provided for in article 52 of the Constitution which reserves a specific space for what is known as Corporate Administration and, therefore, for the Cofradías, which find recognition and the chance to recover their historic identity under the new constitutional regime.

⁴ In addition, the statutes of some autonomous regions such as those of the Basque Country, Galicia and Andalusia made express provision for the Cofradías. According to art. 10.21 of the Basque Statute the Cofradías of fishermen came under the exclusive domain of the Basque Community; nevertheless, there has been considerable delay in the drafting of

need arose to avoid sharp price variations which would be likely to endanger the stability of fishermen's income, and also to guarantee food supplies. In those early days the Cofradías auctioned catches English style, that is by upward bidding. This method consisted in fixing a minimum price for the main species on the market at the start of the fishing season. As soon as the practices of the Ancien Regime died out in the fishing world and the free market was introduced, marketing activities were handed over to the Cofradías by the State within the framework of co-management which has since developed between the two.

The place where the first auctioning of the fish was carried out was the Fish Market, the management of which, in most cases, was handed over to the Cofradías, though there are cases in which the municipal authority holds the responsibility. Those Cofradías, which had kept managerial responsibility for fish markets, were given State permission to continue conducting auctions for the first sale as we have mentioned they had been doing throughout long periods of history. The difference between the new situation and the traditional one lies in the fact that, what had been a task specifically corresponding to the Cofradías, now became a concession demanial granted subject to a bill of conditions approved by a Public Body in this case the State Port Authority. These conditions specify that the fish be sold by the Dutch method of auction, that is, a falling price mechanism.

In recent times, EEC Regulation 2847/93, which the State has implemented with the issue of Decree 1998/1995, prohibits, in article 2, the unloading of fish produce elsewhere than on the quays designated for such traffic in each port. Otherwise, in article 3.1, it stipulates that the first sale of fresh fish produce must take place by public auction in the fish markets or in establishments authorised by the Autonomous Regional Authority. This means that the Regional Authority is able to take over the role of the Cofradías in the marketing of fish and, in actual fact, in the majority of cases, this is what has occurred.

The growing influence of regional law has given rise to the need for adjustments in the role to be played by the Cofradías. Marketing policy, which is determined by the Common Fishing Policy (CFP), depends upon the existence of producers' groups who are the active subjects in the organisation of fishery planning.

EEC Regulation nº 3687/91 issued by the Council of 28th December 1991 (DOCEL 354 dated 23rd December) defines producers' groups as "... any acknowledged organisation or grouping

the law of autonomy and the draft bill concerning the Cofradías, which reserves them their rightful place and provides them with ample room for manoeuvre, is still at the amendment stage of its passing through parliament.

of such organisations, set up at the initiative of producers, in order to adopt any measures that may be necessary to guarantee reasonable fishing practices and the conditions for the sale of the resulting produce ". Article 5.1.

These organisations must be recognised in the first place by the State Administration and subsequently by the EU. Non-members are obliged to market their produce through the officially recognised organisation, be it at one or more unloading points along the shore in question. As a consequence, supply is concentrated at pre-established points of sale. This challenge has led the Cofradías in each province to set up, under different names, producers' groups who are able, under their auspices, to fulfil such functions. This has certainly been no easy step for the Cofradías as a whole. Some, including those of the Basque coast, adapted fairly readily and carefully to the demands of community rulings, even though the administrative demarcation of the Cofradías is local. The result of this on marketing issues lies in the fact that the management of the fish market, in the case of those Cofradías who have it under their control, is also local; whereas the producers' groups require a provincial scope at the least. The variation of interests and fleets from one port to another has, in some cases, caused difficulties when attempting to reach an agreement as to how to fulfil the requirements needed to obtain recognition as a producers' group, leaving the process, and thereby marketing control, in the hands of outsiders. It is obvious that loss of marketing control affects fishermen's income: one of the most important aspects in the functioning of the Cofradías throughout history.

1.3.2. The Cofradías as defenders of the sustainability of the fisheries in their domain.

The consequences of the joint binding decisions taken within the Cofradías have, in practice, created authentic cultural channels along which to conduct the relationship that the members of a fishing community must maintain with the resources which provide them with a livelihood and with the production methods that enable them to obtain these resources. It is, therefore, useful to analyse the situation underlying the joint decision-making process involved in choosing which techniques and fishing gear are to be used in obtaining resources. Such decisions and the actual mechanisms of group action that have evolved throughout history have eventually given rise to a preference for certain techniques over others. In the case of tuna and anchovy fisheries, a balance between the available technology and the sustainability of the exploitation of coastal resources has been achieved via the use of surface gear.

The regulatory action of the Cofradías has had an important influence on the types of fleet which have evolved in the so-called in-shore fishing sector in the Cantabrian. It's so not only because of the techniques required to fish the target species, but also because of the decision on the part of the Cofradías to use selective fishing methods. It must be emphasised that, since the trawling fleet became disassociated from the Cofradías, the different trawling methods have continued to evolve outside their disciplinary control, with a very few exceptions of little importance.

There have also been outstanding changes in the construction of vessels for the surface fleet, especially as far as navigational safety is concerned. Substantial improvements have been made in hydrodynamics and navigability, propulsion, autonomy, capacity for transport and in comfort and hygiene for crewmembers. The incorporation of new detection techniques for inshore vessels, such as echo sounders, sonar steering, radar and echo-integrators are worth particular mention. Fishing strategy, however, remains intact; thus, one common issue over the last few decades has been the defence of this surface fishing strategy, especially for the above-mentioned species against other competing techniques and gear.

The Cofradías have, since the early fifties, been against the fishing of albacore with purse seiner nets in Bay of Biscay and Cantabrian waters and in recent years they have vigorously opposed pelagic trawling. Such techniques have been adopted in spite of the views of the Cofradías and, in the case of pelagic trawling, in flagrant opposition to their belligerence. The purse seiner tuna fleet came about as an offshoot of the surface fleet and, as such, once the initial season of the small surface fleet was over, prolonged the traditional summer season, by travelling to African waters to continue tuna fishing there. This initial experience of the fifties, along with the financial advantages provided by loans from the various development plans for the construction of vessels over 100 tm TRB, gave rise to the deep-freeze tuna fleet. It is important to point out that this fleet opted to fish tuna with purse seiner nets but removed its field of action to areas outside the Cantabrian, eventually turning into an industrial fleet, taking most of its catches in international waters.

It is also worth taking into account that the surface fleet requires little adaptation in order to incorporate drift nets for tuna fishing and for pelagic trawling. The Basque Government has, at the request of the Cofradías, undertaken a thorough analysis of the technical problems and costs involved in converting the existing surface vessels for pelagic trawling. These conversion costs stood at under 20 million pesetas per vessel in 1995 and are, in theory, feasible for the greater part of the fleet. At the same time, AZTI, a body that is the Basque equivalent to the Oceanographic Institute, also carried out a study of the effect that such a conversion would have on stocks and on

the socio-economic situation of the fishermen. The AZTI study, while not offering any definite conclusions either for or against, does provide guidance regarding the pros and cons of each option.

The Cofradías and their Federations have on repeated occasions, both publicly and internally, stated their views concerning the problems that would arise both for stocks and the short term sustainability of these fisheries, in the event of the incorporation of surface vessels converted for pelagic trawling. Their study underlines the risk which a sudden avalanche of such conversions would represent for the future of the aforementioned stocks and the subsequent repercussions of over-fishing on the fleet itself and the economy of the ports involved. They paint a clear picture of overcapitalisation and a grave threat to the continuity of stocks of the two species in question. Faced, therefore, with the dilemma outlined by the study, and forced to choose between removing or maintaining the obstacles placed on this technique by the fishing authorities within the Spanish State, the Cofradías and their federations along the Cantabrian have positioned themselves in favour of the second of these options. No port or vessel has made any move towards carrying out such conversions. There are many technical issues to be discussed regarding the possibility of such a move, since there are both advantages and disadvantages involved, but the Cofradías remain united as to the serious consequences that this would bring about both in the economy and in the sustainability of stocks.

The Cofradías, therefore, required a strategy to enable them to compete with fleets of greater fishing capacity without succumbing to the temptation to convert their own which would mean taking a short term solution that would create further problems in the mid term. The strategy they have employed is basically that of marking the tuna fished by selective techniques from that fished by the new, less discriminating methods, with a quality label.

At the same time, the growing presence in the albacore fisheries over the last decade of drift nets belonging to various European fleets is seen as a tremendous increase in the fishing effort on this species, made possible by the use of largely non-selective techniques with great catch potential. The Cofradías, and the surface fleet of the Cantabrian as a whole, have reacted by exercising all the means of pressure at their disposal. This resulted in the 1998 EU prohibition on the use of this fishing gear by the year 2002, together with regulations for a gradual reduction in its use throughout the intervening period, leading up to a complete ban by the date mentioned.

1.3.3. The Cofradía as a managerial and penalising body

The Cofradías have always organised their activity by adapting to the demands of succeeding situations throughout history (from the feudal situation of the Ancien Regime through to the capitalist era, etc., not to mention the new framework brought about by entry into the European Single Market). As has already been mentioned, regulations have affected all the activities carried out throughout history (from the regulation of catches and access to the fishing grounds to all kinds of complementary activities concerned with fishing, the use of ports, safety at sea or the welfare of fishermen).

Both in the absence of a state and when the existing State claimed jurisdiction over fishing resources, Cofradía rulings have served to regulate the use and the situation of the fisheries and to ensure their survival.

An example of this is the distribution of fishing licences among their members by Cofradías and their Federations, applying regulations decided on at European or State level for the various fisheries. Furthermore, any general agreements adopted by the Cofradías and their Federations, particularly those concerning regulations, must be strictly observed by members. The Cofradías are responsible for enforcing them and for reporting transgressors, so that the corresponding authorities can take disciplinary measures in the form of penalties. These vary in degree; the lightest, which are settled by payment of a fine, the amount of which varies according to the gravity of the infringement. The heaviest, which may involve being struck off the register for the section in which the transgressor is involved or a ban on renewal of the licence for the following seasons. It can, therefore, be appreciated that the economic and social consequences can be dramatic for whoever breaks the rules.

Sanctions for infringements involving the use of illegal techniques and gear usually include the immediate confiscation of the illegal gear. Those relating to the sale of illegal catches may affect both parties in the transaction, to the extent that the purchaser may, in extreme cases, suffer the partial or total withdrawal of access to auctions and, in less serious cases, the withdrawal of credit facilities for deferred payment.

2. THE COFRADÍAS AND THE ARTISAN FLEET

The artisan fleet takes the greater part of its catches in the territorial waters of individual countries, that is, outside the bounds of European Union regulations. These waters lie between the continental shelf and the bank, which, in the Cantabrian, consists of only a very narrow band.

These conditions place this sub-sector in a singular situation, since, by not sharing management tasks under the joint sovereignty of the EU and the State, they are left in the position of the Cofradías as a whole before entry into the EU, when regulatory tasks were shared between the state fishing authority at its various levels, (central State administration, and Autonomous regional fishing administration) and the Cofradías themselves. Although they are bound by EU legislation as far as marketing is concerned, when it comes to regulations on fishing methods they have greater normative capacity and therefore more autonomy. The EU has no jurisdiction over the area in question and the sharing of responsibilities between the State administration and the Cofradías makes for greater flexibility. One of the clauses in EEC Regulation 3760/92 from the Council of 20th December proposes a change in conditions for access from the year 2002 onwards. This ruling states as follows:

“Whereas special provision should be made for coastal fishing, in exception to the conditions laid down in EEC Regulation) n° 101/76 of the Council of 19th January 1976 by which a common structural policy is established for the fishing sector, member states should be authorised to maintain until 31st December 2002 the present restrictions on access to the waters within their sovereignty or jurisdiction up to a maximum limit of 12 nautical miles, to be calculated from their base lines, as existed at the passing of rule (EEC) n° 170/83 this being applicable to all those States to be admitted to the Union after the said date, from the moment of their admission.

Whereas, however, the present regimes relating to rules of access to fishing vessels belonging to the remaining members whose fishing activities traditionally take place in waters situated within the 12 mile limit should be extended to 31st December 2002.

Whereas, in advance of the said date, the Council will announce its decision regarding the provision to be made to replace the said restrictions and regimes”

Although, as this text from the year 1992 shows, there exists no prejudgement regarding future restrictive rulings nor any indication of direction in which changes will lead, in recent times proposals have been discussed in favour of opening the 12 mile limit to the open access of fleets belonging to the EU, whether these be made up of artisan or semi-industrial vessels. Obviously, a move of this nature would bring about a profound crisis in the management model that has been

functioning up to now. It would cause the break-up of the delicate balance, which has been built up over the years, at least in the case of fisheries that have been regulated through the co-management methods of the fishing administrations and the Cofradías. If these organisations are hoped to survive, a conversion to open access will be a severe blow to European fleets working within the 12-mile limit.

It must be borne in mind that these fleets are working fishing grounds that they have fished for centuries, using different artisan techniques. Nowadays the techniques chiefly used are mesh nets, multiple hooked lines, rod and spike, hand-held lines and creels. Fishermen have found themselves with this range of techniques competing in many cases for the same target species and frequently with incompatible methods, (hake is a case in point, being a high-priced species and fished by several of these methods). All of these techniques are taking place within a narrow band stretching along most of the Cantabrian coast. This situation has required well-defined rules of arbitration under an authority charged with the supervision and enforcement of the rules in each port and each fishing ground. Here the Cofradías have played a decisive role. They carried out the task first of all as guilds and later in collaboration with the State. In the particular case of the artisan fleet, they enjoyed a relatively high degree of autonomy, precisely because of the nature of the conditions, which involved diversity of species, fishing grounds, and geographical and social environments. The fisheries along that coast were ordered on a territorial basis, depending on each port, on the Cofradía and its federations, where, throughout the ages, rules and agreements have been discussed and worked out and their enforcement ensured. The Federations of Cofradías are responsible for controlling access to the shared areas or for setting up regulations at the provincial level for all those fleets that may approach their fishing grounds. An Inter-federative body co-ordinates relations between the fishermen from the provinces involved and regulates the use of shared fishing grounds, by establishing rules based on unified criteria for the whole coastal area.

When it comes to regulation by state administration, since Spain was decentralised to form various Autonomous Regions, the first three miles from the coast come under regional administration and the remaining nine under State administration. The most important regulations regarding fishing techniques are the Ministry Ruling of 30/7/83 regulating the areas banned to trawlers, the Ministry ruling of 18/1/83 regulating surface fishing with multi-hooked lines, the Ministry Ruling of 30/6/83 regulating fishing with mesh nets, the Ministry of 30/7/83 regulating fishing by "rasco" and the Ministry Ruling of 30/7/93 regulating deep-sea fishing with multi-hooked

lines in the Cantabrian and the Northeast.. Espel (1997). These are laws resulting on the whole from agreements which have, in fact, arisen from customary practice inspired by rulings issued by the Cofradías themselves, the majority of them having reached the status of law.

From the organisational pattern and the regulatory strategies briefly outlined above, it is easy to appreciate the difficulties that may arise as a consequence of a change in the rules of access and the ownership regime. In this case, the difficulty would result from the introduction of a regime of open access within the 12-mile limit for the fleets of the whole of Europe.

3- THE COFRADÍAS, THE STATE AND CO-MANAGEMENT

3.1 - The Cofradía: from common pool management to co-management

3.1 The conditions for the exploitation of renewable natural resources also depend on the state of the institutions particularly on the various forms of ownership that have become established through the ages in different communities. This factor influences agents' behaviour and the resulting allocation of resources.

Between the open access model and the solution to its perverse effects via the introduction of single ownership in the models put forward in economic theory, empirical findings, both in advanced and underdeveloped societies, and in artisan and industrial fisheries alike, have shown an extremely varied state of affairs. It's worth at least bearing in mind when it comes to working out a theory that can respond to the emergence of these fishermen's associations – which have gone under many different names, having been variously known as seafarers' guilds, "pósitos" or fishing co-operatives and Cofradías or fraternities, to name but a few – while also attempting to respond to a reality from which it is difficult to escape: the undying will of these institutions to play an active role in the allocation of resources and in the regulatory process.

Their capacity to continue playing a similar role in the future depends on many variables including the decisions that will be taken by the European administration concerning their actual existence and is, therefore, difficult to prejudge. They have, however, evolved over the years, initially within a common pool model of access to fisheries, continuing, once the State appeared on the scene and took responsibility for the organisation of fishing resources, by responding to the need to guarantee recruitment for the navy. This led the State to negotiate a pact for co-management under which the Cofradías enjoyed a high degree of autonomy in regulating fisheries, in return for providing a steady supply of troops for the navy. After a lapse of about 50 years during which they were outlawed as a guild and carried out organisational tasks in a part of the fishing sector on an informal and unofficial basis. They were still to be seen, though under the most varied guises and

legal forms, and succeeded in surviving, albeit with very little regulatory influence. From the end of the first decade of this century, they once again began to share regulatory tasks with the State under the status of “pósitos”. After the 1936-39 War they were integrated within the State as public bodies with the legal and organisational status of corporations, and this is the formula by which they continue to function to the present day, with the adjustments that were necessary after the present Constitution was passed and the State was decentralised.

3.2 Some of the difficulties affecting co-management in the present

As can be seen, the Cofradías have come a long way in sharing regulatory tasks with the State. Their degree of autonomy with respect to the state has certainly varied through the different periods of history, but, throughout virtually their entire history, they have had some share in the responsibility. Both sides have seen this collaboration to be necessary and both have benefited from it.

Under co-management there are many possible levels of agreement. The different relationships between the two parties over the years have already been described and bear witness to this. The description which appears in section exactly reflects the form that this co-participation takes at present in the Cantabrian fishing sector, which, because of its size, is one of the most important in the EU. This situation is repeated throughout the rest of Spain, with slight variations in form, though perhaps not in the manner of functioning. In other cases the performers are the state and a number of co-operatives, or the state and a number of producers’ groups. In all of these cases there are differences as to the degree of autonomy enjoyed by the fishermen’s organisations with respect to the state, the fleets involved, the historic processes which have given rise to the agreements, etc. The common denominator is the agreement between two parties to participate together in designing the rules by which the fisheries should function, in putting these rules into practice and, in the final instance, in making sure that they are rigorously observed.

Complementary to this is the position in which co-participation between these associations, the state and the EU has been left following entry into the EU. Two different reactions can be said to have taken place. Some have adapted with relative ease, in particular a large number of the Cofradías of the Cantabrian have formed their own producers’ group and have adapted to demands of the EU. It must be remembered, however, that the reasoning behind the natural functioning of the Cofradías evolves at local level in each port, with auctions taking place in the port fish markets and with a local view also with regard to pricing mechanisms and ways of defending them, with, for example, the flag. The producers’ groups, meanwhile, function along lines decided at provincial level at the least. This has led, in certain cases to various types of conflict: between ports, between the users of

different fishing techniques and some arising from other causes. This situation has held back the creation of producers' groups while leading some sectors of the Cofradías to create their own producers' groups, heedless of joint decisions, thereby giving rise to further conflict and break-ups. The application of the CFP (common fishing policy) has been a trying test for the resilience of these institutions in some aspects of their functioning and, therefore, casts some shadows over their future.

CONCLUSIONS

It is no easy task for fishermen's associations to practise co-management with European institutions because of the vertical structure of the latter. Policy is decided at the highest decision-making levels of the European Union (EU) upon the advice of the various technical commissions and the direct participation of the governments of member states. Direct involvement on the part of the fishing sector itself, however, is relatively limited. The very nature of the institutional framework of the EU does not really provide the dynamics necessary for co-management. When it comes down to State level, however, each has its own particular way of organising the fishing sector. In fact some have experience of co-management with a good working relationship between fishermen's associations and state fishing authorities. There are also other experiences that have taken place in members states in recent years but the one that concerns us here is that of the Cofradías of the Cantabrian which possess the virtue of having demonstrated a remarkable level of robustness throughout the course of history.

In any event, the application of the co-management formula for fishery management is very unlikely to prosper in unfavourable conditions. Obvious drawbacks can also be appreciated in this formula in cases where it has failed and there is an attempt to restore it. In spite of this, however, experience shows that in some circumstances it is very useful. When it can be made to work successfully, it has the advantage of involving the fishermen themselves and the communities, to which they belong, allowing them to share in the management of their fisheries. It is to this extent that it has been used by many fishing communities to regulate fisheries both before and since the

introduction of the Common Fishing Policy (CFP) in the European Union and other countries.

Some co-management formulas that have recently emerged in some European Union countries as a direct consequence of the introduction of the CFP have produced satisfactory results. In other cases, such as the one that concerns us here, difficulties have arisen. It has proved difficult, for example, to adapt the co-management method being practised at State level to the requirements that have emerged with the introduction of the CFP. Nor has it proven easy to accept the adjustments that the fishing sector has had to undergo in order to meet the demands of European Community policy. This transition has proved genuinely hard for these associations, because it has involved a drastic reduction of fishing fleets and crews, who have had to face up to the economic crisis affecting coastal areas while coming to terms with the complexities of the European markets, etc. In spite of this, they have retained basically the same regulatory functions that they have traditionally fulfilled in their shared responsibility with the state.

In spite of the tremendous impact of these transformations on the Cantabrian fishing sector and of the difficulty of adapting to rapid change, especially for institutions as these who are better at adapting to gradual than to sudden change, they have on the whole adapted to the idea of the Common Fishing Policy and, with varying degrees of difficulty, are adapting to the new economic and social environment that has evolved since unification. Unlike other co-management institutions that have evolved over the same period, the fishermen's Cofradías of the Cantabrian have had to weather the storm of transition for more than a decade.

Problems are increased by the fact that the main target species traditionally fished by the Cantabrian coastal fleets have, since 1986 - coinciding exactly with the Treaty for the entry of Spain to the European Community - come under the sights of the pelagic trawling fleets of other European countries. This has given rise to different types of fishing techniques, each with a different catch potential, competing for just those migratory species that pose most difficulties when it comes to regulating and controlling catches. The fishing authorities in the countries competing for these stocks are also organised in different ways; the precautionary measures of self-restriction

traditionally observed by the Cofradías in these fisheries did not affect those fleets coming in with new techniques and different management patterns. From the regulatory point of view, therefore, they had to adapt to the new circumstances.

To focus on the particular case of anchovy, a target species of great economic importance to the coastal fleet, the Cofradías now practise co-management of their allocated quota but not of the stock as a whole as was the case previously. Significant change has also come about, therefore, in matters relating to the catches they are able to achieve and they have had to navigate through very troubled waters.

The co-management formula adopted by the Cofradías in the Cantabrian has played an important part in the transition towards the CFP and has proved a useful tool to enable the Cantabrian fishing sector to adapt to the changes introduced by it. There is, however, evidence to show that throughout the crisis affecting the sector, the Cofradías have been subject to great stress that has tested both their strengths and weaknesses. Among their weaknesses we must include their difficulty in responding to the different rules of play displayed by each of the various member states in taking their quotas of the same stocks; their failure to make other countries fishing in the same waters restrict themselves to their quotas (in the case of albacore, failure to ensure observance of the rules on the use of drift nets) and their comparative weakness in the markets. Throughout this period one of the aspects most commented on by these associations has been the great distance separating the decision-making centres of the European Union and the problems to be tackled by them. It is understandable, therefore, that there should be problems in getting the fishermen involved to respect the management methods employed by the EU fishing authorities.

The Cofradías of the Cantabrian are presented here as a worthwhile instrument in influencing the direction of changes in the fishing sector which will accompany the restructuring of the CFP in 2002, as long as the proposed changes do not strike such a blow to their very stability as to

eventually bring about their total break-up. It would be wise, therefore to analyse their own experience over the last decade and throw this open to debate in order to determine what internal adjustments are needed to overcome their internal shortcomings. Finally, whatever changes are introduced into the institutional organisation of the CFP, in can only be of benefit to increase awareness of the existence, nature and circumstances surrounding the Cofradías, as well as their methods of action and regulatory potential.

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