

BLUE CHARITY BUSINESS

Reform of the European Common Fisheries Policy

First appraisal 2000-2011

*International foundations,
Environmental Non Governmental Organizations [ENGOs] and
coalitions*

- ABSTRACT -

Original in French

Octobre 2012

Yan Giron, with Alain Le Sann's contribution and Philippe Favrelère's involvement

Report produced for

C O L L E C T I F



'Fishery and development Association'

This is a self-funded report.

It is freely made available to the NGO Collectif Pêche et Développement

Contacts:

Alain Le Sann: ad.lesann@orange.fr

Yan Giron : yan.giron@armeris.fr

In May 2012, Michelle Bertho published a book¹ called "Charity Business". The subject is the involvement of international foundations on the topic of World Public Health

Michelle Bertho is a highly respected researcher from the University of California Berkeley

Her book draws a panoramic view of the interventions of international foundations. It shows their power of action, their efficiency in raising funds, their own funds.

It also shows the excesses of such a system conducted by a little number of people. There is no doubt the donor is being charitable. But he is also a financial player, an investor. He also has some interests beside the simple charity donation.

For the donor, the donation is an investment, literally as figuratively, with its apparently good face and its dark one.

We were struck by similarities between the scheme described in her book and what was little by little appearing to us in the marine world.

We asked Michelle Bertho permission to name our report by acknowledging her work, like a marine echo to such schemes which appear to be much wider than our two application issues.

We imagine that any commons or shared natural resources nowadays face such new private-public partnerships that take advantage of the current institutional weaknesses.

Many thanks Michelle

¹ Charity Business – the big market of the world health – le grand marché de la santé mondiale. Michelle BERTHO – 2012 – Ed. Vendémiaire

Foreword: transparency is the basis of a fair dialogue

This report aims to give more transparency to the activities of the foundations through Environmental Non Governmental Organizations [ENGOs] in Europe. It also aims to decode the origin of such way of acting, and similarities which can be noticed with what is currently implemented in the USA. It tries to identify some tracks regarding what motivates the foundations' involvement, apart from the defense of wilderness.

ENGOs are now fully committed (from a legal point of view), in preparatory negotiations of the European Common Fisheries Policy [CFP] Reform. They represent a power legitimized by the support and the hearing they gained from media and public opinion generally speaking. The goal of this report is to make clear what motivates ENGOs and their funders who try to influence European Public Policy. The aim of this report is not to produce an overall criticism of the ENGOs or of their actions in the field of European fisheries.

We share most of their observations and of their fights (illegal fisheries, defense of the small-scale fisheries, intensive fishfarming and fishmeals fisheries). We recognize them a position in the fisheries history. We think it is healthy to have a different view on fishery management, to enable fishery industry to progress regarding previous doing and to break the exclusive private relationship between Commission and industrial fishery.

However, we do not share all their diagnostics, nor their entire recommendations they promote to reach fisheries stock rebuilding. We also do not share their definition of small scale fisheries.

- We consider that the definition of the small-scale fishery must be done on a case-by-case basis at a regional approach, as promoted by FAO in its guidelines for sustainable small-scale fishery.
- We do not share the over dramatization on the state of the fishing stocks in Atlantic and North Sea, particularly on the issue of rebuilding. There are some progresses since more than 5 years, which enabled many stocks to improve from danger zone to sustainable zone, and some to Maximum sustainable zone. The issue of the over urgency to rebuild promoted by some ENGOs, should also be considered as a form of putting pressure on the public opinion. Of course this should not minor the effort needed to rebuild the stocks, to which the fish industry is already committed to.
- We refuse any a-priori condemnation of any type of fishing gear, or way of fishing. Fisheries are complex, and we should not consider them with an overall simplistic view on what is good or bad. Each case is a particular case and should be treated so, whatever the fishing gear, trawl included.
- We are strongly opposed to a systematic implementation at a wide range of financial market-based management tools, such as Individual Transmissible Quotas [ITQs]. We consider that market regulation tools do not take into account ecosystemic, social or technical issues. Furthermore, such tools prevent any come back except by the mean of costly financial compensations. When getting in it, it is a one –way solution. Fishery management must be able to evolve yet.
- We are firmly opposed to any patronizing of fishermen. We acknowledge their rights and responsibilities in commons fishing resources management.
- **We consider fishing resources as a public good of mankind and a community property which must be in priority managed by fishermen communities for which they are an essential livelihood. The role of the State is to insure a fair sharing of these resources. They must not in any way be counted in the property assets of a private company or organization. They must not be exposed to financial speculations on the fishing rights.**

Why have the US foundations invested several hundreds of millions of US\$ in fisheries policies reforms, including the European fisheries?

Context facts

The European fisheries, and more widely aquaculture and maritime affairs, is managed by the Common Fisheries Policy [CFP] since 1983. This Policy, one of the most integrated in the EU, is rather unknown by the public opinion. Despite this, it addresses important issues: conservation of fishing resources, compliance of the fishing industry to the sustainability goals, the warranty of healthy and high quality seafood products for the European consumer. Its impacts are environmental, economical, social, territorial and sanitary conditions.

CFP started its third² reform of its history in 2011, on the basis of a regulatory proposition³ designed by the European Commission. It is still on the negotiation process in the Ministries Council and in the European Parliament. It may come into force by 2013.

In April 2009, as for the previous reform, the European Commission published a Green Paper. In July 2011, Commission published its reform first propositions. Following the reform of the European governance, this reform will also be the first time when European Commission and Parliament will negotiate and co-decide this reform.

While the process of this policy review is classically limited to the access conditions and to the coastal sea issue, Commission started a wider reform work, considering the previous policy framework failed to reach its goals.

The proposal made by the European Commissioner for Maritime Affairs and Fisheries, Maria Damanaki is based on the presupposed analysis of an overall overfishing in Europe, and on the need to decrease the fishing effort by 50 to 60%. To reach this goal at a lower cost, she proposes to generalize the Individual Transferable (tradable) fishing Quotas [ITQ] to the pretending "industrial" fishing industry, thus all fishing vessels over 12 m length, and whatever the size of the vessels, for all towed fishing gears (trawlers and dredgers).

This Commissioner's proposition comes to the same thing as considering any trawler or dredger fishing vessels, working legally in the coastal zone, as an 'industrial' fishing vessel. This should apply for example to any coastal scallop dredger.

Commission also wishes to reach the Maximum Sustainable Yield [MSY]⁴ by 2015 for all the European fisheries and to ban the fishery discards. Moreover, she proposes to enhance regionalization and to promote aquaculture.

On the contrary of the previous reform, this process has also seen a major involvement of Environmental Non Governmental Organization [ENGOS] which developed an intense lobbying, and this since the early 2002. This lobbying targets the 4 parts of the Society which interact to vote this reform: the civil society, its elected Members of the European Parliament, Ministries and the Commission itself.

These ENGOS are now numerous. They may carry their own view or express themselves through coalitions, they build a network with a strong, dense and complex meshing. We can present for example, and quoting the more influential ones: Oceana, New Economic Foundation, fishsubsidy.org, Marine Stewardship Council, Marine Conservation Society, Birdlife International, Client Earth, WWF, Greenpeace, Pew Environment Group, Seafood Choice Alliance, Seaweb, Environmental Defense Fund, Fisheries Secretariat, North Sea Foundation, Bloom Association, OCEAN2012, Fish Fight, Deep Sea Conservation Coalition, Shark Alliance, Seas at Risks, OCEANS5.

² The first reform was conducted in 1992. The second one was in 2002.

³ <http://ec.europa.eu/fisheries/reform/>

⁴ We should not get confused between Sustainable fishing and the Maximum Sustainable Yield [MSY]. This issue is presented in appendix 5.1 of the report. Sustainable fishing is obtained when fishing pressure is lower than the one of the precautionary approach. MSY is only the maximum of the catches of the sustainable fishing. Overfishing is a technical fisheries science word which means fishing pressure is over the one of the MSY. Between MSY and precautionary area, fishing is both sustainable and overfishing. Confusion is maintained by some between overfishing and systematically unsustainable fishing, playing with the bad connotation of the word 'overfishing'.

An involvement of several hundreds of millions of US\$ from American Foundations

We are surprised and we feel highly concerned to discover among the funders of the ENGOs a little number of five charity foundations: The PEW Charitable trusts, David & Lucile Packard Foundation, Gordon & Betty Moore Foundation, the Walton Family Foundation, the Oak Foundation.

Data were collected by two means: online public databases of the foundations and the US Internal Revenue Services 990 forms. Cross-checking has been made. We think our estimations are under-estimate because of insufficient year-series coverage and difficulties to get information inside Europe.

However, the data we collect enable to show that since 2000 these foundations strongly supported lobbying activities to influence the negotiation of the European Common Fishery Policy reform. They invested at last **US\$ 75 millions** in direct lobbying activities in Europe. They combined this investment with a US\$ 90 M support to marine science and a US\$ 57 M to Sustainable seafood scheme from 2005 to 2011. These actions interact between themselves to support direct lobbying. In the same time, the same foundations invested US\$ 231 M in the US fisheries reform and its implementation.

Our surprise and our concern are motivated by the high levels of these investments, their concentration on a little number of structures, the apparent links that may be established between ENGOs and these foundations, and the high discretion they show.

It appears to us that public debate and proper governance should feed themselves from diversified views, but also we need to find a full transparency on all the interests which support and promote them. It is for us one of the important conditions which should light up balanced and well proportioned decisions.

A certain view of the fisheries ...

Most of these foundations share the same view about **extreme nature conservancy**, based on the American view of the 'Wilderness'. We respect this view as an interesting philosophical view on Nature. But we do not share the solution they promote, reliable upon systematic privatization of the fishing rights. Foundations consider that the 'invisible hand of the market' is much more efficient and less costly to recover and maintain an environmental status matching their view. It is thus with these words that European project of the reform was presented to implement nearly systematic privatization of the European fishing resources.

ENGOs and privatization of natural resources, (in)dependence?

The ENGOs themselves are not united on this issue. But the charity foundations which fund them do not share their view, as shown by the purpose of their grants, or in their public views or presented inside some reports.

Inside OCEAN 2012, coalition which groups a hundred of ENGOs and very active in Bruxelles, difficulty lays in the fact that most of the main ENGOs which are in the core team are dependant of external grants, in particular those from OAK and PEW foundations (for an average amount of US\$ 30 M). Oak foundation also has convened its grantees to a meeting to make sure lobbying on the privatization of the fishing rights is going in the right direction. PEW finances the secretariat and the communication of the coalition.

By the end of September 2012, an US ENGO, Environmental Defense Fund, came to support some of the European ENGOs position on the issue of privatization. It promoted its work implemented in the USA to the European Ministries and Members of European Parliament, by supporting an overall implementation of tradable ITQs.

By reading the daily press, we feel concern by the number of press articles which in fact promote privatization at a wide scale of the fishing natural resources. These articles mask the word 'privatization' to the public opinion. But some expressions such as 'secured fishing rights', 'catch-shares' or 'dedicated access privilege' in fact refer to tradable Individual Transferable Quota ITQs.

A CFP Reform strongly inspired by the American model?

In 2007, a first survey has been requested by the Commission to two 'independent' consultants, Michael Sissenwine and David Symes⁵.

Are we sure these consultants who designed the first draft of the main guidelines of the reform had not already a pre-defined model?

From 2003 to 2006, Michael Sissenwine was the President of the International Council for Exploration of the Sea [ICES], advisory body in charge of the scientific monitoring of North-Atlantic European fisheries exploited by Europe. Until June 2005, he was director of the Scientific programs and Chief Science advisor of the National Marine Fisheries Services of the NOAA, the US administration in charge of the fisheries. He also was an advisor to the Pew foundation regarding its PEW Marine Conservation Fellowship program⁶. He is currently Adjunct professor to the University of Massachusetts School of Marine Science and Technology.

David Symes is member of the British Hull University. He is a sociologist of the fisheries. He published in 2000 an article about the implementation of privatized rights-based management in Europe⁷.

We consider thus they were active promoters of solutions used in the same time in the USA.

What happened in the USA?

Between 2000 and 2006, an intense lobbying activity was deployed, with a strong use of media campaigns at a big scale and of National Commissions, in order to change the American Fisheries management policy. These campaigns were ruled by ENGOs and funded by American Charity Foundations.

The result of this was the signature by President Georges W. Bush of the reformed Magnuson-Stevens Fisheries Conservation and Management Act. This reform stated a regionalization of the management and the implementation of new management tools based on the financial market management, the US Catch-Shares ITQs like.

From 2006 to now, this reform has been implemented, still with a strong involvement of the ENGOs and their funders. They continued to intensively operate in the lobbying activities to enable the implementation at a Regional level. But they also directly took part by organizing Sustainable Fisheries Partnership called Sustainable Fisheries Trusts [SFT].

Lobbying activities also relied on two other tools:

- ▶ A huge funding of the scientific marine research, as stated here over. Its results are used to justify the lobbying views, in particular regarding the solutions recommended. ENGOs and Foundation call this science-based lobbying.
- ▶ A strong funding of the sustainable seafood products schemes.

Support to marine science and to valorization of sustainable seafood products is useful to the fishing industry if it is fully independent. The concentration of the funds on little number of hands is troubling if these tools are used for lobbying activities. And they are clearly identified as lobbying tools inside foundations' strategies to gain the changes in the fishing policies they target, according to their view of what fisheries have to be. They must be decoded to create more transparent partnerships.

A particular scheme of sustainable fishery 'partnership' through the SFT

Preliminary results of our overview on the American experience would show some worrying schemes in relation with targeted eviction of some fishermen groups and some type of takeovers through Sustainable fisheries trust [SFT] monitored by ENGOs⁸.

We consider as virtuous the principle of co-management at the proper scale, which involves all the fishing players, small-scale ones or industrial ones, and whatever the size of their vessel is. Both Elinor Ostrom's scientific work (Nobel prize award in Economical sciences) and numerous study cases support the pertinence of this view.

⁵ <http://www.cfp-reformwatch.eu/pdf/sissenwine-2007.pdf>

⁶ http://www.nefmc.org/tech/ssc_bios/sissenwine

⁷ <http://www.fao.org/docrep/003/X7579E/x7579e0e.htm>

⁸ See mission markets <http://mmeearth.com/>

We consider this type of scheme of SFT as developed in the USA is a diversion of this principle because it is preceded by a targeted eviction phase and because remaining fishermen are not autonomous on their fishing rights.

Here is what we currently understand of these Sustainable Fisheries Trusts developed by some US ENGOs :

- ▶ A group of 'elected' fishermen is chosen according to ecological virtue criteria defined by an ENGO
- ▶ As soon as the privatization of the fishing right is decided through a fisheries policy reform, 'elected' fishermen are encouraged to pool their fishing rights in a sustainable fisheries trust.
- ▶ They received a financial support from the ENGO to back buy the fishing rights of the non elected fishermen. In at least two US cases, we identified a support of roughly US\$ 4 M. Non elected fishermen who do not have enough fishing rights must stop their activity.
- ▶ Then the sustainable fisheries trust rent the fishing rights (which ones ?) at a lower loan to the fishermen who address the new norms of ecological virtue. These norms are probably defined by the ENGOs. Remaining fishermen are so strongly dependent from these fishing rights to go on their activities.
- ▶ As soon as the size of the fishermen group has strongly reduced, a strict area-based management is implemented, mainly based on no-fishing zones.

Which links between USA and Europe?

Our investigations show a strong similarity of the power games and funding developed by the foundations in Europe and in the USA. Initial US context was different from the European one. But solutions, implemented there, are potentially implementable in Europe too, thanks to the modifications proposed in the Reform. Proposed solutions are part of a global project at the world Scale (see in particular the last reports "*charting a course for sustainable fisheries*")⁹. This document has several chapters specifically dedicated to the expected involvement of Foundation in Europe.

Another similarity appears between the condition of how the reform was implemented in USA and the current way of the European negotiations: pressure on civil society and decision-makers, tensioning of public opinion, over-urgency climate, justification of extreme measures. We also note in the public debate a strong oversimplification of the fisheries issues and the over-urgency climate : the empty-seas threat is continuously dramatized, with strong support of communication tools such as the movie 'the End of the Line', or some expert or scientist reports. While in the same time scientific evaluations of the fishing stocks show an improvement of the marine resources¹⁰, as a result of the commitment of the fishing industry to the CFP during previous years. **There is an opacity regarding lobbying strategies, which requires to be decoded to enable the transparency of the negotiation.**

We think that ENGOs and their funding foundations wish also to get involved in the implementation of the new CFP in regards with an American model. All that they need to be directly involved is already there, and efficiently supported by the propositions of the CFP reform.

Some very first stages of sustainable fishery trust-like or partnership already exist or have been initiated with the support of Greenpeace and WWF in the United Kingdom and France. In 2011, the Sustainable Inshore Fisheries Trust [SIFT] has been created with the support of OCEAN2012 (probably PEW Environment Group under cover of the coalition) and the Blue Marine Foundation (itself created by the producers of the movie 'The End of the Line').

The British Government also currently studies the extension of the British ITQs to under 10 m fishing vessels. If we take into account what has been developed in the USA, this disposition combined with ecological virtuous criteria defined by the ENGOs, will facilitate the implementation of Sustainable Fisheries Trust, and will short-cut common fishery management which includes all existing fishermen.

It appears quite evidentially the activities developed in the USA have widely inspired the proposition of the Commission reform. Similitudes between the American scenario and the current process of the European negotiation motivate us to publish this survey. **The American scenario is not what we hope for the European fishing industry.**

⁹ <http://www.chartingacourse.org/> see Chapter three : a Global Agenda for Sustainable Fisheries, p79 or 111

¹⁰ http://ec.europa.eu/fisheries/cfp/fishing_rules/tac/info/com_2012_278_en.pdf

Why have the US foundations invested several hundreds of millions of US\$ on marine conservation?

The reason officially promoted is ocean conservation, in a vision of wilderness.

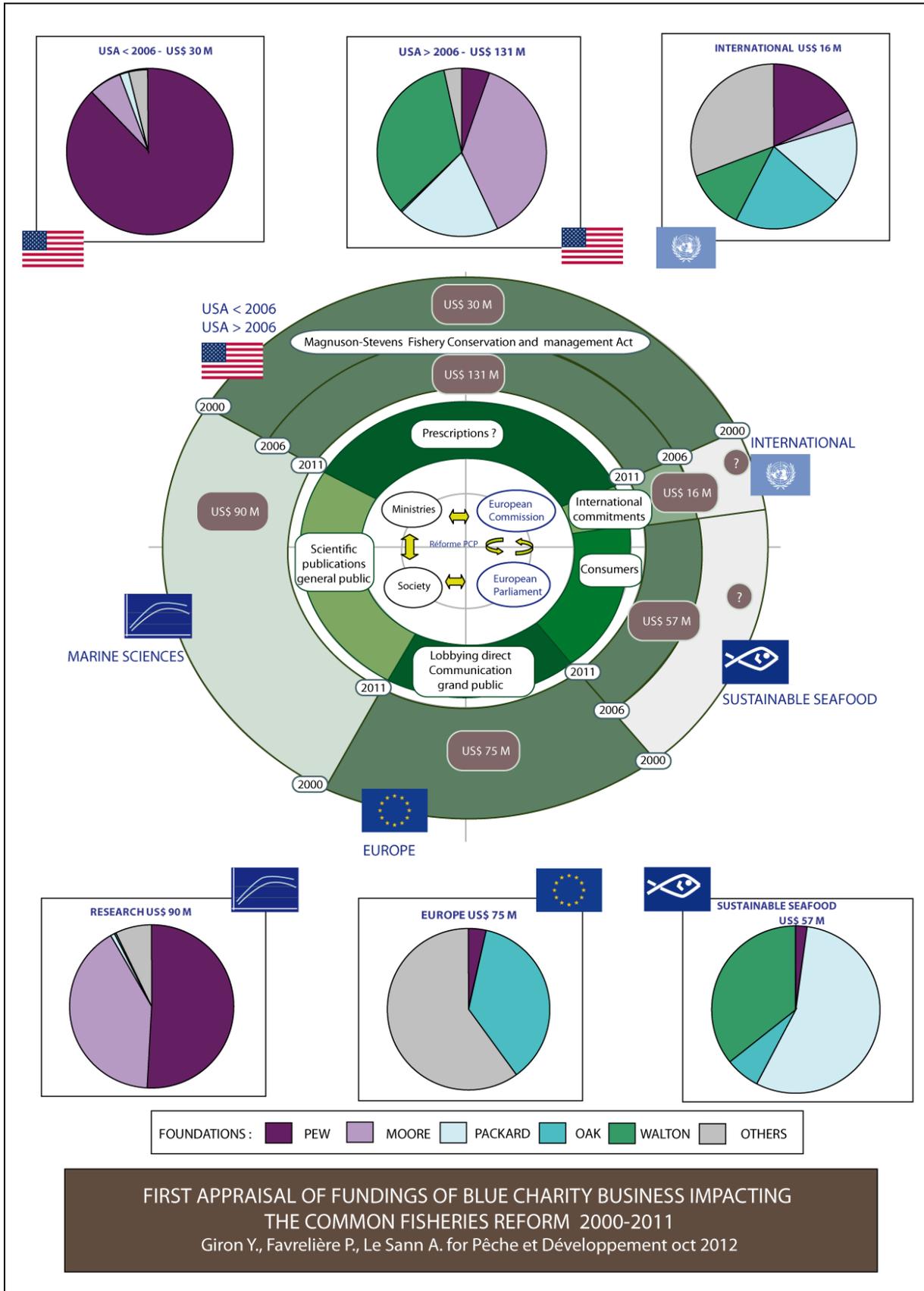
However, we quote some troubling facts which might suggest some other motivations.

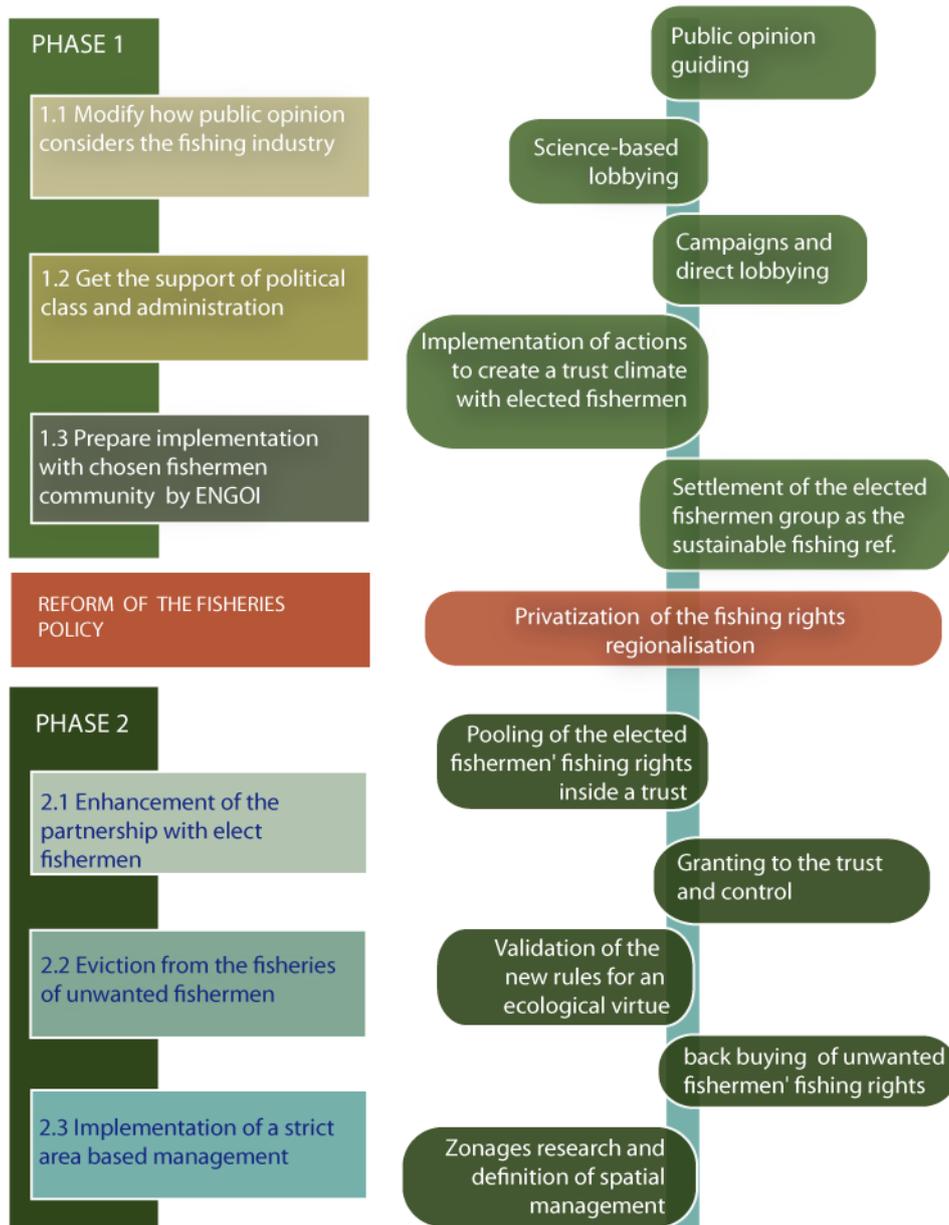
Firstly, European Commission also has a strategy regarding maritime affairs, named **strategy for a Blue Growth**¹¹. It is inscribed in a program of promotion and support to marine activities which ignore fishing industry to favor marine conservation, tourism, exploitation of seabed minerals, marine renewable energy and off-shore activities, etc. These areas of the marine economy are supported by promises of jobs creation and major earnings. This strategy presents them as new pioneer fronts are, targeting a new marine Eldorado.

Secondly, these new pioneer fronts will need vast marine areas freed from any competing activities. Recent new findings made in marine gas and oil exploration, in areas which are heavily used by current fishing activities (Celtic sea), and future developments of offshore-wind energy will require big-sized offshore areas. It is the same for the future exploration of marine rare earths. The new pioneers may be disturbed by current fishing activities. Up to now, the conditions of cohabitation between off-shore renewable energy and the fishing activities, especially the bottom towed-fishing gear ones, are not clear. Until now, the British marine renewable areas are not opened to fishing activities.

Thirdly, we may think the US foundations which are currently involved in the lobbying are not fully independent, neither from off-shore gas and oil exploitation interests, nor from the supply of high-technology industries in rare earths ones. This presumption is done according to the composition of the board of trustees of these foundations.

¹¹ http://ec.europa.eu/maritimeaffairs/policy/blue_growth/index_en.htm





HYPOTHESIS UPON THE SCHEME OF CREATION OF THE SUSTAINABLE FISHERIES TRUSTS AS IMPLEMENTED IN USA

Giron Y., Favrelière P., Le Sann A. for Pêche et Développement oct 2012

Summary of the detailed French report (currently under translation):

Foreword : transparency is the basis of a fair dialogue

1. Abstract: Why US foundations have invested hundreds of millions of US\$ in fisheries policy reforms, including for European fisheries?
2. The high level of the identified funding
 - 2.1 Data sources and analysis
 - 2.2 Preliminary results
3. Why should we pay attention to USA when talking about the reform of the European Common Fishery Policy?
 - 3.1 Some historical points
 - 3.2 ENGOs not only lobby, they also implement
 - 3.3 Sustainable Fisheries Trusts and Partnerships
 - 3.4 Strong links with other interests? Example of the PEW's strategical views
4. Are the schemes described in the USA implemented in Europe?
 - 4.1 Synthesis of the USA Schemes
 - 4.2 Strategies of guiding-public-opinion communication
 - 4.3 Europe is clearly a target for the US Foundations, either for the change of the policy, or for its implementation.
 - 4.4 Are they some other interests than fishing stocks rebuilding?
5. Appendix
 - 5.1 Synthesis of fishing stock management principles
 - 5.2 Funding strictly targeting Europe
 - 5.3 Funding of the fishery and marine science
 - 5.4 Funding of sustainable Seafood Scheme
 - 5.5 Funding of international campaign which main interact with European issues
 - 5.6 Funding of the USA scheme used to justify changing of European fishery