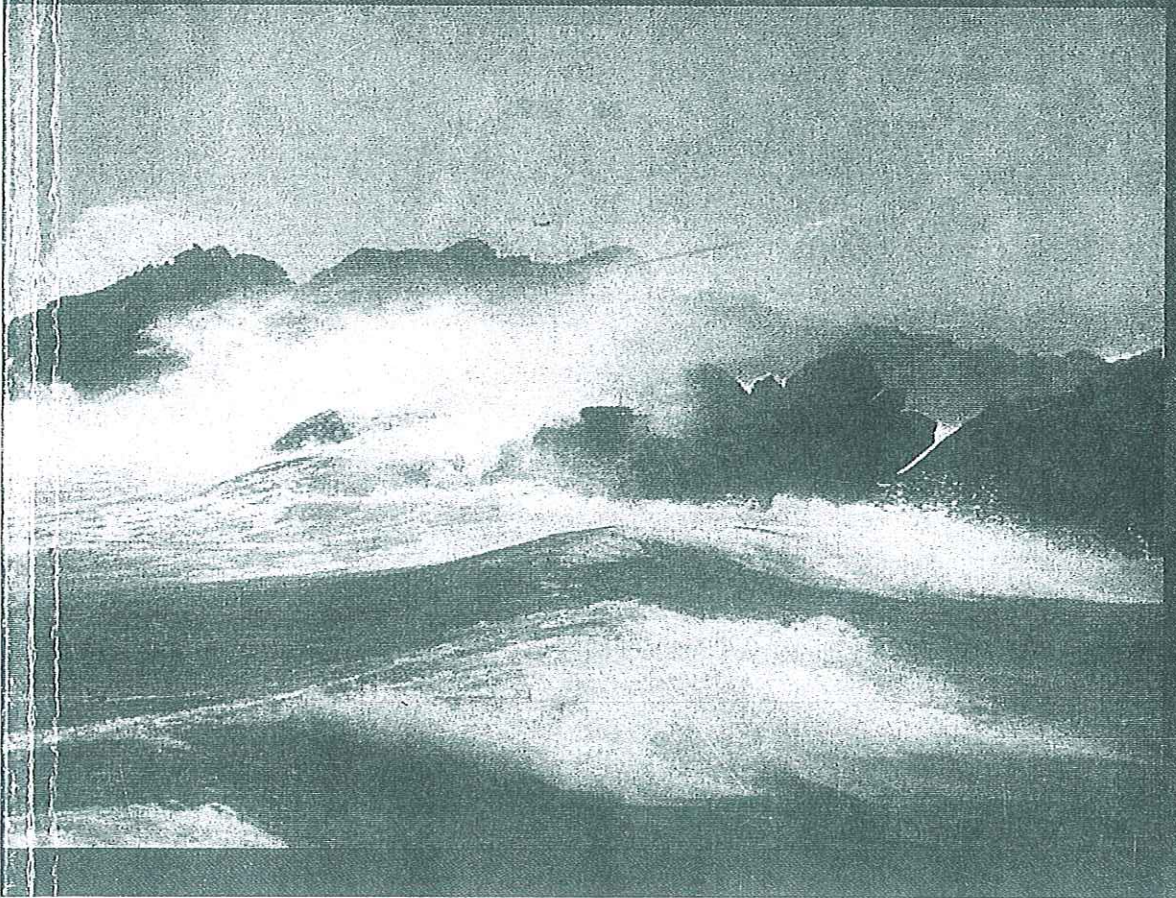


Ley de Pesca Marítima del Estado

(Ley 3/2001, de 26 de marzo. BOE nº 75)



MINISTERIO
DE AGRICULTURA, PESCA
Y ALIMENTACIÓN

SECRETARÍA GENERAL
DE PESCA MARÍTIMA

esta fórmula a los recursos pesqueros de países terceros, manteniendo el mayor porcentaje posible de tripulación comunitaria.

Las actividades desarrolladas por armadores y profesionales de la pesca españoles en países terceros reviste una importancia creciente para el abastecimiento de pescado al mercado español y de materias primas a la industria de transformación. Con el fin de realizar un adecuado seguimiento de las actividades de estas empresas, se crea el Registro de Empresas Pesqueras en Países Terceros, que incluye tanto a las sociedades mixtas como a las empresas radicadas en terceros países, que cumplan determinados requisitos de empleo de trabajadores españoles y de participación en el capital social.

La normativa básica estatal sobre los conocimientos y requisitos de los titulados náutico-pesqueros, en el marco del sistema educativo cuando conlleva título académico, y la normativa de desarrollo legislativo que dicten las Comunidades Autónomas en el ejercicio de sus competencias, estará dirigida a la formación actualizada y permanente de los profesionales de la pesca, de conformidad con las recomendaciones de la Organización Internacional de Trabajo y de lo dispuesto en los Convenios de la Organización Marítima Internacional. La expedición por las Comunidades Autónomas de las tarjetas acreditativas de los títulos correspondientes, constará en el Registro de Profesionales del Sector Pesquero del Ministerio de Agricultura, Pesca y Alimentación.

La Ley reconoce la tradicional implantación de las Cofradías de Pescadores en el litoral, y su naturaleza jurídica de corporaciones de derecho público o sin ánimo de lucro, establece las bases de su régimen democrático de composición y funcionamiento que será desarrollado, ampliado y objeto de control por las Comunidades Autónomas. La Federación Nacional podrá integrar, en su caso, a las Cofradías y actuará como órgano interlocutor entre éstas y la Administración General del Estado en materia de pesca marítima, realizando aquellas actuaciones que por delegación le encomiende la Administración General del Estado.

La Ley regula los requisitos del reconocimiento de las organizaciones de productores y las obligaciones derivadas de las importantes intervenciones que les atribuye la normativa comunitaria respecto a la adaptación de la oferta a las exigencias de los mercados pesqueros.

La concesión para el establecimiento del puerto base de un buque es otorgada por la Comunidad Autónoma que autoriza su construcción, debiendo, en su caso, corresponder necesariamente al litoral del caladero nacional en el que esté autorizado a ejercer la actividad pesquera. Las solicitudes de cambios de base entre puertos de una Comunidad Autónoma las autoriza la Comunidad correspondiente, previa verificación del cumplimiento de los requisitos establecidos en la Ley para evitar desequilibrios de esfuerzo de pesca, correspondiendo al Ministerio de Agricultura, Pesca y Alimentación autorizar los cambios de base entre puertos de distintas Comunidades Autónomas, previo informe de aquéllas.

f) La regulación del establecimiento de puertos base, así como de los cambios de puerto base.

g) Medidas de regulación del desembarque y primera venta de los productos pesqueros independientemente del origen de éstos.

CAPÍTULO II LOS AGENTES DEL SECTOR PESQUERO

Sección 1ª Ordenación de las profesiones del sector

Artículo 42: *Idoneidad y titulación de los profesionales del sector.*

El Gobierno, a propuesta del Ministro de Agricultura, Pesca y Alimentación, regulará las titulaciones de los profesionales del sector pesquero, en el marco, cuando proceda, del sistema educativo general, estableciendo los requisitos de idoneidad y las atribuciones profesionales correspondientes a cada título, sin perjuicio de las competencias del Ministerio de Fomento. Debido a la constante evolución de la tecnología aplicada a la navegación y la explotación pesquera, se establecerán las ayudas y medidas necesarias para la actualización de conocimientos e implantación de nuevas técnicas, de forma continuada, para el reciclaje de los titulados.

Artículo 43: *Acreditación de la capacitación profesional.*

1. En el marco de la normativa básica estatal a que se refiere el artículo anterior y de la que en su desarrollo establezcan las Comunidades Autónomas competentes en materia de ordenación del sector pesquero, corresponde a éstas la expedición de los títulos y demás acreditaciones de carácter profesional que se establezcan.

2. Las tarjetas acreditativas se expedirán al menos en castellano. Las Comunidades Autónomas con lengua cooficial distinta del castellano podrán expedir las tarjetas y certificados en castellano y en la otra lengua oficial de la Comunidad Autónoma en igual tamaño y tipo de letra.

Artículo 44: *El Registro de Profesionales del Sector Pesquero.*

1. En el Registro de Profesionales del Sector Pesquero del Ministerio de Agricultura, Pesca y Alimentación, deberán inscribirse todas las personas que estén en posesión de la correspondiente titulación náutico-pesquera, sin perjuicio de la inscripción en otros Registros legalmente previstos para el ejercicio de su profesión.

2. La llevanza de dicho Registro será descentralizada, correspondiendo la misma a las Comunidades Autónomas competentes en sus respectivos territorios.

3. Las Comunidades Autónomas trasladarán al Ministerio de Agricultura, Pesca y Alimentación, para su constancia en el Registro de Profesionales del Sector Pesquero, las inscripciones y bajas de profesionales del sector pesquero que las mismas realicen.

Sección 2ª *Las Cofradías de Pescadores*

Artículo 45: *Concepto.*

1. Las Cofradías de Pescadores son corporaciones de derecho público, sin ánimo de lucro, representativas de intereses económicos, que actúan como órganos de consulta y colaboración de las administraciones competentes en materia de pesca marítima y de ordenación del sector pesquero.

2. Las Cofradías de Pescadores gozan de personalidad jurídica plena y capacidad de obrar para el cumplimiento de sus fines.

3. En todo caso, podrán ser miembros de las Cofradías de Pescadores los armadores de buques de pesca y los trabajadores del sector extractivo.

Artículo 46: *Funciones.*

Son funciones de las Cofradías de Pescadores:

a) Actuar como órganos de consulta de las Administraciones públicas competentes y ejercer las funciones que les encomienden la Administración General del Estado y las Comunidades Autónomas, en el ámbito de sus respectivas competencias.

b) Prestar servicios a sus miembros y representar y defender sus intereses.

c) Administrar los recursos propios de su patrimonio.

Artículo 47: *Federación Nacional de Cofradías de Pescadores.*

Existirá una Federación Nacional de Cofradías de Pescadores en las que podrán integrarse las Cofradías de Pescadores, así como sus Federaciones.

Artículo 48: *Órganos representativos.*

1. Los órganos representativos de las Cofradías de Pescadores son la Junta General, el Cabildo y el Patrón Mayor. Todos los cargos serán elegi-

dos entre los miembros de la Cofradía de Pescadores mediante sufragio libre, igual y secreto.

2. El mandato de los cargos electos para los órganos representativos de las Cofradías de Pescadores tendrá una duración de cuatro años, pudiendo ser reelegidos por períodos de igual duración máxima, el número de veces que determine la normativa de las Comunidades Autónomas.

Artículo 49: *La Junta General.*

La Junta General estará integrada por el mismo número de trabajadores y armadores en representación de los distintos sectores de la Cofradía y ejercerá las funciones que establezcan los respectivos Estatutos cuya aprobación le corresponde, así como las que establezcan las Comunidades Autónomas.

Artículo 50: *El Cabildo.*

El Cabildo estará integrado por el mismo número de trabajadores y de armadores en representación de los distintos sectores de la Cofradía y ejercerá la función de gestión y administración ordinarias de la misma, así como las que establezcan las Comunidades Autónomas.

Artículo 51: *El Patrón Mayor.*

El Patrón Mayor será elegido por la Junta General, de entre sus miembros y ejercerá la función de dirección de la Cofradía de Pescadores, así como las que establezcan los Estatutos.

Sección 3ª

Las Organizaciones de Productores

Artículo 52: *Concepto.*

Las Organizaciones de Productores son entidades reconocidas oficialmente, constituidas a iniciativa de los productores con el fin de garantizar el ejercicio racional de la pesca y la mejora de las condiciones de venta de su producción.

Artículo 53: *Funciones.*

Los productores que se integren en organizaciones tendrán, entre otras, las siguientes obligaciones:

Conference address by the General Secretary of the National Federation of Guilds of Fishermen FNCP

The Inshore Fishing in Spain and Function of the Guild of Fishermen

I am glad to address to all the guests to this 8th Conference of the European association of Fisheries Economists as General Secretary of the National Federation of Guilds of Fishermen. Not only for the privilege of can explain you the meaning and tradition of the Guilds of fishermen in our country, which include the most of the fishermen of the inshore fishing, but also to can show the professional experience that as economist I have been developing in the National Federation since 1981.

Through the centuries, the coast reality of Spain has had influence in that the sector is detached and fragmented. The fisherman has been characterised by his individualism and his solidarity in the sea. This solidarity had as a consequence the birth of a lot of guilds of fishermen in a local level.

This corporation, which were known with the name of brotherhoods, were mainly born in relation with the activity which was developed in the sea. This way, we can find historic documents that mention that the benefits of the members went to the cases of shipwrecks and temporary accidents. When the guilds were every time stronger the benefits were higher and some aids were given in the case of lack of fishing.

The guild of Fishermen of Laredo is a historic background. Although like we are in Catalonia is important to mention the task of the Monastery of San Pedro de Roda, which made an artisan gear with hemp, without sinkers or floats. It was used to fish tuna in the Bay of Port de la Selva, when there were a lot of fishing and the catch was distributed between all the people of the village.

This gear was stored at the monastery, which is situated in San Pedro de Roda. 200 years ago the fishermen moved this gear to the Church of Puerto de la Selva where there is an important guild of fishermen nowadays.

The past of the current Guild of fishermen is the brotherhoods which have developed an important task to promote the movement of the association and the union of the fishermen in land. We musn't forget that the fishermen have been defined like honest, resigned and individualist. This could be consequence of the hardness of their work and of the difficulties that they find in land with the defencelessness in front of the intermediaries and their lack of adaptation to the rest of the collectivity.

Nowadays, The objectives of the Guilds are very numerous, how it is collected in their Statutes. I will mention the following ones:

- To represent, defence and promote the social-economic interest of the members of the Guilds.
- Regulation and taxation of the operations of fishing sales in the Fish Exchange market.
- The guarantee of payment of the auction's amount of the fishing to the fishermen and the responsibility of charging to the buyers.
- The supplies of provisions , ice, oils and other things that are the equipment of a fishing vessel to go to the sea.
- To intensify the welfare action in favour of the member who needed it. In this case, the helps which could be given to the old or invalid man will be improved.

We would like to mention the facts that lived a specific Guild of Catalonia, with independence of that tomorrow you will can see during the visit to the Guild of Rosas what is the real social-economic task of a guild.

I'm making a reference to the problem, which begin in the Guild of fishermen of Las Casas de Alcanar in 1953. This guild saw how to appear the vessels with engine, the boats with sail were disappearing. These vessels with engine were leaving the beach to go to closer seaports like San Carlos de la Rápita (Tarragona) and Vinaroz (Castellón), because in there were an infrastructure according to their vessels.

“This way, the fleet were disappearing and the population decreasing because to the emigration to other villages where they had their boats and because of that, their lives. The Guild couldn't build a fishing seaport and continued with some social functions like to lend the social building to schools and giving classes to the secretary because of the lack of teachers.

In 1972, the procedures to the construction of the project of defence and regeneration of the beach , which was the only possible way to get the permit to construct a seaport, were made. the 4th of November the financing to carry on that was got through a loan which was guaranteed by all the village. The total income of the loan was 27.268.913 pesetas, in concept of amortisation and interests.

The Guild was problems to amortise the loan and was agreed that every fisherman gave the amount of 1000 PTAs. every month and catch some fish to give the income to the Guild. In 1986 the loan was paid. The members of this Guild are very proud of having built their own seaport.

Nowadays, this Guild has 12 trawler vessels and 8 of traps.

Although during this exposition I will talk about the most important problems of the inshore fleet, I would like to say that the Spanish fishing fleet according to data of the census is composed about 18.852 vessels with 546.843 GRT and 1.717.775 kW. According to the official data the most of these vessels work in waters with Spanish sovereignty in a partial or total way. And they work from seaports of the Spanish coast where there are 225 Guilds.

If we analyse the Mediterranean sea, from Tarifa to Llançà, including Balearic Islands, there are 4.558 vessels which distributed according to the different modalities are the total fleet with a seaport in the Mediterranean coast.

If we make the separation between modalities, we have:

Trawl.....	1131 vessels
Longline.....	221 vessels
Pourse Seine.....	450 vessels
Line.....	42 vessels
Minor gears.....	<u>2714 vessels</u>
TOTAL.....	4558 vessels

To understand the meaning of the 88 GUILDS WHICH ARE IN THE SPANISH MEDITERRANEAN SEA, I show you some data of a recent report which has been made by the National Federation to the Consultative Committee of Fishing of the European Union.

Are all the fishermen of a vessel with base in that seaport member of the Guild?

	Affirmative	Negative	People who don't answer
Answer	76	3	---
Percentages	96'20%	3'80%	---

Are there different groups according to different used gears in the Guild?

	Affirmative	Negative	People who don't answer
Answer	50	27	2
Percentages	63'29%	34'18%	2'53%

Answers	Affirmative
Trawl Group	40
Pourse Seine Group	29
Line Group	15
Trawl Group	40
Others	24

Is the Guild of Fishermen concessionaire of the Fish exchange Market?

	Affirmative	Negative	People who don't answer
Answers	54	22	3
Percentages	68'35%	27'85%	3'80%

answers	Affirmative	Percentages
Does it give services of boxes?	53	67'08%
Does it give services of bait?	25	31'64%
Does it give services of fuel?	27	34'17%
Does it give services of implements?	37	46'83%
Others	40	50'63%

Are there other organisations which the fishermen which are members of the guild belong to?

	Affirmative	Negative	People who don't answer
Answers	20	53	6
Percentages	25'32%	67'09%	7'59%

Answers	Affirmative
Organisation of Producers	8
Association of shipowners	25
Co-operatives	11
Others	1

Mediterranean Guilds are a model to imitate in a lot of aspects. They are specially important because of the cohabitation of different modalities of fishing, with the aid of mechanisms of self-control and discipline, which are imposed by the own fishermen.

I can't leave without mention the task which has been made by the Guild of Fishermen of Garrucha. Nowadays, this guild has 23 vessels aimed to the trawl (with an average of 45 GRT and a crew of 8). Last year, it gave us a report about fishing days and sales which were made by its vessels. The fishermen could reduce the schedule of fishing putting the called blue box to 15 of their vessels, in a voluntary way. Nowadays, they are a model seaport.

There are other Guilds which could be mentioned, but it would be worth while to remember the sinking of the vessel "Ana Rosa" which had a strong effect over the Spanish public opinion. The family of the dead fishermen had an immediate help from the Guild of Fishermen of Santa Pola, because of a collective insurance policy of life and accident which covers to the 680 fishermen of the Guild.

Remembering the history, I would like to mention the date of 16th of January of 1984, where it was shown the existence of a Federation which was able to call and to join together to all the fishermen of the inshore fishing.

The National Federation of Guilds of Fishermen, after don't get any answer of the Administration in front of the problems, established a mooring of the inshore fleet the day mentioned before.

The outcome was considered like historic and without precedents in the fishing sector by the mass media

I could talk about the task that has been developed by the Guilds but the following sentences of the Ministry of Agriculture, Fishing and Food in the last National Meeting of Guild of Fishermen, where participated a representation of all the Guilds:

“ I would like to insist in the permanent validity of our model of Guilds due to the capacity, which has shown during all these years, to adapt itself to the change of the circumstances. A proof of this is the demands of other countries, specially countries which are emerging in the fishing sector, which are interested in to know the dynamics and working of our model”.

Furthermore, the words of the General Secretary of Maritime Fishing during the session of closing were clarifying:

“ It seems as if Spanish fishing was that which is said and passed to the press by two or three association. The big associations aren't more than a 10, 12 or 15 % of the social mass of our fishing sector. The other 85 or 90% of the Spanish fishing sector are you, the Guilds of Fishermen. You, that few times have the opportunity of introducing your opinions.”

This is true. Perhaps, we don't know to pass the current troubles of every moment, to the press. For instance, you will have listen the problems in relation with the fishery which is developed by the Spanish vessels in waters under the supervision of the NAFO and the regrettable events of piracy in relation with the unjustified capture of the vessel “Estai”.

However, you won't listen anything about the fact which happened the 10th of November of 1994. That day a Moroccan patrol-boat captured four Spanish fishing vessels with all the crew and the equipment with base seaport in Tarifa (“MariFlor”, “Triana”, “Romana” and “SiempreamaBegoñakoa”)

the mentioned vessels were normally working and the positions, according to the report of the Zone Centre of Co-ordination of Maritime Save and Fight against the Maritime Pollution in Tarifa, were always in Spanish waters except for the “SiempreamaBegoñakoa”. Because of that, the Moroccan patrol-boat don't have any right to make the captures and it can be justified in another way because other rights are over when the persecuted vessel enters in the territorial sea of another nation.

The fishermen were set free after two weeks and they had to pay an important fine (around 15 millions of pesetas). This has produced more union around the Guild of fishermen inside the fishing sector. It has been constituted a fund (from giving a 1% every vessel) to solve a

situation similar to this, because the Guild of Fishermen has as members around 100 vessels of 8 GRT as average.

I would like to mention to the 104 Guilds of the Northeast Cantabrian sea, where there are 563 vessels with practise the gear of Pourse Seine and whose fishermen make the called "Coasts of Pilchard and Atlantic Bonito", with a lot of conflicts during the last years. This Guilds make an important task in both social aspect and in the economic, defending the interests of their members. This way mechanisms like the following are adopted:

(In the Sea)

- Fixing of maximum levels
- Fixing of flag
- Respect to the period of prohibition

- Opposition new gears
- Opposition change of modalities
- Opposition captures of little species (no discards)
- Control authorised sea ports

(In land)

- Fixing of minimum prices
- Making easy the process of auction
- Making easy discharges and payments to the buyers
- Qualities product

Unfortunately, as I said in October in Vigo during the development of the 10th Meeting of the International Council for the Exploration of the Sea (ICES), the traditional fleet which are using artisan fishing methods, it is found with vessels which use new gears (pelagic trawl, driftnets,...). These vessels work with a larger intensity than the vessels of Pourse Seiner because the first ones work more days during the week and more months during the year. Furthermore don't respect the temporary closure of a fishing ground and don't have daily controls of catch. Because of that, they have a high influence in the market prices.

From a social point of view, the number of fishermen is smaller in these vessels which use new fishing gears. Despite this means a higher economic profitability, deteriorates the possibilities of fishing, decreasing the number of fishermen who work on board.

From my professional view, I have never considered as the best system the use of TACs and quotas from the moment that facts like the one which happened in the zone VIII happen. There, the TAC of precaution for the pilchard was given in the following way: 33.000 Ton for Spain (90%) and 3.300 Ton for France (10%). But the inshore Spanish sector was surprised by the interchange which is made between France and Portugal, 5.008 Ton from the Zone IX, where the TAC of precaution is around 12 000 Ton.

Because of that, the professional who directly work for the fishing sector wonder: To who do the scientific work? Are they objectives? Have they enough means and enough collaboration of the sector? It is useful to adopt mechanisms of protection of the sector if complementary mechanisms of self-defence of our market aren't adopted by the European Union?

These questions which are asked in a scientific meeting, can be moved to the members of this association with two specific examples:

- we find that the representation of the European Commission of the DG XIV, have informed the sector in a recent date about the list of independent experts which will have a meeting to elaborate the "Lassen" report, which will try to evaluate the mortality of fishing in the main fisheries with the aim of getting recommendations of management to elaborate the POP IV.

In the case of my country the two eligible persons are biologists.

Are not there capable economists for this task?

- the representation of the DG XIV have presented an important communication about the application of technical measures in the Common Policy of Fishing. In the Annex 5, which is referred to technical measures and protection of juveniles, has some paragraphs which are aimed to the social and economic consequences. It makes the following reflections:

"DESPITE THE GAPS OF THE KNOWLEDGE, NOTHING ALLOWS TO OPPOSITE THE ECONOMIC ISSUES TO THE BIOLOGIC ONES IN THE CASE OF THE TECHNICAL MEASURES. THESE MEASURES NOT ONLY HAVE CONSEQUENCES BUT ALSO ECONOMIC, SOCIAL AND BIOLOGIC REASONS. UNTIL NOW THE LEGEND OF THAT THE RESTRICTIONS PERSISTS. FOR EXAMPLE WHEN IT IS SAID THAT THE TECHNICAL MEASURES OR THE LIMITATIONS OF THE FISHING EFFORT AREN'T JUSTIFIED WHEN THE ANALYSIS GOES FROM THE BIOLOGIC FIELD TO THE ECONOMIC ONE. HOWEVER, THE TRUE IS THAT THE BIOECONOMIC STUDIES, WHICH HAVE BEEN MADE, HAVE MORE STRICT CONCLUSIONS THAT THE GOT ONES BY A BIOLOGIC POINT OF VIEW. BECAUSE OF THAT, IT HAS NOT SENSE TO POSTPONE THE INCREASE OF THE NETTINGS WAITING COMPLEMENTARY ECONOMIC STUDIES WHICH ALLOW TO CHANGE THE CONCLUSIONS."

Without considering the problem of the increase of the meshes, I would like to mention the specifications which I made about the paragraph of the report which was centred in the problem of the gears of driftnets.

In relation with the social studies, there aren't too much in spite of that 536 artisan vessels and 162 vessels which use alive bait are Spanish in comparison with 6 Irish vessels, 10 vessels from the United Kingdom, 60 French vessels which are used driftnets in the last coastal of the Atlantic Bonito. From my understanding, it would be easy, to quantify like important social variable and even economic, the number of jobs according to the fishing modality.

In relation to the economic studies, one of the most important references until now, is the famous data of the Scientific and Technical Committee which to the driftnet fishery was profitable must find 1 Km of net for fisherman on board. (this data has after been modified).

Unfortunately, it seems that in the high spheres, the economic studies known as "COMPLEMENTARY" aren't too much. I could continue talking about a lot of problems

with show that the inshore fishing is a dynamic sector. It needs the knowledge and reports of professionals that like you, work from different fields for the progress and the improvement of the fishing sector.

I can't finish my exposition without a words of remembering for Joaquin Reda Brunet who recently died. He was a reference in the Spanish inshore sector and with who someone of you shared a lot of hours of work and discussion showing the union that must exist between all of us.

José M. González Gil de Bernabé

General Secretary
National Federation of Guilds of Fishermen FNCP
Monday 1 April 1996