

<Report> Agriculture, Forestry and Fisheries

## Sequence of Discourse and Arguments Regarding Fishery Rights

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On July 20, the Working Group on Fisheries was newly established within Japan's Regulatory Reform Promotion Council. Going forward, the Working Group will discuss how to proceed with the deregulation of the fisheries industry. Here, I will review the development of the discourse on the deregulation of fishery rights (especially specific demarcated fishery rights), which is at the center of the debate on deregulation in the fisheries industry, up to the present.

### 1. Sequence of discourse on deregulation up to the present

The first demand for the deregulation of the fishery rights system was made by the Japan Economic Research Institute, a private institution, in its release of the document entitled "Expedite Drastic Strategic Reform of Fisheries that Preserve Japan's Fish Diet (Urgent Recommendation)" in 2007. This recommendation stated that "the development of the fisheries industry and the revitalization of fishing villages will be difficult if done solely through coordination between fishermen/women", and it went on to explain the need to "promote new entries into the fisheries industry under appropriate and transparent rules (legal system) for the protection of the marine environment and fishery resources". As specific deregulation measures for that purpose, particularly in regard to fishery rights, the Japan Economic Research Institute proposed the elimination of barriers to entry into the aquaculture business and fixed gear fishery business, in other words, it proposed direct entry of non-local companies by altering eligibility for and priorities of licenses. In legal terms, this may be considered to mean (1) a review of the legal priority order for fishery rights licenses<sup>1</sup> (Fishery Act) [note1], and (2) a review of the membership qualification requirements of fishery cooperatives<sup>2</sup> (Fishery Cooperative Act) [note2].

Next, the document which mentioned the deregulation of the fishery rights system was the report entitled "Second Report Regarding Promotion of Regulatory Reform" issued in 2007 by Japan's Council for Regulatory Reform. This report raised seven points regarding concrete measures, including (1) implementation of a survey on the actual situation regarding priorities of fisheries for fishery rights, (2) improvement of the management status of the licensing process for fishery rights, (3) ensuring the rigor of deliberations at

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the Fisheries Adjustment Commission, (4) promoting the openness of the exercise status of fishery rights, and (5) expansion of support for the establishment of self-employed operators. The intent here should be seen as the identification of operational problems in the current fishery rights system and at the same time support of new entries.

Thus far, the discourse consisted of pure debating and raising of issues, but a situation involving actual practices then arose. Following the Great East Japan Earthquake, deregulation of the fishery rights system was put into effect in the form of special fisheries reconstruction zones (2013). As a special treatment of the Fishery Act, the Act on Special Zones for Reconstruction in Response to the Great East Japan Earthquake makes it possible to exclude the application of provisions related to the statutory priority for specific demarcated fishery rights for those who meet certain requirements, but only in areas where it is difficult for local fisheries to restart their business due to the earthquake disaster (Article 14). Under this act, a legal entity in Miyagi Prefecture was granted directly a specific demarcated fishery right without going through the local fishery cooperative. Further, in response to the achievements of the special reconstruction zones, apart from the discussions at the Regulatory Reform Promotion Council, discussions also arose from the direction of the national deployment of special zones. In January 2015, at the National Strategic Special Zone Working Group, determination of fishery rights by bidding was brought up as part of the review of the priority order for the licenses of a specific demarcated fishery right (aquaculture). This too was intended to alter licenses according to statutory priority.

The above discussions calling for deregulation raise the necessity of revitalizing new entrants regardless of the nature of the entity against the backdrop of the current crisis of the fisheries industry centering on lack of workforce. In particular assuming entry mainly by enterprises with capital strength and sales power, it is hoped that an efficient fisheries industry will be created.

## 2. Outline of the discourse over deregulation

Arguments calling for deregulation have been persistently countered by critical views. Such critical views point out the following: (1) Fisheries should not be consolidated into specific capital, but rather should be positioned to spread economic effects over local area as a regional industry, (2) the order of using of fishing grounds has been established through comprehensive adjustment of various types of fisheries by fishery cooperatives, and selecting given fisheries for operation under different principles hinders the maintenance of regional fishing industries, (3) even under the existing system, it is common for companies to become fishery cooperative members and start working in the aquaculture business, (4) exemptions from fishing ground management costs and compliance with the Fishery Right Exercise Rule bring the conflict with existing fishery cooperative members and damages the smooth use of fishing grounds, and (5) concern

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about environmental pollution caused by the pursuit of profit.

Whereas discussions calling for deregulation are based on abstract principles of efficiency and fairness and substantially place emphasis on efficiency through the entry of enterprises, critical opinions appear to favor local producers, with emphasis placed on maintaining fishing village regions through the production activities of small-scale fishermen/women. Because the premises and goals differ as described above, the discussions between the two sides have been unable so far to reach any sort of common ground.

### 3. Issues that ought to be taken into account

It goes without saying that calm discussion based on reality is required to think about fishery rights. Lastly, I would like to mention some issues. First, the possibility of the internal adjustment of fishing grounds use needs to be considered. Adjustments for the effective utilization of fishing grounds, particularly for low-use fishing grounds, are considered to be a realistic task to be addressed in the future, but it may be possible to seek ways to do this within the scope of the existing systems without depending on external companies. Second, there is the issue of exit regulations. Assuming that entry regulations were mitigated, it would then be necessary to strengthen exit regulations (follow-up monitoring by the administration to ensure the proper application of rules in case of withdrawal as well as appropriate production activities). However, in the case of agricultural entrants in National Strategic Special Zones, the burden imposed by the administration became a problem and many lessons can be learned from this precedent. Third, there is the issue of cooperation between fishermen/women and companies. The use of corporate know-how need not depend solely on direct entry, and much can be achieved through business collaboration with existing fishery operators. Fourth is the issue of the transparency of cost burdens on the exercise of fishery rights and the like. Ambiguity in the calculation of fishery rights exercise fees has been pointed out as a problem in the case of parties that, under the existing law, become a fishery cooperative member and then start an aquaculture business (most recently, the July 2017 recommendation of the Administrative Reform Promotion Headquarters of the Liberal Democratic Party of Japan), and the creation of standards and the like is urgently needed.

[Notes:

- 1) Under the current Fishery Act, specific demarcated fishery rights are allocated with priority given to local fishery cooperatives (Article 18).
- 2) Under the current Fishery Cooperative Act, local requirements as well as scale requirements are imposed as corporate requirements ((1) the employees of a company are 300 or less and (2) total gross tonnage of fishing vessels is between 1,500 and 3,000 tons and below that specified in the articles of incorporation.) (Article 18-1(3)). ]

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<References>

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