

JERSEY AND GUERNSEY: TWO DISTINCT APPROACHES TO CROSS-BORDER FISHERY MANAGEMENT

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Abstract

The Channel Island bailiwicks of Jersey and Guernsey have a land area of 196 km² and, together with their surrounding waters, cover a total surface area of approximately 5000 km² within the Normand-Breton gulf. The bailiwick of Jersey comprises its main island and the uninhabited, rocky shelves of the Minquiers and the Ecrehous. The bailiwick of Guernsey comprises the inhabited islands of Alderney, Sark, Herm and Brecqhou in addition to its main island and a number of uninhabited offshore islets. Emphasising the autonomy of the two bailiwicks, each has a significantly different relationship with France over the issue of coastal fisheries; with Guernsey having had no dialogue with France over access issues and related disputes since the mid-1990s whereas Jersey has developed a relationship based on trust, as manifest in the Joint Advisory Committee of the Bay of Granville, which is part of the proceedings set up within the framework of an international treaty signed between France and the United Kingdom in July 2000. The following text will describe the stakes, strategies and convergent and divergent views between these parties over the issue of access to regional fisheries

Keywords

Jersey, Guernsey, France, fishing agreements, insularity, marine borders, sea appropriation conflicts

Introduction: Why is the border there?

The paradox of the presence of foreign islands within a pronounced indentation of the French coastline (Figure 1) has its roots in the antagonism that defined the relationship between the French and English kingdoms concerning the sovereignty of Normandy at the beginning of the 13th Century. In the islands, the official history about the loyalty of the islanders to the British Crown often refers to an explicit willingness from the insular community to opt for association with England that does not fully reflect the range of factors influencing local decision-making at that time. The reality was more complex. For instance, Norman lords possessing fiefdoms on the islands were summoned to decide which side they were on knowing that as incentive factor some of their children had been detained in the Tower of London (Everard and Holt, 2004: 91-93). Moreover, the naval ascendancy of the Plantagenets in the maritime area was obvious, as well as

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the French Crown's lack of interest in a group of islands that were on the fringes of a mainland territory that it had only recovered in 1204.

In retrospect, this was a huge mistake on France's part, given the islands' location in the centre of the Norman-Breton Gulf, and a significant gain for the English (and later British) crown, since Guernsey was a well-placed staging point in the middle of the Channel on the maritime route to London and Jersey is located only 24 kilometers off the French coast. As a result, the islands were the cause of a sustained dispute and frequent conflict between England/Great Britain and France that continued until 1815, when sovereignty issues over the islands subsided. Those disputes that continued after this point mainly concerned fisheries.

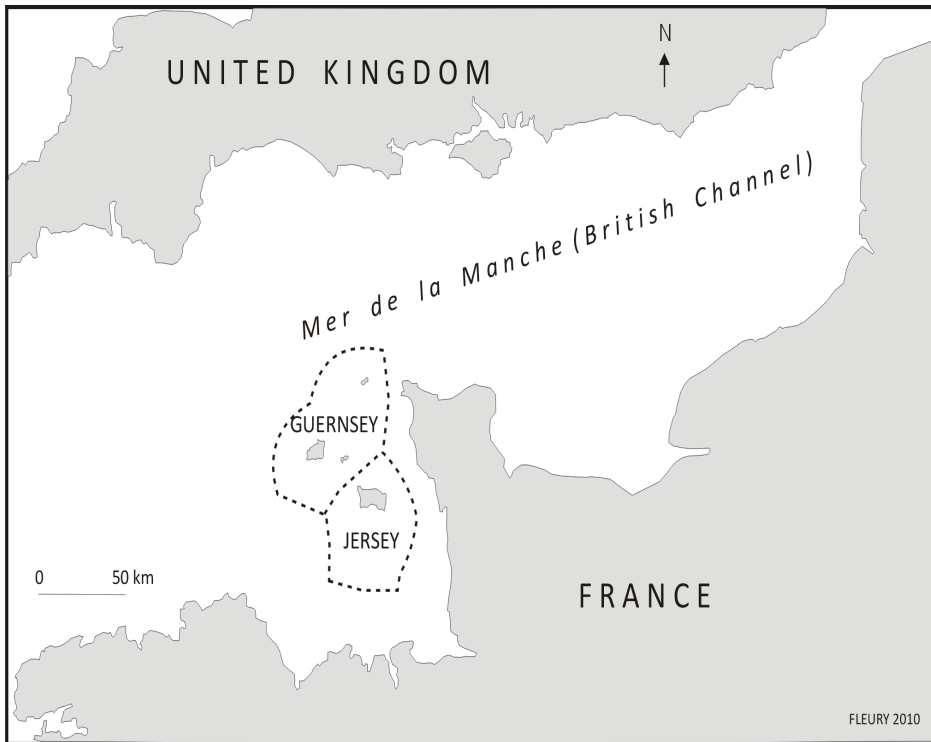


Figure 1- Location of the Channel Islands in the Norman-Breton Gulf

(Sources: Sentence on the Delimitation of the Continental Shelf between the United Kingdom of Great Britain and Northern Ireland, and the French Republic [30.6.1977]; exchange of notes between France and UK [July, 1992]; and agreement concerning the Establishment of a Maritime Boundary between France and Jersey [4.7.2000])

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The arduous process of drawing up common fisheries between the Channel Islands and France

Issues concerning the appropriation of coastal waters surrounding the Channel Islands evolved very differently in the two bailiwicks. In the period 1820-1830, relationships in the Norman-Breton gulf area worsened as many Jersey-based vessels continued to dredge oysters very close to the French coast (La Morandière, 1947). A wide range of maritime incidents then occurred as part of what became known as 'The Oyster War', which resulted in French and British authorities concluding a fishing agreement guaranteed by the signature of both states, France and the United Kingdom (which represents the Crown dependencies on foreign matters) in 1839.



Figure 2 - Areas and maritime boundaries designated in first Fishing Agreement in the Norman-Breton Gulf (Treaty between Great Britain and France, 2nd August, 1839)

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The Bay of Granville Convention, concluded in 1839 (in which Guernsey was not involved) represented an early attempt to establish a cross-border sharing process for fisheries. One can consider this early agreement as significant (Labrecque, 1998: 50) because it established two exclusive areas:

- a) A three nautical mile strip of water around Jersey from which French fishers were excluded (setting a precedent other states later adopted); and
- b) On the French side, a jagged line referred to as ‘A to K’ (which was neither an international boundary nor a three mile coastal limit) indicated the area from which Jersey fishers were excluded.

Remaining marine areas were regarded as ‘common sea’ (a concept that clearly derived from the old principle of *Res Communis* mentioned in the 6th Century Justinian Code and taken up at the beginning of the 17th Century by the Dutch jurist Grotius in his *Mare Liberum* [1609]). This situation persisted for more than a century, that is to say until the end of the Second World War, when a major reconsideration of states’ rights over offshore areas was occasioned by the president of the United States, Harry Truman, when he issued his statement on the continental shelf that declared:

Having concern for the urgency of conserving and prudently utilizing its natural resources, the Government of the United States regards the natural resources of the subsoil and sea bed of the continental shelf beneath the high seas but contiguous to the coasts of the United States, subject to jurisdiction and control. In cases where the continental shelf extends to the shores of another State, or is shared with an adjacent State, the boundary shall be determined by the United States and the State concerned in accordance with equitable principles. (1945)³

Truman’s statement prompted international debate that led to the First United Nations Convention on Law of the Seas (UNCLOS 1), which was held in Geneva in 1958. The Convention was significant for identifying that islands had similar rights to territorial waters as continental areas. Subsequently, UNCLOS 3 (1973) specified in its article 121(3) that islands could not only claim a territorial sea but also a contiguous zone, an exclusive economic zone and a continental shelf. This gave the Channel Islands the authority to have their own territorial waters. But before these could be established and ratified France and the UK had first to solve a couple of issues.

The first concerned the question of the sovereignty over the Minquiers and Ecrehous reefs, claimed by the United Kingdom (on behalf of Jersey) and France. This dispute was settled in 1953 in favour of the United Kingdom, following a ruling by the International Court of Justice (Roche, 1959). Despite the UK’s success, this decision did not jeopardise French fishing rights since a prior agreement, signed in 1951, specified that fishers from the losing country could continue to fish in foreign waters. The second issue concerned rights to areas of continental shelf in the region. While the UK claimed a continuity between its continental shelf and that of the islands, the International Court ruled in favour of France, identifying the islands and surrounding waters as an enclave within the French coast (Labrecque, 1998: 270-271). These decisions gave new impetus to the process of determining delimitations between France and the two bailiwicks.

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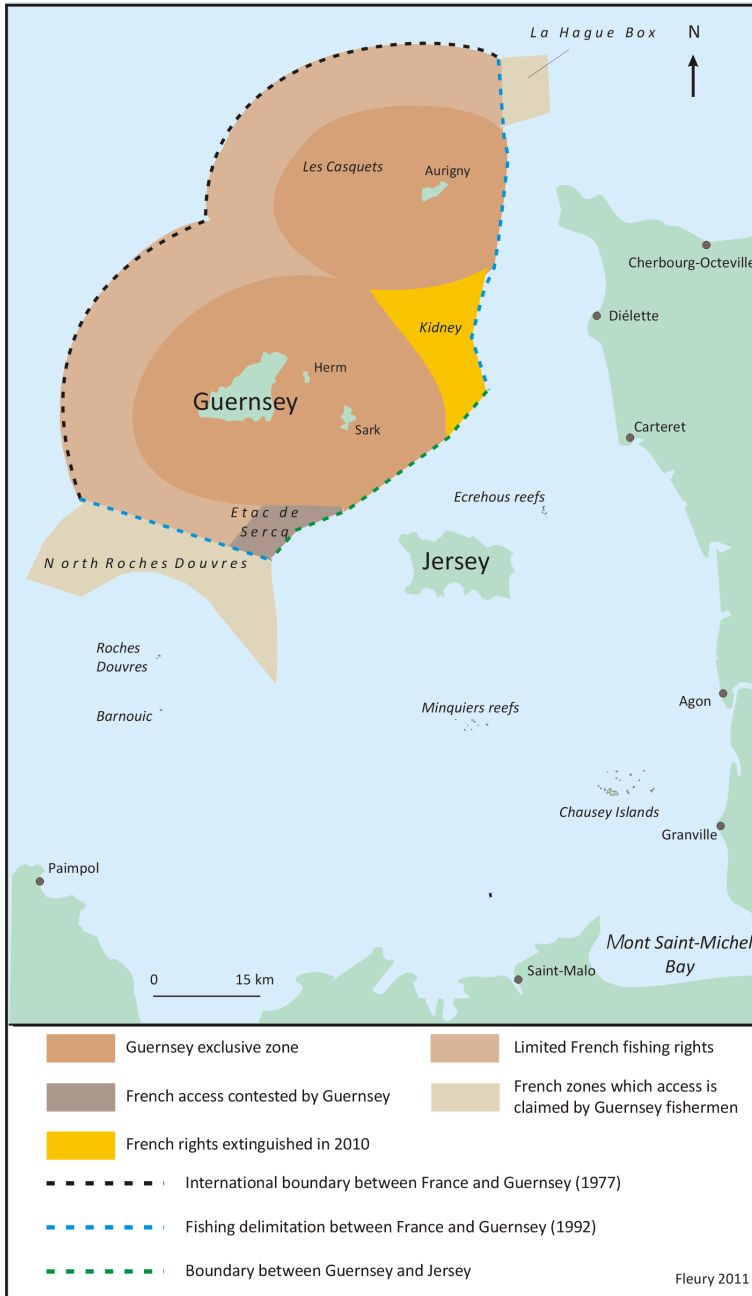


Figure 3 - Territorial delimitation and fishing status around Guernsey
 (Sources: Decision on the Delimitation of the Continental Shelf between the United Kingdom of Great Britain and Northern Ireland, and the French Republic, 30th June, 1977; Exchange of notes between France and UK [July, 1992].)

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Guernsey's marine boundaries were resolved as a result of a decision by the European Court of Arbitration on the delimitation of the continental shelf between the United Kingdom and the French Republic made on 30th June 1977.⁴ This established a twelve nautical mile limit to the north and west of Guernsey (Figure 3). While delimitations were also set for the south-west and east, these were not international boundaries established by treaty but rather derived from a fishing agreement signed in 1992. Despite the latter, the 1977 ruling did not successfully resolve disputes over borders and the situation quickly deteriorated. French fishermen argued that their historical rights should have been acknowledged in much the same way as Jersey's earlier claims about the Minquiers and Ecrehous reefs. But in the absence of a solid agreement such as that concluded in 1839 with regard to Jersey, the situation did not allow the French fishermen to assert their point of view. Consequently a zone in which they had fished since ancient times, called the 'Haricot' in French and the 'Kidney' in English, was gradually prohibited to them⁵. It is worth emphasising at this point that the economic aspect of the dispute is significantly different in character between the two parties. Whereas the islanders' territorial claim on the sea has been significantly driven by their wish to establish a defined and secure marine zone around their islands; a simpler economic impetus has driven French claims and campaigns. The income of several hundred regional fishermen depends to a large extent on Channel Islands' waters and their rich marine resources - including lobsters, crabs and many species of fish and shellfish.

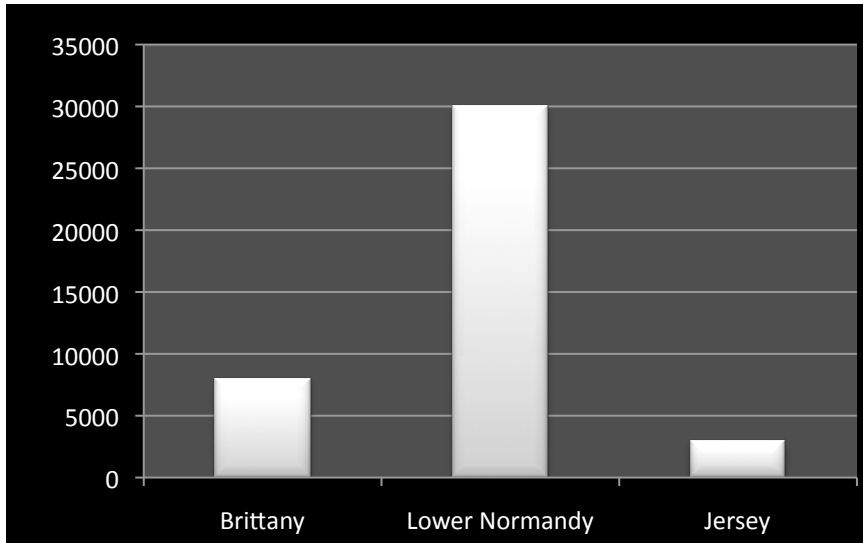


Figure 4 - Tonnage of landed catches in the Bay of Granville by French and Jersey origin (2001)⁶ - Source: French Ministry of Agriculture

Both the relative and absolute values of fishing are dramatically lower in the islands (Figure 4) and it may be considered that Guernsey's main objective is to secure for itself a marine space free of any foreign fishing activities. Indeed, fieldwork conducted by the author in the bailiwicks indicates that the presence of French vessels close to the

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islands' coasts – up to three nautical miles offshore in the case of Jersey and six for Guernsey – is regarded as unwelcome and unsettling by many island residents.

Friction between Guernsey and France intensified in the 1990s, resulting in events such as boardings, seizures, trials and heavy fines, until the conclusion of a *modus vivendi* in 1994 that enabled fishermen from both countries to have access to some areas on the opposite side of the international fishing boundaries. Despite this agreement having substantial benefits for fishermen from both areas, it was disavowed by Guernsey authorities in 1996. Since this time, French fishermen have only had residual rights on three species of fish in the 6-12 mile strip and a stalemate exists between France and Guernsey on fishing matters; a situation that is not only detrimental to French fishermen but also impacts upon those from Alderney and Guernsey who can't fish anymore in some French areas which were formerly open to them in the Hague Box and north Roches Douvres (Figure 3).

Relationships between Jersey and France over fisheries have also not exactly been a bed of roses. But while there were a series of incidents in the 1990s, dialogue eventually prevailed over confrontation. When developments in international law made the establishment of marine borders for islands inevitable⁷, the French resolved to negotiate what they wanted to be considered only as a mere refinement of the 1839 convention. A comment expressed by one of the Jersey negotiators reflects the feeling of the islanders concerning France's reluctance to engage in re-negotiation of the 1839 convention:

From the French point of view there was little incentive to negotiate a new treaty. They could do what they like. After all, what had we to give them? Virtually nothing. (Fleury, 2006: 414)

On the French side, it became obvious that there was very little to expect aside from the upholding of the principle of historic rights. But it must be noted that an absence of negotiations would have resulted in an arbitration generally perceived as risky. The talks between France and the UK led only to agreement in 2000 after 13 years of discussion “rock by rock” on a “long and winding road” according to the statement of a Jersey politician (ibid). For their part, the French fishermen were putting pressure on the French authorities behind the scenes in order to make sure that the agreement on territorial delimitation wouldn't jeopardise their access to Jersey waters.

The Bay of Granville Treaty

On July 4th 2000 the French Ambassador to the United Kingdom and the Lieutenant Governor (permanent representative of the British Crown on Jersey) signed an international treaty comprised of two sections, the first concerning the definition of an international marine boundary between France and the Bailiwick of Jersey and the second a fishing agreement taking into account both this delimitation and historical fishing rights (see Figure 5 above). While the agreement on the marine border was ratified without modification, an exchange of diplomatic notes conducted in 1992 addressed the issue of fishing activities and focused on redefining the Bay of Granville in response to developments in both local and global contexts. Even here, the motives of Jersey and French interlocutors differed. The latter would have been satisfied with a mere closure of the bay in the north, south and west, a provision that was proscribed in

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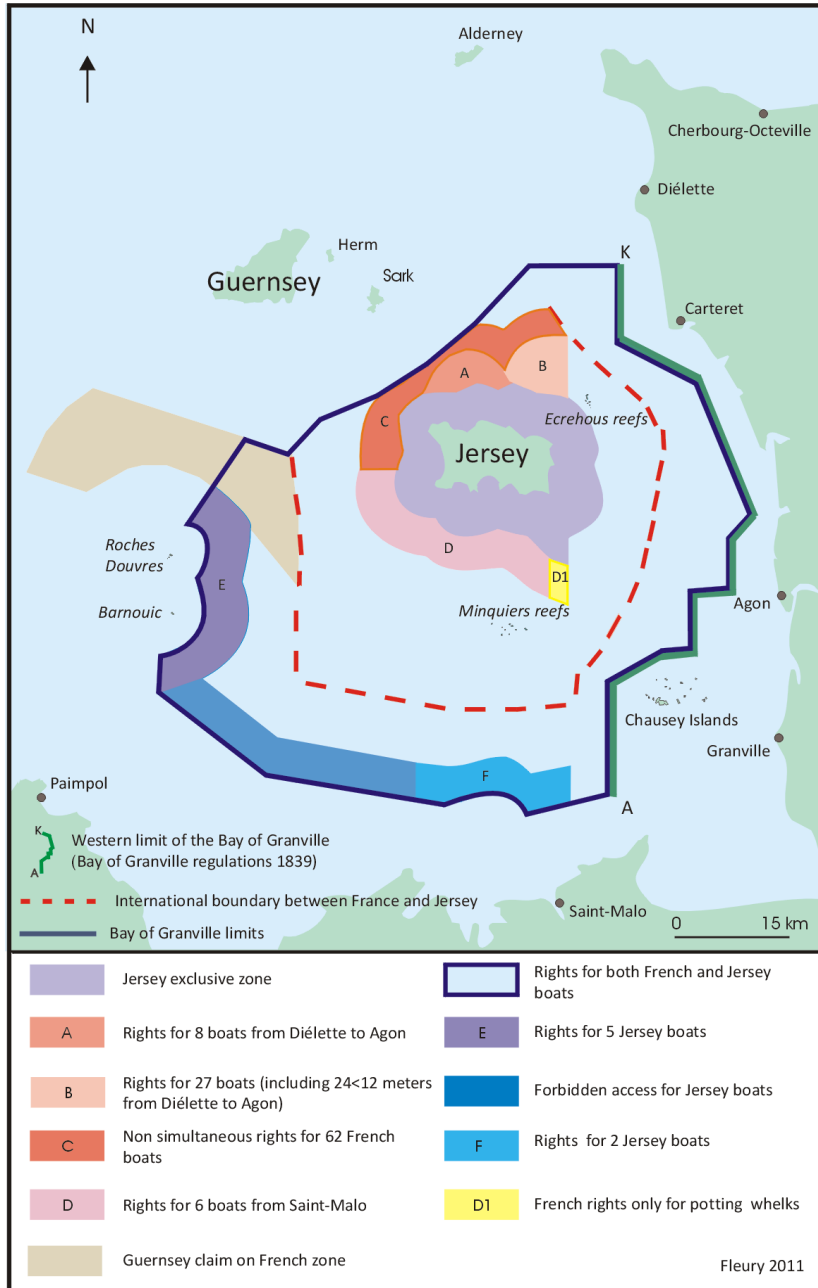


Figure 5 – Boundaries established under the The Bay of Granville Treaty
 (Sources: Agreement concerning the Establishment of a Maritime Boundary between France and Jersey; Agreement between France and UK concerning Fishing in the Bay of Granville with Exchanges of Notes and Declaration [4th July, 2000.]

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the 1839 agreement. But the uncontrolled presence of foreign fishermen in the 3-6 mile coastal zone was increasingly unacceptable in Jersey. In order to achieve their aim of controlling the zone, the authorities of the Bailiwick had to first convince the United Kingdom of the appropriateness of entering into negotiations with France. This first step was achieved thanks to the Bailiff and the Lieutenant Governor, who informed the Home Office, which, in turn, notified the Foreign Office. A positive answer returned via the same route. But the leader of the Jersey negotiators was keen to specify afterwards that his presence was not determined by the Foreign Office. However, local knowledge of the complex issues involved eventually prevailed over the formal propriety in terms of direct commitment in the discussions (ibid). On the French side, senior civil servants from both the French Ministry of Foreign Affairs and the Direction des Pêches Maritimes⁸ headed the delegation. The fishermen were involved through consultations occurring before the official meetings with the United Kingdom and Jersey.

Three key principles appeared from the agreement.

1) Reaffirmation of the disconnection between territorial waters and the definition of fishing zones. This accorded with the main (and crucial) claim of the French fishermen, reflecting the economic weight of their activity in the vicinity of the Channel Islands.

2) Exclusive rights reserved for the local residents, an issue affecting both Jersey fishermen and French fishermen from Diélette to Paimpol, who were granted exclusive access to the Bay of Granville. With two exceptions, the Bay was henceforth closed to all other fishermen. The exceptions concerned:

- a. Boats registered outside of the defined area whose owners could prove that they frequented the Bay of Granville during either 1997 or 1998.
- b. 30 Guernsey boats authorised to fish in the Jersey section of the Bay of Granville but only in the area reserved for Jersey fishermen.

The restrictive nature of the latter clauses – ie the limited number of vessels and restricted zone – caused strong frustration in Guernsey, where fishermen called for access to the French areas to which they claimed historic rights (Figure 3). The tone of some statements from Guernsey expressed a high level of anger. Jersey was, for instance, accused of 'betrayal'. The leader of the Guernsey fishermen recalled that, "The last time we received an order from France, the Germans were in power" and added that, "You couldn't trust a Frenchman, now you can't trust a Jersey man" before threatening to blockade Jersey Harbours (La Motte, 1999: 4). This antagonism led to retaliatory measures against Jersey fishermen's access to Guernsey waters (under the States of Guernsey's 2003 'Sea Fishing Ordinance') that the Jersey Fishermen's Association opposed and eventually won a UK Privy Council ruling against in 2007.

The third principle in the agreement was based on the reciprocity of concessions, in reference to historic rights. As a result, French access to the 3-6 mile strip around Jersey was henceforth controlled (A, B, C, D, D1); with access to two sectors in French territorial waters east of Roches Douvres (E) and to the north of Saint-Malo (F) being maintained for Jersey fishermen with respective limits of five and two vessels. Beyond this apparent simplicity, the terms of the agreement presented a complicated set of legal restrictions that not only included the number of vessels but also other criteria

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such as, their port of origin, the size of the vessels; and a proscription against the number of vessels allowed to fish simultaneously. Zone D had particularly complex conditions, with no less than six restrictive criteria (number of boats, port of registration, length of boat, power, period of fishing and type of gear) required. The latter contrasts to Zone E where five Jersey boats (from a list of ten) can fish at any time with any type of gear. This complexity can be seen as the legal translation of an exceptional case, namely the recognition of fishing rights inside the six mile limit of another nation.

Official responses to the Granville agreement were generally positive. Due to its involvement in the 1839 agreement, Jersey was excluded from the provisions of the London Convention (1964) allowing the extension of exclusive fishing zones from three to twelve miles. On the island, this has been a concern, with significant increases in the number of foreign vessels fishing in its immediate vicinity⁹. On the French side, some fishermen voiced their regret about loss of some rights in Jersey's 3-6 mile coastal zone. Despite these, the agreement confirmed the continued presence of French fishing vessels in Jersey waters. The innovative nature of these agreements, eventually ratified by both parties on January 1st 2004, was significant and was even considered as a precedent (see Dobelle, 2001¹⁰). Two opposing dynamics inform the strong tendency towards the appropriation of seas by coastal states for fishing matters. While the acquisitive impulse of nations has not declined since the end of the Second World War, the sharing of fisheries outside of territorial seas, such as those in European Union waters, represents another major phenomenon. As for the Bay of Granville agreement, it defined a new type of marine space that integrated concepts and principles from newly evolved global legal frameworks with customary durability (ie long-term use). The political border was thereby subjected to social factors that qualified and modified it.

We can see that the long process outlined above led to a complex zoning of the sea around Jersey as a result of insularity, geographical proximity and political otherness. The Norman-Breton Gulf represents a typical case of a spatial and legal complexity that is characterised by a zoning of the sea that gives access to fishermen from both sides of the boundary to foreign areas, according to reciprocal constraints. But we should not consider this set of legal provisions as a rigid structure, since the final agreement also mandated the joint drawing up of legal acts aimed to harmonise fishing regulation. This task was devolved to the Joint Advisory Committee of the Bay of Granville (JACBG) whose composition, competences and functioning were described in a document attached to the international treaty that defines the boundary.

The Joint Advisory Committee of the Bay of Granville: a meeting place for different logics

The committee is composed of three parties (Figure 6) – Jersey, Lower Normandy and Brittany - which meet three times a year, once in St. Helier (Jersey), once in Granville (Lower Normandy) and once in Saint-Malo (Brittany). Each party has three components:

- 1) Professional fishermen (and their representatives);
- 2) Representatives of the French Government and the States of Jersey;
- 3) Biologists from both nations.

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A Joint Management Committee (JMC), reduced to officials of both government and scientific advisers, follows each Joint Advisory Committee (JAC). Its main function is to check the validity of the JAC according to “the aim of ensuring the conservation and effective management of the fishery resources and equitable access in the area” (article 3 of the Bay of Granville Treaty).

Around the table, the representatives of the authorities sitting in the JAC confront and, according to the debated question, stand on their ground, agree unanimously or come to a compromise. After ten years of operation, two types of logic can be identified as dominant, one based on national (territorial) principles and another based on institutional/professional affiliation.

FRANCE		JERSEY	
LOWER NORMANDY	BRITTANY		
CRPMEM Chairman	CRPMEM Chairman	JFA Chairman	<i>Professional Membership</i>
CRPMEM Member	CRPMEM Member	JFA Member	
CRPMEM Member	CRPMEM Member	JFA Member	
CRPMEM Member	CRPMEM Member	JFA Member	
CRPMEM Secretary	CRPMEM Secretary	JFA Secretary	
Administration representative	Administration representative	Administration representative	<i>Administrative Membership</i>
Administration representative	Administration representative	Administration representative	
Administration representative	Administration representative	Administration representative	
Administration representative	Administration representative	Administration representative	
Biologist		Biologist	<i>Scientific Membership</i>
Biologist			
CRPMEME : Comité Régional des Pêches Maritimes et des Élevages Marins JFA : Jersey Fishermen Association			

Figure 6 - The composition of the JACBG

[Source: Agreement between France and UK concerning Fishing in the Bay of Granville with Exchanges of Notes and Declaration (4th July, 2000)]

The territorial dimension

Several levels can be distinguished. The first concerns the fundamental character of the JACBG that has been determined by an international treaty, within which the citizens of two countries are called to manage cross-border fisheries. The JACBG can be considered as a place where two countries have to adapt elements that are difficult to reconcile. The balance between economy and sovereignty is, for instance, quite different between the Jersey or French sides. The number of French fishermen crossing the marine border in order to work in Jersey waters is massively higher than the reverse phenomenon. Moreover, the acute sense of territorial integrity attributed to island

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communities sometimes suffers from the presence of French trawlers that come and fish close to the island. Even in areas where the treaty gave them the right to do so, this activity is – especially in the Southeast - nevertheless perceived as intrusive. But the JACBG has to fit two quite different political end legal systems. In Jersey, advice is frequently sought from experts in order to verify the constitutionality of the implementation of various recommendations of the committee. There are also some differences regarding the jurisdiction over regulation. While in Jersey that is a competence of the States administration, in France it can be delegated to the fishermen, in respect of both national and European standards. Differences between both fishing practices and marketing are also likely to give rise to differences, as in the case of the scallop fishery which is closed in France from June till October, a period during which the Jersey fishermen are still allowed to harvest them.

The institutional dimension

The difference between the homogeneity of the Jersey delegation and heterogeneity of the French delegation is readily apparent. While disagreements rarely occur between members of the Jersey delegation, these do arise on the French side, where the fishermen are sometimes explicitly accusatory toward both administration and/or biologists. The French administration, which is eventually in charge of the tangled web of the regulation, sometimes comes under criticism for marginalising the professionals on technical matters such as, for instance, the process of issuing access permits or for its alleged slowness in decision-making.

The fishermen are, moreover, inclined to query the advice of biologists who consider their own positions as neutral, based on strong protocols, and who are unlikely to allow fishermen to interfere in the decision-making phase. This stance is sometimes challenged by the professionals who occasionally raise the spectre of the fisherman whose activity would seriously suffer from decisions taken according to incomplete scientific opinions. This invites comparison to the classic cleavage well-known within the European Commission between the countries defending either the fishermen or fish. The biologists of IFREMER¹¹, for instance, distance themselves from ecologists who represent a socio-political group routinely pilloried by the fishing sector. These biologists assert that despite blurring in the media, their goal is not the conservation of fish but rather the sustainable management of the *fishery*.

As in any social phenomenon, the approach to reality needs, as far as possible, to take into account (as well as to confront) all the individual and collective standpoints that, in this specific case, comprise the economic sustainability of their activity for the fishermen, the commitment of their duties for their representatives, the provision of knowledge for the biologists and the enforcement of the regulation for the administration. All these logics of membership show themselves in a different way as the individuals are fishermen, representatives of the administration or belong to the scientific community. In the latter group, freedom of speech proves to be a readily observable element. The divisions I have just outlined correspond to different logics of membership which express themselves during the meetings in which the ambitious objective is to provide all the support to strengthen the coexistence of several hundred fishing boats in a rich but relatively small cross border marine space. Use conflicts are the inevitable consequences of this combined pressure, particularly since the sea has to be shared with other users.

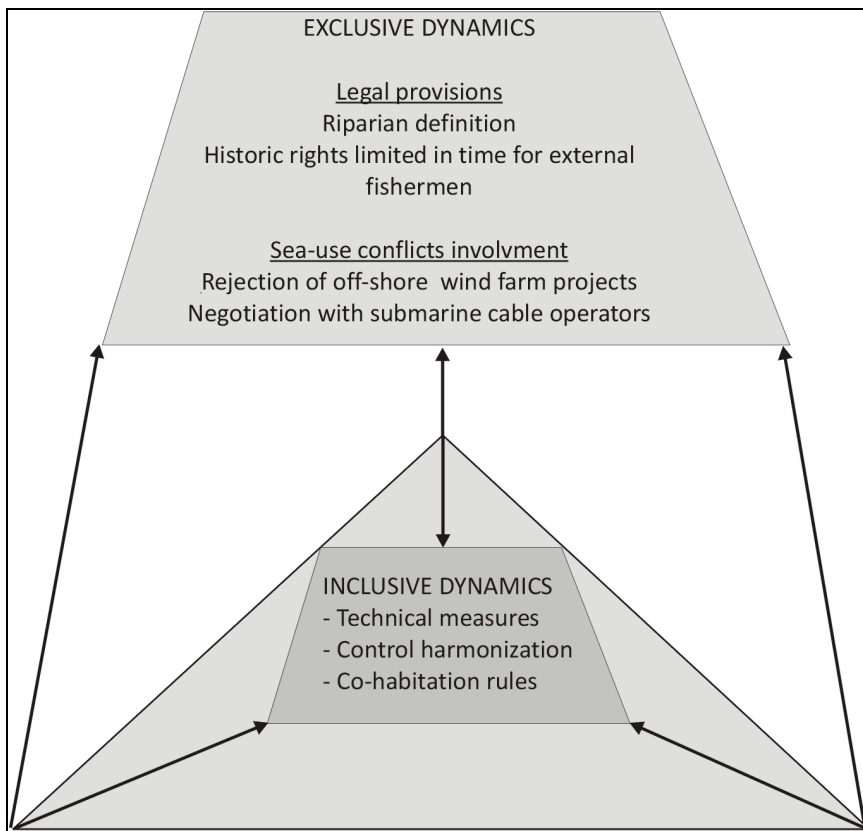


Figure 7 - Inclusive and exclusive dynamics of the JACBG
[Source: observation at JACBG meetings]

Sea-use conflicts in the Bay of Granville

Diversified fishing resources lead to a diversity of fishing practices divided between mobile and static gear. Among the first category, there are different types of trawls (pelagic and bottom) and dredges, which are used to collect most of the species of bivalve shells as scallops and clams. The second type concerns nets, lines as well as the whole range of pots (for crustaceans, whelks and cuttlefish). The species targeted by various gear have biological characteristics and seasonal habits that are, moreover, subject to annual fluctuations. Such a complexity favors cohabitation issues that the JACBG is proving effective to deal with, such as in the southeast of Jersey where recurrent cohabitation issues occur annually between French trawlers and Jersey pot-fishermen. But some others use conflicts involve participants from outside the fishing industry. There are some examples in particular in the strait named Passage de la Déroute between Jersey and France (Figure 8).

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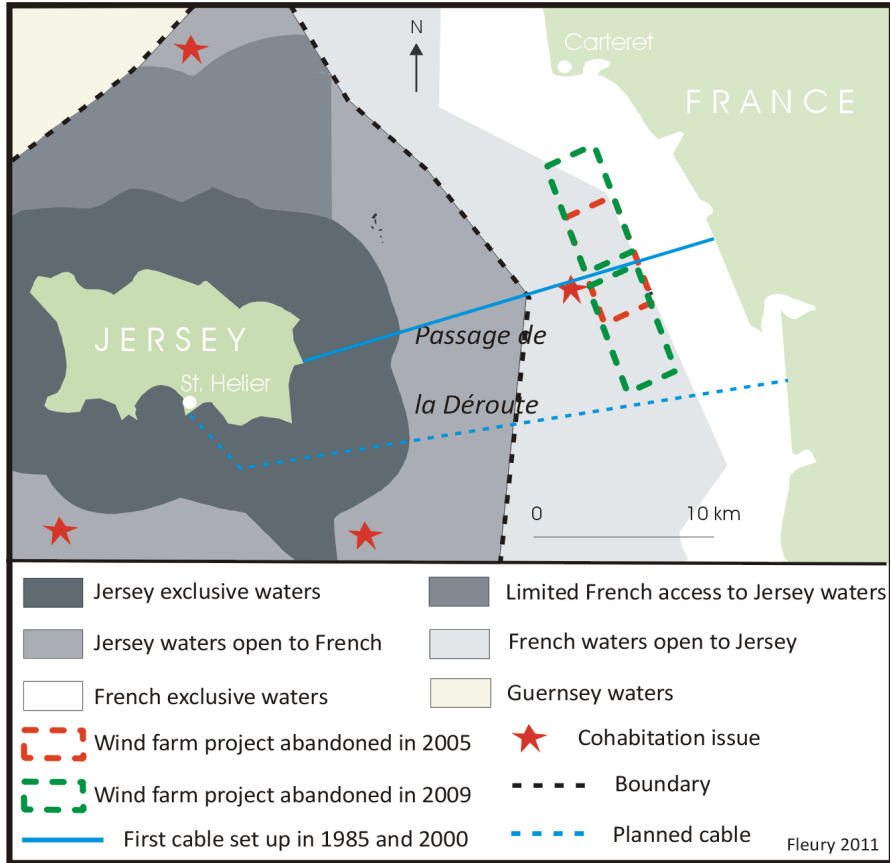


Figure 8 - Sea-use conflicts in Le Passage de la Déroute
[Source: JACBG meetings, Jersey Electricity Company]

While there is, as yet, no exploitation of hydrocarbon resources in the Norman-Breton gulf, two energy sector issues have attracted the Committee's attention. The first concerns cables from France that feed the Channel Islands with electricity and optical fibre services. In 1985, a 26 km submarine cable was laid between the Cotentin peninsula and Jersey. In 2000, this was complemented by a second combined power and optical fibre cable. While beneficial to the inhabitants of Jersey and to the profitability of the French operator Électricité de France (EDF); the development was unpopular with fishermen by generating a 24 km² no-fishing area. The prospect of a third cable in 2005 raised similar concerns but, due to close monitoring and sustained input, they were able to successfully lobby for the new cable to be buried.

The second source of concern for the fishing industry has been the proposed development of offshore wind farms.¹² Plans to create 20 to 30 ninety-metre high wind turbines in an area located south of Carteret in the French waters worried the local fishermen and first attracted concern when proposed in 2005. This project was consistent with the implementation of the European directive 2001/77/EC which

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planned that the member states should increase their renewable energies by as much as 20% of their whole power generation by 2015. Given that offshore installations have been identified as supplying a higher energy yield than on-shore wind turbines, the western coast of the Cotentin peninsula, which has amongst the highest wind potential in France, whetted the appetites of “the traders of wind”¹³. Supported by their respective elected representatives, both French and Jersey fishermen opposed the project. While some of the scientists on the committee voiced the opinion that the creation of artificial reefs could be advantageous for fishing, the proposal was eventually abandoned. Four years later, the *Grenelle de la mer*¹⁴ gave a fresh impetus to off-shore wind farm projects, proposing no less than five to be located in the French waters between France and the Channel Islands. But the French Government plan unveiled in Autumn 2010 did not approve any of these. The proximity to the Channel Islands, the strong opposition of the local fishermen, as well as various sea-use conflicts, was key to this decision.

The legal arrangement of a reserved marine space

While one of the purposes of the Granville treaty has been to define a common area and preserve it from outsiders, the ultimate goal of the treaty is to establish a sustainable fishing. The challenge is to make this tiny part of the global ocean an exclusive legal entity. There are different means to achieve this objective (Figure 7). This article has already established that the restriction on the number of fishing vessels, as is the case in the limited access zones (Figure 5), is one of them. The establishment of quotas for some major fisheries, such as whelks, is another. Another restriction aimed to further to conserve resources is via the time limitations that can be implemented by closing the fishery either on an annual, weekly or daily basis. In addition, regulations on a minimum landing size apply to almost all species. But the strengthening of the internal cohesion of the strategy has proved rather hard to achieve. While there is common agreement and cooperation on resisting unwanted intrusion, there is less unity when it comes to harmonising internal regulations, such as the disputes involving issues as the Minimum Landing Size (MLS) for scallops, the issue of a close season for spider crabs, ‘no go’ areas for pair trawlers or the accreditation by Marine Stewardship Council (MSC) for the joint lobster fishery. Further examples include the ongoing issue over a common type of pot to be used for fishing lobsters and crabs. After several years of discussion, no compromise has yet been found on this thorny question. Except in the Minquiers reef where it is prohibited, Jersey fishermen used a device called ‘parlour pot’, generally considered prejudicial to a sustainable fishery¹⁵. On the Norman side, it is only permitted in areas where French fishermen are likely to fish in the same sectors as their Jersey counterparts. The pot fishermen from Saint-Malo consider, for their part, that as long as the latter will continue to use it they will do the same (Figure 9). Progress on this issue has been minimal and, moreover, appears to be used by Norman fishermen to slow Jersey’s aim of increasing the minimum landing size of lobsters. The fact that the scallops are likely to be fished all year round in Channel Island waters, whereas in France the fishery is closed from May to October, also causes also dissatisfaction on the French side.

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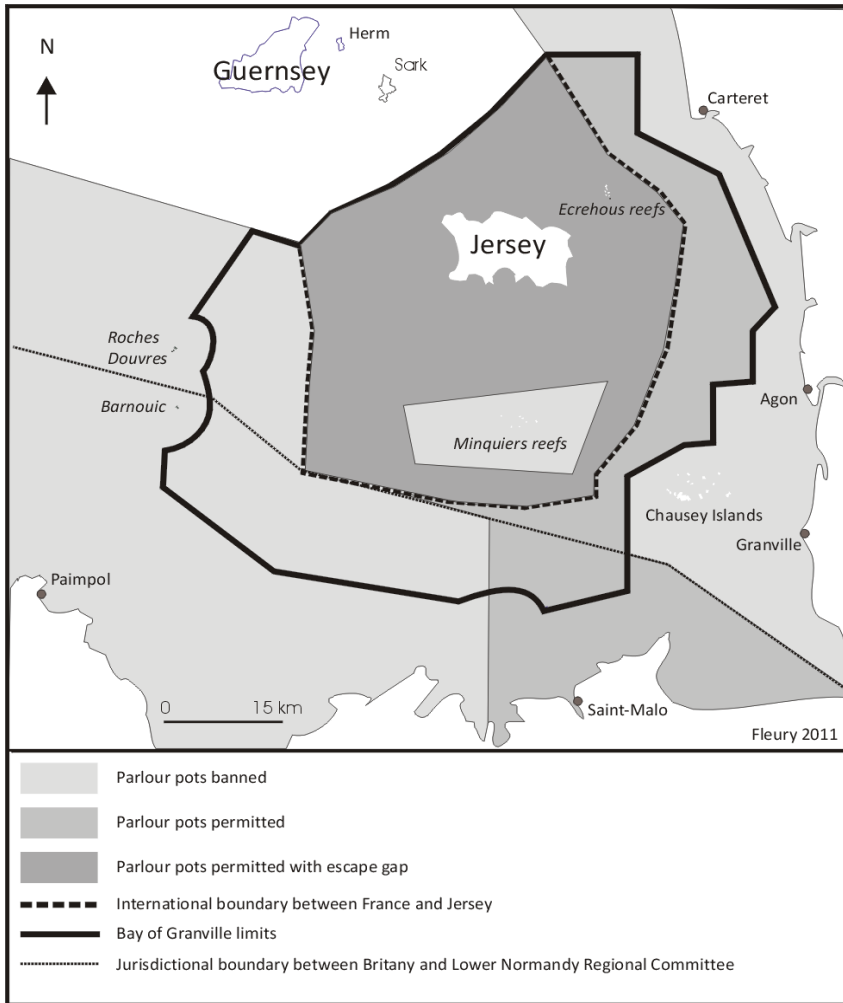


Figure 9 - Marine space complexity in relation to a fishery: the crustacean pots

[Sources: Brittany and Lower Normandy Regional Fisheries Committees regulations, States of Jersey Department of Fisheries and Agriculture regulations.]

Some other issues are however subject to significant progress, such as the harmonisation of both the minimum landing size of most species and the control procedures on either side of the border. But this trend faces other universal mechanisms to partition the marine space that thwart the will to build local marine autonomous entities. Since the ocean is divided into rectangles that serve as framework for statistical return, the Bay of Granville is involved in four of them (Figure 10). Making it an independent statistical entity seems thus to be completely ruled out since it collides with the obligation to comply with reference tools implemented by the International Council for the Exploration of the Sea (ICES).

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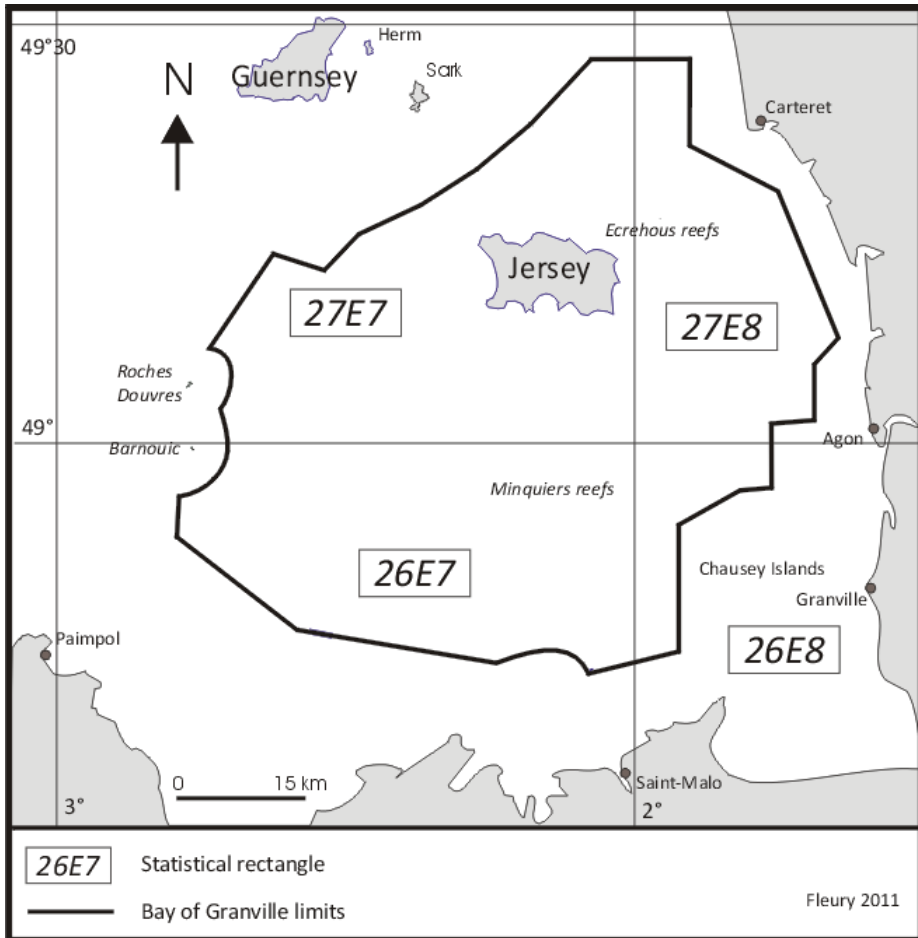


Figure 10 - Statistical grid in the Norman-Breton Gulf
[Source: International Council for the Exploration of the Sea]

This process of blurring the marine boundary could take another form if the marine park proposed for the Gulf by the French Government progresses. Initial plans suggest that it would include Jersey waters and, in early 2011 (that is, at the early stages of the feasibility study for this project), it appears that Jersey authorities might not oppose the integration of their waters within its perimeter.

Conclusion

In the post-War era islands have obtained territorial seas that have significantly extended their territory. This has led many islands and/or larger national states to regard these waters as protected and/or exclusive zones. But this tendency is at odds with a key feature of coastal marine spaces, that is, their frequent utilisation by humans for a

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variety of economic activities (such as fishing, sea floor hydro-carbon and/or mining extraction etc.). The case study of Guernsey's and Jersey's negotiation of these issues with the nation state of France provided in this article illustrates how the sea can be seen as both a concrete and complex space, socially and legally heterogeneous, and markedly different from the simplistic representation often provided of it. The difference between Guernsey's and Jersey's relationship to France over fisheries is that the latter is linked by firm historical agreements (1839, 1951); unlike Guernsey, which is now in something of a paradoxical position with regard to fishing matters. In contrast to Jersey, Guernsey has largely expelled French vessels from its 6-12 mile offshore fishery zone but, unlike to its Anglo-Norman counterpart, which is protected by the Bay of Granville Treaty, Guernsey remains vulnerable to external intrusions.

On a more general level, many researchers have undertaken the task of identifying discontinuities in oceans that are far removed from concept of *territoire du vide* discussed by Corbin (1990) – ie a space without either place or marks of human presence other than the ephemeral wake of boats. This has been problematised by researchers in fields such as geopolitics and international law in a large body of literature that variously endeavours to order, classify and discuss all arbitration awards or bilateral agreements arising from states' appetites to annex an ever-wider area of adjacent sea (see for example Colson and Smith, 2005; Labrecque, 1998). In the future, it is likely that issues related to the ownership of the ocean will assume an increasing importance, as evidenced by the large number of unresolved disputes as well as the conflicts that will inevitably occur due to the opportunities for coastal states to extend their continental shelf. The author takes the position that seas are a space on, in and under which parties holding different viewpoints mingle with and sometimes confront each other (Fleury, 2004; 2008; 2009; 2010). Emphasis on the spatial and temporal combinations of these various logics facilitates consideration of the ocean as a mosaic of juxtaposed and overlapping (if not superimposed) elements that vary widely in their size and social density. Within the dynamic context of the multifunctional territorialisation of the ocean, islands, through the infinite range of their locations, offer particular insights into this phenomenon.

Endnotes

¹ The term 'bailiwick' originated in medieval France and describes a territory in which the King's representative was the administrator. The term persists in the Channel Islands where the Crown's senior representatives are still referred to as bailiffs.

² Many of them were from the UK oyster fisheries that were in the process of collapse and were temporarily based in Jersey.

³ Reproduced online at:
oceancommission.gov/documents/gov_oceans/truman.pdf – accessed January 2011

⁴ Archived online at :
http://webcache.googleusercontent.com/search?q=cache:A9BaoOFw1LwJ:www.imli.org/legal_docs/docs/A72.DOC+1977+delimitation+of+contintenal+shelf+guernsye&hl=en&gl=au - accessed January 2011

⁵ The very last French rights in this area expired at the end of 2010.

⁶ NB Data is not available for catches in the waters around Guernsey.

⁷ See 'The Regime of islands, Third United Nations Convention on the Law of the Sea', Part VIII, article 12: 63, archived online at: http://www.un.org/Depts/los/convention_agreements/texts/unclos/unclos_e.pdf - accessed January 2011

⁸ Department of the French Ministry of Agriculture.

⁹ 'Proposed establishment of a maritime boundary between France and Jersey and proposed agreement concerning fishing in the bay of Granville', Policy and Resources Committee, States of Jersey, 1999.

¹⁰ A member of the French delegation, this author quoted another example with regard to the agreement signed in 1999 between Eritrea and Ethiopia. Both states agreed to maintain the customary fishing cohabitation around the Hanish Islands in the Red Sea.

¹¹ IFREMER – the *Institut Français de Recherche pour l'Exploitation de la Mer* - is a public institute of industrial and commercial nature placed under the joint supervision of the ministries for Higher Education and Research, Ecology, Energy, Sustainable Development and Sea, and Food, Agriculture and Fisheries.

¹² In addition, the proximity of nuclear power plant at Flamanville and the nuclear reprocessing plant at La Hague has also raised concerns on the islands. Such concerns are, however, balanced against the fact that the availability of nuclear generated electricity has allowed the islands to put their own plans for a thermal power plant in abeyance and thus meet Rio Convention criteria by saving the emission of several hundred thousand tons of carbon dioxide into the atmosphere.

¹³ As they are sometimes called by some fishermen during the meetings.

¹⁴ This name refers to *Les Accords de Grenelle* (deriving from the address of the Ministry of Labour in Paris) signed in the aftermaths of the events of May 1968. It was reintroduced in 2000 in reference to public consultancies on topics as the environment (2007) or sea (2009).

¹⁵ The parlour section of a parlour pot prevents crustaceans from exiting. Considered to be far more efficient than a traditional one-chambered one, the parlour pot's use requires less frequent visits but it is likely to cause an excess mortality in juveniles. In France parlour pots are only used in areas where French fishermen are in competition with their Jersey counterparts (see Figure 9). The Jersey regulation imposes an escape trap that, nevertheless, doesn't totally reduce the losses.

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