

What threat to the oceans are we trying to address?

Threats to the oceans are intensifying— fossil fuel emissions driven ocean warming, sea-level rise and ocean acidification. Meanwhile, overfishing, bycatch and the impact of destructive fishing gear remain major culprits.

- In wanting to address overfishing, we all start from the same point, with equally good intentions
- But frustration has increased as previous “solutions” such as reductions in total allowable catches (TACs), gear restrictions, and closed seasons have not always worked as expected ...
- ... albeit often because they have never been fully implemented, and where efforts have been made, it’s almost always by industry representatives whose self-interest rarely aligns with prescriptive management measures

Why talk about CSs, ITQs, and LAPPs?

- Catch shares (CSs), individual fishing (or transferable) quotas (IFQs or ITQs) and limited access privilege programs (LAPPs) are all different names for the same concept: ***allocation of heretofore open access, public resources to private individuals, or partial privatization of the oceans***
- The idea is that if fishermen know that they “own” a share of the resources (fish stocks) they will *theoretically* have no incentive to race to catch the last fish **and** will *want* to embrace precautionary management measures.

And?

- At intervals (usually yearly), scientists will tell the fishermen in a fishery, what percentage of their share they can catch this year (season, etc.) based on their projections of how well the fishery is doing in terms of population size and growth.
- Thus, supporters argue, this tool is the one solution that can stop overfishing and it is receiving priority over other, more comprehensive management approaches to protect habitat, ensure sufficient prey, and remain sensitive to fish-dependent communities.

“I think the economist Seth Macinko put it well when he said "Why are we turning to catch shares as a solution to management failure when we haven't really tried management yet!”

– Dr. Callum Roberts, Environment Department of the University of York, United Kingdom

And why are they presented as the solution to the fisheries crisis?

- ITQs are the purest form of this *theoretically* market-based approach, where fishing rights are supposed to be traded openly and efficiently in an economically beneficial manner
- Catch shares are meant to represent a somewhat “softer approach” but are based on the concept of “share holder,” akin to the way in which companies are owned and run

Do we hope to get the allocation of resources right?

**Yes, because we are
“too many people chasing too few fish.”**

- While CSs/ITQs have the potential to correct this problem, changing ‘too many people’ to ‘just the right number of people’ is a very complicated (and costly!) social and economic experiment
- At the same time, long-term sustainability of fisheries resources requires resolution of allocation issues in a manner that provides stability, accountability, and profitability

Are resource allocations a means of seeking economic efficiency?

- Yes, ITQs are largely intended to improve economic efficiency (MSA, National Standard 5) and conserve the resources by limiting access to fisheries and reducing excess fishing capacity.
- **But** goals for economic efficiency often conflict with objectives for social equity/ community participation (National Standards 4, 8)

How do we define economic efficiency for fisheries?

- Limited access to the resource creates a market for the “right” to fish and encourages fishermen to sell out and move on?
- Fewer fishing boats means less pressure on a fishery resource and so there will be more fish?
- Limited allowed catch means a level playing field and there will be less loss of life and equipment at sea (lower cost)?
- All of the above?

Can “catch shares” be a tool to help buffer fishermen and their communities against market instability?

- **Maybe:** Markets change, consumer demand changes, and community-based, small-boat fleets are vulnerable to preemption by bigger, better financed, more mobile competitors from other jurisdictions
- How do we **address** the effects of this displacement (preemption) on all sectors of a fishing community-- onshore capacity = jobs, social stability, infrastructure (e.g. processing plants, boatyards, insurers, equipment sellers, transportation providers, and so on)?
- Not clear how we implement a desire to retain the small-boat, owner-operator character of a given fishery if the goal is either economic or management efficiency.

Can CS/ITQs be a way to ensure access to certain sectors and communities that might otherwise lose out in the market competition with bigger, better financed participants? Is that the goal of current efforts?

Or, is it that current schemes are seeking management efficiency?

- Studies show that fleets naturally consolidate if the catch shares can be transferred or sold (FEWER BOATS)
- Management and oversight become easier: confined to fewer, larger company boats (fewer owners)
- Yet, implementation requires more intensive (and costly) monitoring on each and every vessel, and,
- Scientifically-set catch limits are often challenged on the basis of economic adversity by the new more organized, politically powerful, and better financed interests.

Why are CSs/ITQs so confusing?

- It's an alphabet soup of terms that plagues fisheries management in general, resource allocation strategies in particular— ITQs, LAPPs, TACs, EBM, MPAs, CSs.
- There are multiple strategies dumped into one set of terms— hard to differentiate between truly traditional tenure and community-based management systems (e.g. ancestral systems of the south Pacific); allocation schemes created for safety reasons (the halibut fishery in Alaska); or permanent public resource giveaway and access restriction for potential sustainable fishery management goals
- They were intended as one tool among many, not to be prioritized as a single regime that replaces sophisticated science-based multi-pronged management strategies

And?

- They are so often held up as the only alternative to open access (which remains unworkable in the modern world) regardless of local fishery conditions
- They have been recognized and prioritized under US fisheries legislation, in spite of overwhelming opposition from the scientific, conservation, and fishing communities
- The successes have been about human safety (good) but not conservation and economic stability-- Studies have shown that some allocation schemes have enabled fishers to better plan their trips, deliver fish according to market demands and stay ashore when weather conditions are unsafe
- Yet per Brian Rothschild, professor emeritus at the University of Massachusetts at Dartmouth's School of Marine Technology and Science “It is difficult to consider the catch share system as having any function other than economic allocation as its sole purpose” (which is illegal under US law) or the original and successful intent of saving lives by replacing derby fishing with annual quotas

What are the conservation outcomes?

Over the long term do fishers

- Fish more carefully?
- Deploy their gear more selectively?
- Avoid damaging sensitive habitats?
- Retrieve lost and tangled gear?
- And support science-based cuts in their allowed catch to build populations for the future?

Who knows.

Objectively, there are many legitimate concerns about ITQs

- That they merely privatize public resources
- That they are often incredibly destructive for communities (consolidation, displacement, social disruption, loss of community)
- From a purely economic standpoint, they promote limited access and other impediments to free market— which benefits neither communities nor consumers
- Contrary to economists' expectations, they have never led the “winners” to compensate the “losers”

Objectively, there are additional legitimate concerns about ITQs

CSs/ITQs may not do anything to promote fish population growth or prevent fishery collapse:

- They merely “displace” capacity, they don’t reduce it (or at least there’s no required tracking of where the boats that sell out in one fishery go next).
- They do not address some of the real problems: by-catch and destructive fishing methods, or single species management
- CSs/ITQs already issued to industry make it harder to adjust levels of Total Allowable Catch downward or to invite new participants into a recovering fishery
- The ownership of fishery resource may limit managers’ ability to introduce protected areas or establish other ecosystem based management (EBM) measures as required by federal law
- Simply stated, CSs/ITQs are no panacea for bad management

How CSs/ITQs are marketed is another problem

- CSs/ITQs are presented as a one-stop solution proven to have considerable effectiveness in conservation, but there is no proof that they alone can have significant conservation benefits.
- In addition, fishers are pressured to pursue self-limiting conservation strategies because they are promised it will result in an increase in the amount of fish they can catch—but there is no evidence that such behavior necessarily follows, especially under economic duress. For example, if a fishery collapses for outside reasons (water chemistry, water temperature, oil spills), who is going to compensate them for the perceived loss and what support is there for rigorous enforcement in times of crisis?

And?

- A few market-oriented conservation NGOs are trying to impose the concept at the national and international level in spite of considerable concerns expressed by the rest of the marine conservation community and grave concerns about the viability of traditional small fishing communities without a lot of economic alternatives to harvesting from the sea
- CSs/ITQs are now being pushed onto artisanal fisheries in developing countries, notwithstanding the obvious risks of corruption and money laundering, and transfer of additional wealth and influence to existing “strong men” who exact revenue from actual fishermen

The problem with CSs/ITQs *as they are currently implemented*

- There are ways to limit and mitigate their inherent negative impacts, but their proponents do not even acknowledge the problems, let alone accept recommendations (if it's broke, fix it!)
- While industry-controlled fisheries management councils have done better with prioritizing science since 2008, it is unclear that they can possibly do a better job managing CSs/ITQs especially as the individual fisheries consolidate into fewer, bigger companies going fishing?
- Little regard is given to prey species, habitat protection, and, the future of the portion of global food security that depends on the ocean.

What should be next for CSs/ITQs?

- First, there is an urgent need to set the record straight, on what they are, and what they are NOT
- And what they can, and CANNOT do.
- They should not be discarded, but rather their shortcomings addressed, and newly implemented in a precautionary way with with sufficient involvement of the beneficiaries and attention to the consequences
- CSs/ITQs must be acknowledged as ONE of the tools that can help restore fisheries, along with science-based catch limits, controls on by-catch, and effective protection of key marine habitats

Questions that **MUST** be answered before CSs/ITQs can be implemented further

- How can we define the rules to prevent unintended negative social, economic and environmental consequences? What do we do when they occur?
- How can we structure any economic incentives to avoid conditions that could trigger claims of "interference with economic benefit" (of individual quota owners) whenever habitat or species protections (or a reduction in the TAC) becomes a scientific necessity?
- What other monitoring and policy tools can we use in combination with CSs/ITQs to ensure the significant excess capacity we have in fishing boats and gear does not just shift to other fisheries and geographies?

So, what else should we be thinking about?

First, US federal fisheries management law emphasizes **fairness, equity** and **consideration of community interests**, so why wouldn't we at least consider how we might allocate fishing privileges and public resources within these priorities?

And second?

Had ITQs been in place across Gulf fisheries, how would we have handled post Deepwater Horizon disaster allocations of catch?

What if the Total Allowable Catch (TAC) were affected for years to come?

Would fishermen sue NOAA/BP/Transocean/Halliburton for harming their economic opportunity (ownership) interest in the longer term, and value that interest at their share of the expected TAC during the closure or in years beyond the scope of any BP compensation scheme?

It's something to think about as fishery populations shift in response to temperature and chemical changes in the ocean, and of course, as we open new vulnerable, fisheries rich areas like the Arctic to high risk oil and gas extraction activities.

Conclusion

- The most simplistic solution is unlikely to be the best. The path to achieving our sustainable fishery management goals requires step by step, thoughtful, multi-pronged approaches.
- We need to perfect our own use of management tools before we export them to other countries, and even then, we want to make sure that we do not abandon our hope of ensuring that fishing-dependent communities have a stable economic, environmental, and sociocultural future.

Implementation of the first visionary federal fishery law of 1996 and its 2006 cousin have been slow and frustrating. But a dedicated coalition of organizations (and their funders) around the country hung in there. And substantial progress has been made in reducing overfishing in the United States. Many fisheries are in recovery and we need to use every tool to keep them that way.

Select Bibliography

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- Sustaining America's fisheries and fishing communities, An evaluation of incentive-based management. Environmental Defense Fund
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- Marine Fish Conservation Network. MFCN comments on Guidelines for Implementing Limited Access Privilege Programs. Letter to the Director of the Office Sustainable Fisheries, NMFS, dated September 28, 2007.

More Bibliography Items

- Lee G. Anderson and Mark C. Holliday (Eds.). The Design and Use of Limited Access Privilege Programs, NOAA Technical Memorandum NMFS-F/SPO-May 2007: p. 11

Good Intentions, the Official Limited Access Privilege Program Criteria:

- A LAP program cannot create any right, title, or interest (MSA § 303A(b)(1-5)) [MSA 2006 amended]
- A LAP program must promote and foster fishery conservation and management objectives, including rebuilding plans, bycatch reduction, habitat protection, etc. (MSA § 303A(c)(1))
- A LAP program must include an effective system for enforcement, monitoring and management of the program (MSA § 303A(c)(1)(H))
- A LAP program must establish clear eligibility criteria and provide adequate consideration of the impacts to fishing communities (MSA §§ 303A(c)(3)(A)(i), 303A(c)(3)(B); 303A(c)(4)(C))
- The LAPP must establish an excessive share cap and prevent excessive consolidation of the fishery (MSA § 303A(c)(5))
- The LAPP must establish a policy and criteria for transferability of quota shares that consider social impacts, not just efficiency (MSA § 303A(c)(7))
- The LAPP should contain measures to assist entry-level fishermen, small vessel owners, and crew who may not have qualified for shares of quota at the outset of the program (MSA § 303A(c)(5)(C))
- Regular monitoring and review by the Council and the Secretary are required, including a detailed 5-year review (MSA § 303A(c)(1))
- LAP permits may be issued for a period of not more than 10 years, but will be renewed before the end of the period unless otherwise modified or revoked (MSA § 303A(f))
- All LAP programs must have a cost recovery mechanism: the Secretary of Commerce shall collect a fee to recover “*the actual costs directly related to the management, data collection, and enforcement of any LAP program*” MSA §§ 303A(e); 304(d)(2)(i))
- The Plan should be subject to referendum by eligible permit holders in the fishery (MSA § 303A(c)(6))