Rights Based Management and Small Scale Fisheries in the EU:

Human Rights Versus Property Rights

A LIFE Position Paper on ITQs

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Contents

Acronyms

RBM – Rights Based (Fisheries) Management

SSCF – Small-Scale Coastal Fisheries / Fishers

LSF – Large-Scale Fisheries / Fishers

ITQs – Individual Transferable Quotas

TFC – Transferrable Fishing Concession

TAC – Total Allowable Catch

PO – Producer Organisation

TURFs – Territorial Use Rights in Fisheries

MS – EU Member States

Summary

This paper sets out the LIFE position on Individual Transferable Quotas (ITQs). The Common Fisheries Policy (CFP) leaves open the possibility for EU Member States (MS) to establish systems of transferable fishing rights, and implementing the discard ban has rekindled the debate about introducing such rights. ITQs have caused no end of controversy in the EU small-scale and coastal fisheries (SSCF) sector and it is essential that we confront and examine this approach to allocating fishing rights[1], given the risk that they may make a comeback in the EU. ITQs are often put in place with the stated purpose of reducing overcapacity and improving economic efficiency, but the failure to consider equity along with other human rights aspects (civil and political, social, economic and cultural) of fishing communities has meant that ITQs have disadvantaged SSCF and prejudiced their ability to enjoy their human rights. In this context, and given the extensive locally significant economic, cultural, social and environmental benefits delivered by the SSCF, it is vital to critically analyse any EU or Member State proposal for introducing ITQs against both intended and unintended harmful consequences that may result regarding SSCF, and to ensure that provisions that mitigate against such harmful consequences are included in any initiative.

There are many claims about the benefits of applying clearly defined individual rights (such as ITQs) to fisheries, and it is the aim of this position paper to demystify the issues: to clearly define what is meant by ITQs; to assess the claims made in support of them; to provide a clear set of design principles if ITQs are to be instated; and to propose alternatives to ITQs that would be compatible with a viable SSCF sector.

Where they have been imposed around the world the experiences have been consistent: ITQs have led to loss of employment, concentration of ownership, and increased social and economic costs for SSCF[2]. For these reasons, and many others provided below, LIFE opposes the introduction of ITQs. In this paper, we conclude that many of the purported benefits of ITQs are hypothetical, false, ideologically motivated, or exaggerated, or all of these. ITQs do not improve sustainability and stewardship and only improve efficiency in a narrow economic sense, that does not take account of the wider social and cultural value of small-scale coastal fishing. A key purpose of this paper is also to highlight the impacts that ITQ systems have had on SSCF fishers around the world, to reference those findings, and to link these negative outcomes to the objectives of fisheries management in Europe, most notably Article 17 of the Common Fisheries Policy, which proposes the inclusion of social and environmental criteria in the allocation of fishing opportunities such as quota in the absence of transferrable fishing rights.[3]

Context

Obligatory transferable fishing concessions (TFCs)[4] were initially proposed by the Commission during the last CFP reform[5]. However, their proposal was rejected by Member States (MS), who also rejected the idea of differentiated management measures for small and large scale fisheries. The proposal for adequate safeguard measures to be in place in such a compulsory TFC scheme to ensure that the industry behaved responsibly was also rejected.

As a consequence, the reformed CFP has left open the opportunity for MS to institute transferable fishing rights systems, without establishing the necessary safeguard measures to ensure responsible behaviour of the industry, or protecting small-scale fisheries from the perverse effects of ITQs[6]. For

example, the preamble (point 42) states that MS "should be able to introduce a system of transferable fishing concessions", and defines TFCs as "revocable user entitlement… which the holder may transfer". Article 16 and 17, which demand that the Commission be informed about allocation mechanisms for fishing opportunities and for transparent and objective criteria to be used to allocate fishing opportunities, are subordinate to the use of TFCs.

Although ITQs, like TFCs may be revocable user entitlements in principle, in practice this may be difficult to enforce. Any government attempting to revoke such tradeable rights would most likely face court action, and potentially huge claims for compensation.

This apparent contradiction between Articles 16 and 17 is less than helpful but should be viewed against the increasing evidence that implementing what amounts to a giving away for free of a public resource has negative consequences for fishers large and small, as well as often vulnerable coastal communities.

It is therefore with some concern to LIFE that the Swedish government is proposing to introduce an ITQ system from January 1 2017 in its Baltic and North Sea demersal fisheries[7]. It is reported that small scale coastal fishing in the Baltic is to be exempted, and that measures will be included to protect small scale coastal fisheries. However, much depends on whether or not there is a fair division of quota between fleet segments at the outset.

Introduction to Rights Based Management

Rights-based fisheries management (RBM) is a fisheries management tool[8]. RBM systems allocate a secure right to a certain volume of catch, to use a certain amount of fishing effort, or to access certain fishing grounds (Annex 2),[9] generally to deal with overcapacity and/or overfishing within a fishery. Some RBM systems grant the holder of the right a fixed amount of the catch of a particular fish stock, and the ability to sell, trade or lease out that right to others. RBM approaches, of which individual transferable quotas are one form (see Annex 1), are frequently given credit for successfully reducing capacity and achieving other management objectives, despite the coincident introduction of scientifically set catch limits and more efficient and effective regulation and enforcement underpinning these successes. This conflation often leads to the wrong conclusions being drawn, often by vested interests, which focus on the introduction of ownership of access to the resource rather than effective management and regulation.

Given the possibility of poor or negative outcomes in RBM schemes, especially, but not necessarily exclusively for small-scale fishers and wider Society, they need to be applied with considerable caution. There are important trade-offs in any RBM scheme, therefore good system design that supports SSCF, described later in this paper, is absolutely essential where RBM provides the effective basis for fisheries management.

On the basis of the above, LIFE rejects the use of RBM systems that don't incorporate specific safeguard measures for small scale fisheries. Rather LIFE calls for a human rights based approach to fisheries management as opposed to a property rights based approach.[10] The incorporation of human rights principles into fisheries management not only avoids the negative outcomes of resource privatisation but also delivers a far fairer and more equitable solution[11], not least with regard to SSCF communities, which are too often marginalized in fisheries management and policy decision taking processes.[12]

An Overview of RBM Systems including ITQs

Individual transferable rights are one form of RBM, but they are not the only form. Below we provide an overview of other forms of RBM.

Individual Quotas (IQ) – IQs are associated with vessel licenses or vessel ownership, and are generally allocated on the basis of historic track records. IQs may or may not be transferable independently of the vessel or its license (i.e. IQs are generally transferred, if at all, with sale or scrapping of the vessel). In the EU, quota swaps between Producer Organisations (POs) are permitted, and there may be informal, unregulated IQ markets (such as in the UK).

Catch shares – Essentially another form of individual quota, where fishers are given a long-term and exclusive share of the available fishing opportunities or TAC. Catch shares can be held at different levels (community, organization, company, individual) and can provide a right to a certain catch tonnage, amount of effort or to a share of an area (see TURFs below). Most catch share systems use individual quotas (IQs) or individual transferable quotas (ITQs). Most EU member states currently have catch shares systems in place, even if they are not described as such.

Community Quotas (CQ) – These are like individual quotas but allocated to a fisher group (a fisheries association, PO or port). It is up to the collective unit how the quota is allocated to and used by its members, and to ensure compliance with the catch tonnage allocated, albeit that this form of allocation is often overseen by government quota managers[13].

Individual Effort Quota (IEQ) - When individual fishers receive a long-term effort share (this may be in the form of HP, kws, units of net / line, days at sea, or a mixture of these) they can be considered a form of RBM if they grant fishers an annual allowance for effort (capacity x fishing days). In some cases these rights may be transferable (ITEQ).

Territorial Use-Rights for Fisheries (TURF) – TURFs are user-rights that come in the form of a defined territory / geographic area, which is allocated to, or claimed by a user group (fishing community, company, organization, group of vessel owners etc.). TURFs provide exclusive access to harvesting fish or shellfish within that area to a defined group of fishers. TURFs are considered a form of RBM because fishers have a long-term exclusive right to access the fishery. TURFs are physical, geographical and non-transferrable; they may also be time bound or seasonal.

Limited Licensing (LL) - LL limits the number of vessels in the fishery, and is usually applied in conjunction with technical and effort controls on capacity, gear types, spatial limits and target stocks within license conditions.

Individual Transferable Quotas (ITQ's) – ITQs are yet another form of IQ or 'catch share', where fishers receive an **individual and exclusive right/share** of fishing access (eg. catch quota) that can be **traded** (sold or leased). Historically, the initial allocation of ITQs is based on the track records of qualifying vessels. Like IQs, ITQs are revocable by the state in principle, although this may be difficult in practice, and they may be allocated for relatively long periods, or even indefinitely. Due to their long term allocation and tradability, ITQs are seen as a kind of privatization of fishing rights [and are almost exclusively considered as such by beneficiaries]. The ability of governments to revoke ITQs may also be challenged by ITQ holders and by the banks, who may regard them as private property rights.

NB: There is often some confusion with regard to the allocation, value and right to hold quota. In the UK for example, the only time that an individual, company or PO holds quota is when quota has been allocated against the Fixed Quota Allocation (FQA) that has been provided to the holder by one means

or another [normally having either been granted based on historic catch records or purchased from an existing holder]. These allocations of quota are provided following an annual assessment of stocks and therefore the amount [TAC] that is to be permitted to be taken from any given stock in any sea area in the following year. These overall TAC's are then divided by means of a Relative Stability key between relevant Member States who then further subdivide them to holders of FQA's[14]. The confusion arises where FQA's [a fixed percentage of the overall member state allocation based on an individual FQA holding] and quota [the annual amount allocated against an individual's FQA holdings for that particular species and area] are used synonymously. Whilst it may sound straightforward, the crucial difference is that whilst a holder retains his FQA entitlements year on year, they have no value unless quota is allocated by the member state against them. In an extreme case, the member state may decide not to allocate any quota in a particular year, against any FQA, thereby illustrating that FQA's on their own have no value.

Evaluating the purported benefits of ITQs

ITQs are often presented as a 'win-win' for fisheries management that delivers benefits that are both economically and environmentally desirable. ITQ systems have been implemented in numerous countries including the Netherlands, Sweden, Denmark, Iceland, Malta, Canada, South Africa, Namibia, Chile, USA and New Zealand.

The purported benefits of ITQs are:

- Economic: The security of tenure of ITQs allows for long-term planning and greater profitability. This is furthered by the transferability of ITQs that induces economic efficiency by putting fishing rights in the hands of those generating the most economic value and who are the most financially efficient.
- Environmental: The concentration of rights leads to a reduction in fishing capacity, linked to a perception that having fewer boats equates to a reduced environmental impact.
- Compliance/ stewardship: Ownership [of rights] equals compliance. If fishers feel that they 'own' a stake in a fishery then they will be better stewards of the environment, including the stock itself as it is in their own interests to do so'. This 'stewardship' also assumes lower management and enforcement costs[15]
- Social: The security of tenure of ITQs means that fishing is safer as there is no 'race to fish'. The economic returns from ITQs can lead to higher wages[16]. There should also be lower costs to public management as fishing capacity is lower and the allocation of fishing opportunities is handled within the market system.

Economic efficiency, profitability, and capacity reduction

Where they have been introduced around the globe, ITQs have brought down fishing capacity and boats remaining in the fishery have become more profitable. There are however two issues which need addressing immediately in this regard. First, there is the misguided and narrow focus on economic efficiency which doesn't include many diverse forms of value (social cohesion, equity, sense of place, heritage) that fishing, particularly SSCF provides and that is not directly linked to profitability and thus viability in an ITQ fishery. Secondly, the 'successful' capacity reduction fails to note the disproportionately high impact on SSCF compared to the LSF, despite the fact that SSCF generally have a lower fishing capacity and impact on fish stocks.

Many other associated negative outcomes have been documented[17] which include the concentration of quota, increases in purchase and lease costs forming barriers to entry, and the ownership of fishing rights leaving the fishing sector, as well as the ports and regions where the fishing activity takes place.

The result has been growing inequality both within and between fishing communities and fishery sectors. As quotas have become a valuable traded commodity, investors, large-scale fishing companies and POs have been able to buy up the quota, which leads inevitably to speculative quota trading and inflated quota values in a similar way to any other tradeable commodity. Following the market based efficiency logic to its conclusion, the world's biggest commodity traders and food companies would eventually own all the fishing rights, the boats and the processing plants as the industry becomes more concentrated and vertically integrated. The dominance of these vertically integrated companies extends beyond their interests in fisheries supply chains as owners of the fishing rights, and extends into their ability to shape policy and advocate for solutions in their interest, as well as to move in and out of different economic and productive sectors.

Small-scale fishers, as a result of this dispossession and disenfranchisement, have been marginalised, and although we represent the majority of the vessels and workforce in the EU (82% of the vessels in the EU are small-scale coastal vessels[18]), we have traditionally had limited, if any input into management decisions due to a significant difference in the scale of resources between LS and SSCF that in large part relate to the heavily skewed ownership of fishing rights.

While an ITQ system might lead to improvements in economic efficiency and capacity reduction, unless adequate safeguards are put in place, this would be at the expense of the access rights of small scale fishers. Proponents of ITQs sometimes insist that the stock conservation benefits and efficiency goals justify the use of ITQs.[19] There are, however, a wide array of available management and regulatory approaches which can (and have) achieved the same outcomes. Good regulation underpins the effectiveness of these market driven systems, but it is privatisation of rights that is frequently given credit for this. These alternative systems are described in a later section.

Improved stewardship and sustainability

It is widely claimed that ITQs improve stewardship and encourage environmentally responsible practices.[20,21] The claim holds that as fishers have a long-term stake in the fishery thanks to their 'ownership' or secure tenure of quota, they are more likely to comply with fishing regulations and to look after the resource. However, the main determinant of resource sustainability is the total amount of quota, which should be set according to scientific advice and properly enforced quota limits. The particular quota allocation system is secondary. For example, when ITQs were first introduced in the Netherlands in the 1980s, illegal overfishing remained high and it was only following the establishment of a co-management system that Dutch fishers complied with catch limits.[14] While often stated in support of ITQs, researchers have found little to no empirical evidence to support a relationship between ITQs and improvements in environmental stewardship.[22] At the same time, those with limited access to quota and even those with significant quota holdings are reported to use high grading [discarding] to maximise the return on their investment. Illegal fishing by large quota holding companies is also not uncommon as a recent experience from Scotland shows [23] - further disproving the ownership = stewardship myth.

Impact of ITQs on Small-Scale Coastal Fisheries (SSCF)

ITQ systems are usually introduced in a context of overcapacity, a race-to-fish, or poor economic performance. Economic objectives to make the fleet more competitive and balanced in relation to available fishing opportunities mean social objectives are often an afterthought. The effects of ITQs on SSCF needs to be seen in this context.

An ITQ system imposes market incentives on fishers as competing producers. More profitable fishers use their capital to expand by buying more quota and unprofitable fishers sell theirs (and possibly leave the fishery or switch to non-quota species).

ITQs have the following impacts on the SSCF:

- **Increased costs to obtain fishing rights put pressure on SSCF -** Fishers without sufficient quota to match their fishing catches have to buy or lease quota, but buying is often not an option for SSCF (less capital and access to finance).[24] The costs of leasing are frequently prohibitive[25] and ITQs can also result in greater administrative costs for fishers.
- **Quota consolidation by larger operators takes place-** Larger operators buy up additional quota whilst others sell theirs, which increases quota concentration and inequality.[26] Recent studies concerning quota ownership in Iceland,[27] New Zealand,[28] and Malta[29] all confirm this assertion. Additionally, larger scale operators sometimes purchase quota as a way of reducing tax liabilities.
- **'Slipper Skippers'[30] / 'Quota barons' / 'Sea Lords' emerge -** Some of those who have ITQs decide to leave the industry and make an income from leasing out their quota and as quota has become commodified, some see it as an investment opportunity – lucrative options for the quota holders but costly for SSCF and other fishers reliant on leasing[31]. This practice also creates a gap between ownership of the resource and those who fish the resource and are connected to coastal communities.
- **Vertical integration and merging of fishing companies takes place-** Companies are incentivised to merge and integrate to pool their quotas[32]. This concentrates market power amongst big operators, reducing access for SSCF.
- **Increased barrier for new entrants -** In addition to license and vessel costs, new fishers have to buy or lease quota in order to fish in most cases.[33] This makes it harder for new fishers to join the SSCF fleet.
  [NB: the final two bullet points above increase demand and therefore the cost of leasing or buying quota. This has been and will continue to be exacerbated by the implementation of the Landings Obligation and the need for fishers to have sufficient quota to cover not only target species but also those that may "choke" fishing effort].

These impacts often lead to secondary unintended changes:

- **Small-scale fishers come to rely more and more on non-quota species** - When leasing or buying quota becomes unaffordable SSCF become confined to non-quota species[14] which concentrates effort and can put extra pressure on data deficient stocks. It can also cause market gluts and the associated depression of fish prices.
- **Many small-scale fishers leave the industry-** Capacity reduction is a clear outcome of ITQ systems[34] but SSCF are disproportionately affected.
- **Smaller ports close and landings are concentrated at larger ports** - As fishing rights are concentrated and SSC fishers leave the industry, many small ports become unviable which affects smaller coastal communities where fishing is the primary economic activity. Once port infrastructure is lost, ports don't come back again.
- **Negative social and environmental externalities may be amplified-** ITQs (and economic efficiency) are blind to both the social impact to coastal communities and the environmental impact of moving towards more destructive gear types.[35]Whole communities are lost as quota is consolidated elsewhere.

Because of these impacts on SSCF, we propose the use of **alternatives to ITQs** (see **Annex 3**) for small scale fisheries, where quota is kept in national ownership; quota for the SSCF is pooled and this pool is ring-fenced with provisions to facilitate future access for young fishers into the fishery; this quota should not be transferrable and the initial allocation should be criteria-based in line with Article 17 of the CFP.

Good design features of RBM systems

If RBM is to be used, it needs to be designed very carefully to ensure the protection of SSCF rights. It is an absolute necessity for there to be representation of SSCF at all stages of the design process if the system is to deliver equitable outcomes for fishers and coastal communities.

In particular, we call for the following features to be integral in any RBM system:

- **Public control**: Although quotas can be a long-term and secure privilege, ultimate ownership has to be retained by the Member State which has a genuine ability to revoke it under certain circumstances and without compensation. Temporal stipulations or contractual time-bound clauses must be included in the first instance.
- **Equitable initial allocation**: SSCF are disadvantaged from the start through inequitable quota distribution, if they were not legally obliged to have track records, or if the reference period for catch records is set over periods which put them at a disadvantage. Quota reallocation to right historic wrongs is needed.
- **A separately controlled SSCF quota pool:** To achieve wider social and environmental objectives, an adequate proportion of the national quota needs to be set aside for SSCF, allocated using performance-related criteria (CFP Article 17) and enabling access for new entrants into the fishery.

And for ITQ systems in particular:

- **Restrictions on ownership and concentration must be included**: Only active fishers should be permitted to hold quota, with limits set on the amount of quota any individual or enterprise may hold. Quota ownership needs to be capped to prevent the appearance of 'slipper skippers' or 'quota barons'.
- **Separate markets for separate fleets by design:** SSCF quota should be completely separate or ring-fenced. This is to prevent quota leaving the SSCF and its concentration by others, to the detriment of small coastal fishing communities.

Conclusions

Calls for implementing ITQs in some EU Member States do not sufficiently take into account the perverse outcomes that ITQs have. Evidence from numerous studies shows a range of negative impacts associated with ITQs, especially for the SSCF.

- ITQs often make access to the fishery more difficult for SSCF, particularly when their initial quota allocation has been restrictive; ITQs also prevent access for new entrants; result in concentration of wealth and influence as well as inequality and social divides within fishing communities[36].
- It is questionable whether efficiency improvements and capacity reduction can best be achieved through shedding SSCF fishers. SSCF generally have very low capacity and catch a very small percentage of the national quota.

- ITQs can negatively impact SSCF by concentrating fishing activity around larger fishing ports.
- ITQs come with big risks, especially when badly designed (or created by default or deregulation– e.g. in the UK).
- ITQs are a system based on an economic logic that does not take into account wider impacts and different forms of value. It is theses wider forms of value which (in addition to food provision) the SSCF provides to coastal communities.
- It is true that ITQ systems can vary greatly in practice and in many cases contain safeguards to mitigate some of their negative impacts. Despite these safeguards, it is rare to find an ITQ system that has not seriously disadvantaged SSCF in some way, or where safeguards have been eroded over time.
- ITQs undermine the heritage rights of SSCF and the maintenance of fishing and nonfishing related employment, knowledge, skills and tradition in small coastal communities[37].

LIFE position statement on ITQs

The Low Impact Fishers of Europe (LIFE) reject Individual Transferable Quotas (ITQs) as an integral component of EU fisheries policies and management, because of the disproportionately negative impact they have on small scale coastal fishers and fishing communities.

Alternative forms of allocating fishing opportunities can deliver social, environmental and economic benefits without jeopardising the survival of the small scale fleet and the wider value they provide to Society.

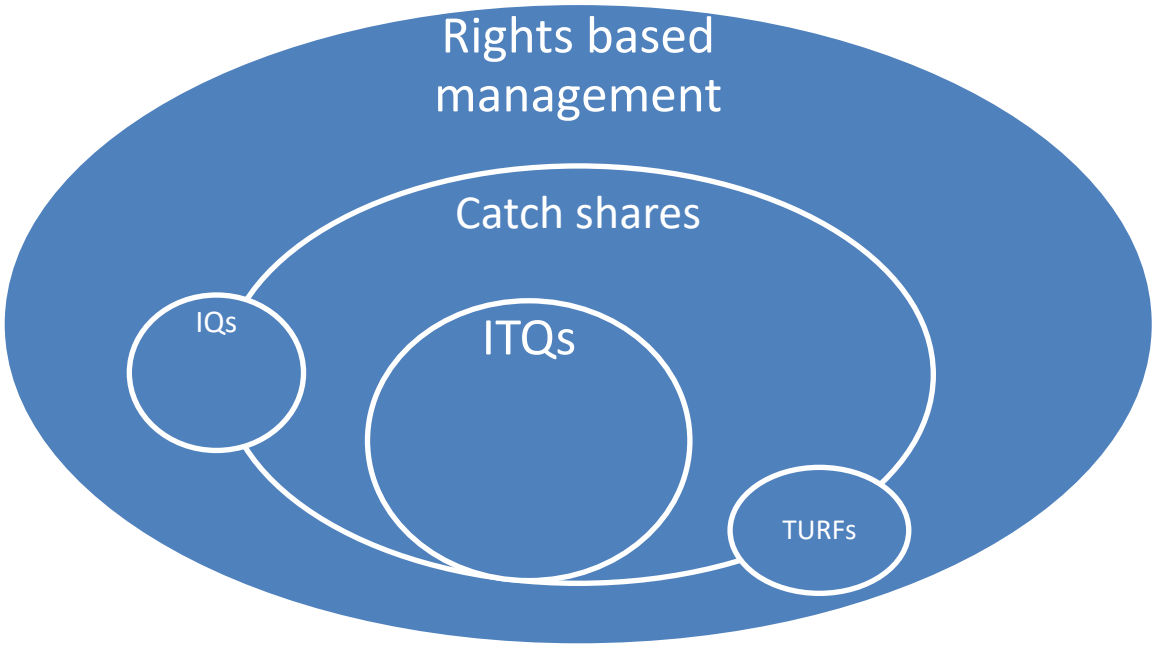
Alternatives include: pooling quota in SSCF Producer Organisations, Fishers Co-Ops or other collective forms of organisation that can provide the necessary security and equity of access to quota for members; setting aside a share of national quota to re-allocate according to social, environmental and economic criteria (according to Article 17 of the CFP). Member States can then ensure that the SSCF survives and thrives according to the objectives of the CFP (Article 2.1, 2.5.f), 2.5. i)); this pooled quota, held collectively, with appropriate allocation criteria, can also be used to ensure new entrants into the SSC fishery, guaranteeing a future for young fishers and the SSCF itself; a quota pool should also be put in place for special allocations to maintain a diverse and sustainable SSCF fleet.

It is essential that quota allocation is criteria based (Article 17 of the CFP) and not only based on sometimes dubious catch histories. Giving environmental and social criteria priority over catch history will also mean a shift towards lower impact, higher community value fisheries.

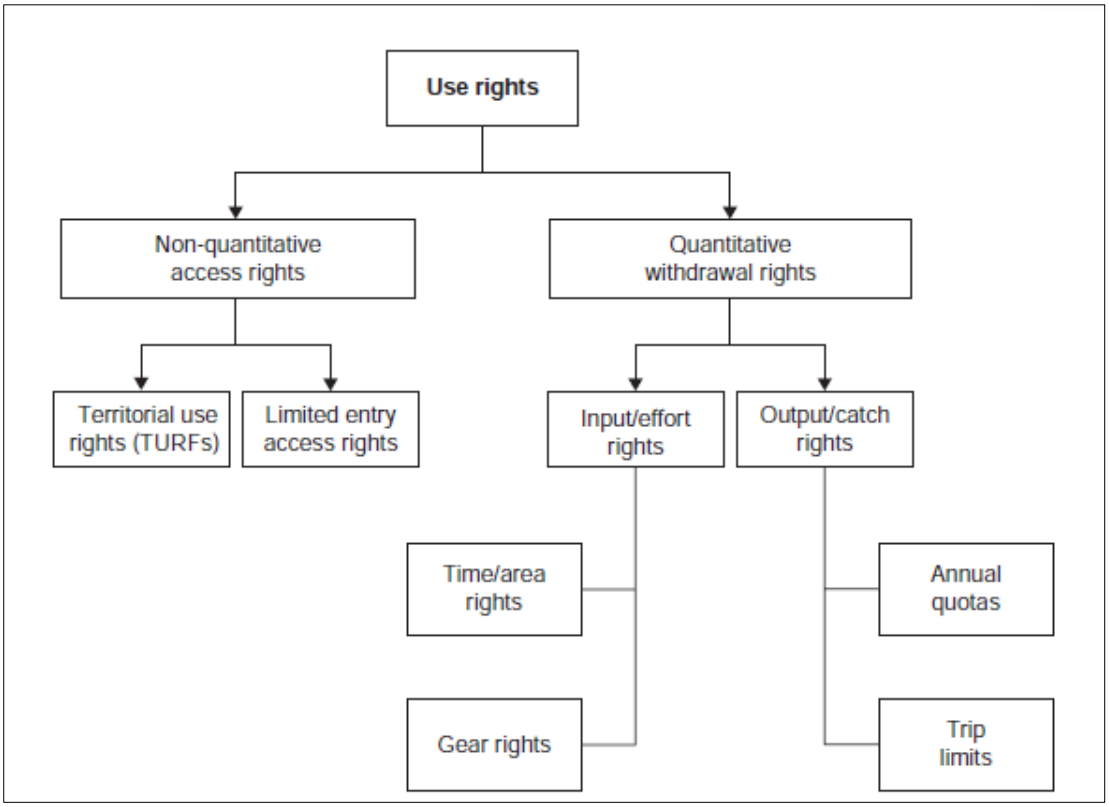
Most importantly - fish should remain a public resource, and access to fish stocks managed and regulated by the Government. Privatisation of the access rights to fisheries resources is unacceptable and not in line with the public interest, with the interests of our members or of coastal communities.

Where ITQs are imposed upon us, we demand that: adequate safeguards are put in place to ensure that only active fishers are able to hold ITQs; that genuine limits on the concentration of ITQs are set; that sufficient and equitable amounts of non-transferable quota are set aside and ring fenced for small scale fishers, a proportion of which is reserved to ensure young fishers can enter the industry.

Annex 1: Diagrammatic representation of ITQs



Annex 2: The relationships between the different forms of use rights[38]



Annex 3: Alternatives to an ITQ system

Most of the perceived desirable features that ITQs offer can also be provided through alternative structures ('viable alternatives to ITQ systems') and without the unintended outcomes associated with ITQs. If, however, an ITQ system is put in place, we propose a set of safeguards to mitigate their undesirable impacts ('Important safeguards in ITQ systems').

Comparing ITQs and alternative systems

Flexible quota access

ITQ system: As quotas can be bought and sold as well as leased, fishers can access the quota they need in the face of changing circumstances. However, high prices and concentration of ownership can act as a barrier - especially to small-scale fishers, with less financial resources and whose access to finance may be limited.

Alternative: Through pooling quotas in producer organisations (PO's) or other collectives, individual fishers can be given flexibility over their fishing choices to suit their individual circumstances whilst staying within fishing limits. Beyond this pool, there should also be ring-fencing of quota to ensure that it cannot leave the port / area / community and to ensure the long-term viability of the fleet – e.g. through providing access guarantees for young fishers. PO's should be democratically organised and accountable and compliant with their duties, governance and structure in line with the CMO (Common Organisation of Markets Regulation). Pooling quota may also provide at least an element of an effective solution to the discard ban and the choke species problem it raises.

Secure quota access

ITQ system: ITQs offer a long term right to fish a share of the national quota. This allows fishers to plan ahead and gives them security. It can also serve as collateral for accessing loans, thus allowing fishers to invest in upgrades and new vessels.

Alternative: By having in place a system of fixed shares that can only be accessed with due notice and in specific circumstances, fishers can have confidence in future access. This can also be a reliable basis for investment and long-term planning. This confidence should however not be confused or conflated with the allocation of permanent rights, or legal ownership of that share.

Social and environmental objectives (CFP Article 17)

ITQ system: It is difficult to pursue social and environmental objectives in an ITQ system. Quotas are transferred only according to the logic of the market actors. The view of ITQs as a property right, makes it difficult for governments to revoke them without the threat of having to pay compensation.

Alternative: Social and environmental objectives can be pursued through setting aside a share of national quota or periodically performing re-allocations based on fishers meeting certain criteria of a social, economic and environmental nature. This role can also be fulfilled by PO's that represent such fishers.

Profitability and efficiency

ITQ system: In a market-based system, fishers [and non-fishers] with the greatest capacity for investment will be able to buy up more quota and fish more capital-intensively. This will lead to higher profitability for fishers that can increase business efficiency and make large investments in modern vessels and technology that improve productivity.

Alternative: Through quota flexibility and investment, fishers can improve their economic performance as they can plan, invest and improve their business.

Capacity reduction

ITQ system: In an ITQ system where quota prices are high, many fishers with low profits or nearing retirement age are incentivised to sell their quota and leave the industry. Smaller, less productive vessels become inactive or are scrapped, leading to a reduction in the fleet's capacity.

Alternative: Capacity reduction doesn't come naturally without a market system, which in any case may be out-paced by technological creep; it will require some kind of state-intervention. However, when TACs are science based and properly enforced, then the need for capacity reduction is reduced or avoided entirely.

Accessible entry to new fishers

ITQ system: ITQs are often highly restrictive to new entrants, making the purchase of quota prohibitively expensive, and adding to start-up costs .

Alternative: A quota reserve can be held by the State, and allocated annually at its discretion, or with each periodic allocation review, to a quota pool set aside for new fishers to enter the market. PO's can also manage such a reserve if mandated.

A diverse fleet

ITQ system: ITQs have a tendency to make the fleet more homogenous in terms of vessel size and gear type with greater specialisation with regards to the species they catch (e.g. Demersal or Pelagic species).

Alternative: By initially allocating quota based on a variety of criteria and having a quota pool set aside for special allocations, a diverse fleet can be maintained where environmentally sustainable fishery activities are rewarded and not punished.

Viable SSCF fleet

ITQ system: In an ITQ system that does not make a clear differentiation between vessel sizes or types, coastal fishers tend to lose out, because the market for ITQs does not take account of the different economic realities of SSCF and LSF. As a result, SSCF are unable to afford buying quota and often end up selling their quota to larger fishing operations when they leave the industry. Larger, more profitable companies tend also to have better access to capital that allows them to make investments and buy quota.

Alternative: Initial allocation can be based on social, environmental and economic criteria – not just historic catch record and an underpinning system can protect the small scale coastal fleet.

Minimise environmental damage.

ITQ system: Market systems tend to incentivise the most low-cost forms of production (but *economically efficient production does not consider the environmental impacts of the externalities of that production)*. Through externalising costs, that which has the lowest financial cost, may actually have the highest ecological one. Often trawlers are more cost-effective than passive gears but may cause more local environmental harm. The more remote the quota holders are from the environmental impact of their operations, the less pressure there is to act responsibly

Alternative: With a non-transferable quota system, passive gear fishers cannot sell their quota to other fishers so it is unlikely that fleet composition will shift to a higher proportion of towed mobile

gear, for example. Moreover, initial allocation can be based on environmental criteria to reduce ecological impacts.

Fish as a public resource

ITQ system: If ITQs confer a type of property right to actors, the fishery loses its status a public asset. It can mean that fishing becomes an activity that is purely in the hands of private individuals until some legislation overrules it, giving the state little room to manoeuvre and to manage fisheries for the common good, by limiting ownership concentration and the resulting social impacts.

Alternative: Keeping quota in national ownership allows the state to pursue a range of objectives that are in the public interest. The resource isn't privatised and the state has final control over the resource and doesn't have to compensate for changes made to the system. It can also revoke entitlements without undue threat of compensation.

Summary of alternatives to ITQs

An ITQ system is not the only or necessarily the best quota system. Alternative systems under the auspices of a PO or other collective form of management that holds quota for members can deliver similar management objectives of an ITQ system. Such alternative systems can provide flexibility in terms of quota access as well as guaranteeing long-term security. A dedicated quota pool can be provided for at either the ministry or PO level to give greater opportunities to new fishers and enable allocation according to social/environmental objectives in line with Article 17 of the CFP.

Annex 4: ITQ Briefing Sheet for LIFE members

Purported benefits of ITQs

- **Efficiency** – Usually a narrow definition of economic or technical efficiency that does not take external costs into account (such as environmental impact). Economic efficiency may work against the achievement of lower ecological impact or local employment generation.
- **Profitability** – ITQs usually improve profitability for vessels that remain in the fleet, but many fishers will leave as quota is consolidated, and quota leasing may prove prohibitively expensive for non-quota owing vessels and new entrants. Another perverse effect of ITQs is the tendency for larger scale operators, focused on economic efficiency, to use crews from developing and other non EU countries at the expense of local labour and labour standards.
- **Improved Stewardship** – Unproven. Often conflated when there is a TAC based on good science and enforcement, which are the real determinants of sustainable fishing.
- **Sustainability (selectivity/discards)** – No conclusive evidence. High-grading and/or under-reporting may increase under ITQs.
- **Capacity reduction** – Yes, but this is an objective with trade-offs as well. Capacity reduction has a disproportionate impact on SSCF, with resultant significant negative social and economic effects on coastal communities.
- **Win-Win** – Environmental benefits are questionable. Economic benefits may be at the expense of communities that lose out. The third, social dimension of sustainability should not be overlooked. Inequality may increase as SSCF have restricted access to finance and their capital/ running costs increase (to purchase or lease quota) , putting them at a disadvantage relative to larger scale operators or companies.
- **Better planning** – This is possible without an ITQ system.
- **Just outcomes** – Markets are not value-free. There are also externalities and market failures through power and wealth imbalances.

The impact of ITQs on Small-Scale Fisheries

An ITQ system imposes market incentives on fishers as competing producers. Fishers that are the most profitable can use profits to expand their operations by buying more quotas whilst unprofitable fishers are forced to sell theirs. Operators and outside investors may accumulate ITQs and lease out quota to fishers who cannot afford to buy quotas themselves.

These changes have the following consequences:

- Increased costs to obtain fishing rights puts financial and operational safety pressures on SSCF with the potential to increase financial (including of bankruptcy) and health and safety risks.Quota consolidation by larger operators drives power imbalances
- ‘Slipper Skippers’ and ‘Sea Lords’ drive inequality in the fishing industry and increase costs for those who have to buy or lease quotas.
- Vertical integration and merging of fishing companies creates power imbalances
- Increased barrier to entry for new fishers means that current industry age profile is increasing

These impacts then often lead to the following secondary changes:

- Small-scale fishers are forced to concentrate on non-quota species, which can lead to overfishing, and may cause fish prices to drop as markets are flooded by ‘gluts’ in particular non-TAC landings)
- A disproportionate number of small-scale fishers leave the industry for economic reasons created primarily through inequitable allocation and lack of access, although their fishing practises are low impact and sustainable

- Smaller ports close and landings are concentrated at larger ports, which has an impact on coastal and rural communities.
- Negative social and environmental impacts may increase.

Conclusion

ITQs are a system based on an economic logic that does not take into account wider impacts and different forms of value. They make access to fisheries more difficult for small-scale fishers, prevent access for new fishers, result in economic consolidation and drive inequality, and negatively impact small coastal communities.

Endnotes/ References

[1] http://www.icsf.net/en/samudra/article/EN/70-4118-Comment.html
[2] http://www.icsf.net/en/samudra/detail/EN/3701.html?detpag=mapart
[3] CFP Basic Regulation (2013) http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:354:0022:0061:EN:PDF
[4] http://www.icsf.net/en/samudra/detail/EN/3699.html?detpag=mapart
[5] http://www.icsf.net/en/samudra/detail/EN/3615.html?detpag=mapart
[6] DG Mare: Public Consultation on Rights-based management tools in fisheries. http://ec.europa.eu/dgs/maritimeaffairs_fisheries/consultations/rbm/index_en.htm
[7] http://www.fiskerforum.dk/en/news/b/sweden-to-introduce-individual-demersal-quotas
[8] FAO - Property rights and fisheries management http://www.fao.org/fishery/topic/13335/en
[9] Environmental Defense Fund. EDF Fishery Solutions Center: http://fisherysolutionscenter.edf.org/rbm-basics
[10] Cochrane, K.L. (ed.). 2002. A fishery manager's guidebook. Management measures and their application. FAO Fisheries Technical Paper No. 424. Rome, FAO. 231p. http://www.fao.org/docrep/015/i0053e/i0053e.pdf
The five fishing rights – which reflect more general statements found in the Universal Declaration of Human Rights – are as follows:

1. The right to fish for food.
2. The right to fish for livelihood.
3. The right to healthy households, communities and cultures.
4. The right to live and work in a healthy ecosystem that will support future generations of fishers.
5. The right to participate in the decisions affecting fishing.

[11] http://www.icsf.net/en/samudra/detail/EN/2937.html?detpag=mapart
[12] Human Rights vs. Property Rights: Implementation and Interpretation of the SSF Guidelines. Transnational Institute, World Forum of Fisher People and Afrika Kontakt (November 2016) https://www.tni.org/files/articledownloads/human_rights_versus_property_rights_implementation_of_the_ssf_guidelines_en.pdf
[13] http://www.icsf.net/en/samudra/detail/EN/3608.html?detpag=mapart
[14] http://ec.europa.eu/fisheries/cfp/fishing_rules/tacs_en
[15] OECD – Fisheries Management Costs http://www.oecd.org/greengrowth/fisheries/1917868.pdf
[16] So long as the quotas are not leased or otherwise sub contracted http://www.icsf.net/en/samudra/article/EN/39-868-Fishing-for-a-p.html
[17] Negative outcomes have been documented in a multitude of ITQ fisheries, from Alaska through Canada to the American East coast and across to Iceland, Ireland, England through the New Zealand.
Sumaila, U. R. 2010. A cautionary note on individual transferable quotas. *Ecology and Society* **15**(3): 36. [online] URL: http://www.ecologyandsociety.org/vol15/iss3/art36/
Acheson, J., S. Apollonio, and J. Wilson 2015. Individual transferable quotas and conservation: a critical assessment. *Ecology and Society* **20**(4):7. http://dx.doi.org/10.5751/ES-07912-200407

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[20] *"ITQs **confer stewardship incentives**, ultimately changing behaviour by reducing competition among fishers. Each individual owns a known fraction of the total resource and if anyone wants to fish more than their quota they have to buy quota from other fishers. **Rationality** is therefore brought into the fishery and the race to fish removed: with ITQs in place, no real advantage is to be gained from out-competing your neighbour.* ITQs therefore look great *for struggling fisheries, both economically and biologically*." https://www.openchannels.org/blog/afjohnson/individual-transferable-quotas-%E2%80%93-benefits-global-fisheries

[21] For example, Environmental Defense Fund's "Catch Share Design Manual" http://fisherysolutionscenter.edf.org/ or MRAG's "An analysis of existing Rights Based Management instruments" https://ec.europa.eu/fisheries/documentation/studies/rbm_en

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[23] https://www.theguardian.com/environment/2010/aug/26/shetland-fish-herring-mackerel

[24] Buying ITQs is often too expensive for small-scale fishers and in some cases isn't legally possible: In the Netherlands only existing ITQ holders can buy ITQs and in the UK only members of Producer Organisations can hold quota.

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