

Cooked or roasted?

A new bill, the first step towards privatization in the fisheries sector, threatens to split Chile's artisanal fishery sector

For several months now, the Chilean government has been preparing a new version of a bill to modify the 1991 General Law on Fisheries and Aquaculture. Following weeks of governmental indecision, violent fishworker protests, and controversy, on 6 December, a watered-down version was finally approved by the Chilean parliament. The project of 'Maximum Catch Limits for Fishery Enterprises', as approved by the parliament, includes three of the main industrial fisheries—jack mackerel, anchovy and sardine. Together, these account for 70 per cent of the total Chilean fish catch. Excluded from the bill are the Northern Regions I and II. Starting in Region III, the new bill will apply to all Regions south of Region II, for an initial period of two years. This article looks at the events immediately preceding the approval of this controversial bill, and some related issues.

On 15 November, only hours before it was due to be presented to parliament, the new draft bill was withdrawn, despite receiving the approval of a special parliamentary committee only a week earlier. It seems the government was highly nervous about the possibility of the bill being rejected. It would appear that they have a lot riding on it. If the bill is not passed in this calendar year, the government will not be able to propose another law for a further year.

The National Fisheries Society (SONAPESCA), the fishing industry body, has been pushing for this bill very strongly. According to CONAPACH (representing some 60,000 artisanal fishermen) its approval will effectively hand over Chile's marine resources, free of charge and in perpetuity, to the fishing industry. In its current form, the bill will effectively privatize up to 70 per cent of

the fish catch for the benefit of the industrial sector.

On 8 November, amid violent scenes outside the Chilean parliament, the Agriculture and Fisheries Committee approved the idea of passing the new transitory bill to modify the Fisheries Law. At the heart of the new bill is a proposal to introduce a new 'administrative tool' for allocating fishing quotas, using a system of 'maximum catch limits for fishery enterprises.' In other words, the new bill proposes to introduce a system of individual catch quotas. This is the fourth time in two years that such a bill has been placed before the Chilean parliament by the fisheries administration.

In the early hours of the morning of 8 November, around 900 workers from the industrial processing plants and industrial fishing fleet took up positions in front of the main entrance to the parliament. They strongly supported the bill, as it proposed to allocate quotas to specific fishing companies. They felt that this would make their jobs more secure.

Meanwhile, on the other side of the building, around 300 artisanal fishermen had gathered to protest against the new bill. They saw it as a further threat to their livelihoods, introducing allocation mechanisms that would privatize marine resource access rights, giving an even greater share to the industrial sector (See *The Other Side*, SAMUDRA Report 22, April 1999, pp 44-49).

Government criticized

The President of the Agriculture and Fisheries Commission, Deputy Guillermo Ceroni, criticized the government for not achieving sufficient consensus within the sector before putting the new bill before parliament. He said that this would

complicate the task of the parliamentarians, and had caused a regrettable split amongst the workers associated with the fishery sector.

The new bill not only creates divisions between industrial fishery workers and the artisanal sector, but also highlights a growing split within the artisanal sector itself. On the one hand, the National Confederation of Chilean Artisanal Fishermen (CONAPACH) strongly rejects any changes to the law that will lead to privatization of access rights. On the other, a recently formed alternative confederation, CONFEPACH (the National Confederation of Federations of Chilean Artisanal Fishermen), is prepared to negotiate with the government on the new bill. Not surprisingly, it is CONFEPACH, and not CONAPACH, which is represented on the government's National Fisheries Advisory Council.

This split reflects growing differences in approaches within the artisanal sector. On the one hand, CONAPACH considers coastal communities and artisanal fishermen to have basic and inalienable access rights, and marine resources as the common property of all Chilean citizens. In 1991, these rights were formally recognized in the General Law on Fisheries and Aquaculture, which established an 'Artisanal Reserve' in the 5-mile zone, where artisanal fisheries

were given exclusive access rights. However, since 1991, the Reserve Zone has been implemented more by exception than by the letter of the law. This has created significant distrust, and is the cause of growing conflicts between CONAPACH and the national fisheries administration.

In the case of CONFEPACH, it would seem that the leaders are much more commercial in their approach. They essentially represent the small enterprise sectors that have prospered in recent years. They see no contradiction in forming alliances with other sectors in the fishery, or with negotiating with the government. They also feel that the new law gives sufficient legal protection to their rights in the 5-mile zone. In their case, it is not so much that they feel threatened by the new catch quotas, or that they disagree with privatization *per se*. Rather, they see opportunities for strengthening their negotiating position by signing up to the new bill, warts and all. Theirs would seem to be a "we'll-scratch-your-back-if-you-scratch-ours" kind of approach.

Mistrust remains

The mistrust of CONAPACH is also based on the close associations that exist between the fisheries administration and the industrial fishery. In the new administration, Daniel Albarrán, the incumbent Fisheries Subsecretary, is a

businessman with extensive interests in salmon aquaculture. Together with a number of other groups, CONAPACH has made a formal request to the Ombudsman General of the Republic to investigate their allegations concerning 'grave irregularities' and 'conflict of interests'.

Juan Carlos Cardenas of ECOCEANOS recently pointed out, "It is an extremely delicate matter that whilst a proposal to modify the General Fisheries Law to privatize Chile's marine resources is being debated in parliament, the Fisheries Subsecretariat is being directed by a businessman like Daniel Albarrán Ruiz-Calvajo, a man who has obvious interests in the sector, and who is also one of the main advocates of changing the law."

According to ECOCEANOS News, Albarrán's aquaculture business interests disqualify him from public office. In Chilean law (The Law on Administrative Probity), "It is incompatible with the carrying out of public duties for authorities or functionaries to have private interests linked to the specific aspects (of their work) or to concrete cases, which must be analyzed, researched, or dealt by them or by the department or public service to which they belong."

A statement released by the Fisheries Subsecretariat, confirmed that Albarrán was the "owner of two aquaculture concessions, which came under the administrative control of the National Fisheries Service in November 1996, and which were dealt with by the Fisheries Subsecretariat on 29 October 1999 and 30 December 1999. Processing within the Marine Subsecretariat was completed on 20 December 1999 and on the 25 February 2000."

The official statement went on to point out that since taking up the office of Subsecretary, on 13 March 2000, Albarrán had not benefited from any decision of either the Marine or Fisheries Subsecretariats.

Before being selected for the post of Fisheries Subsecretary in the new government, Albarrán was the chairman of the Salmon and Trout Producers' Trade Association, a post he held for five years.

Albarrán is also currently the owner of a 3.3 per cent stake in the salmon culture enterprise, Antarfish.

Despite official reassurances that Albarrán has disposed of all his business interests in aquaculture, CONAPACH and other fishery-dependent interest groups are highly concerned about the links between government officials and private business interests. They have asserted that the government officials responsible for drafting and promoting the modifications to the law are not impartial. Due to their links with, and interests in, the commercial aquaculture and industrial fisheries sectors, such officials are both 'judge and party', and, therefore, not impartial. They cite Albarrán as a prime example.

CONAPACH, representing fishermen, divers and shellfish collectors, is highly critical of Albarrán. According to it, concessions such as these have an average market value of around 200 million pesos (around US \$350,000). They feel that the extent of Albarrán's interests in the fishery sector disqualify him from the post of Subsecretary. As Subsecretary, it is his job to push for fishery privatization, and to accelerate the handing over of 2,700 aquaculture concessions in the south of Chile. As a businessman with investments in the fisheries sector, Albarrán is likely to benefit, both directly and indirectly, from the proposed changes in the fisheries law. In Chile, many reports have highlighted the destructive impact of industrial salmon aquaculture on environmental sustainability and social equity. In this respect, Albarrán's business interests conflict with the wider interests of Chilean society, and the longer-term interest of sustainable social and environmental development.

Three drafts

Under the previous government of Eduardo Frei, three similar draft bills to modify the General Fisheries Law were placed before the Chilean parliament. One by one, all three were rejected. They all proposed the introduction of individual transferable quotas (ITQs), to be implemented through an allocation system based on historical catch records. According to CONAPACH, this would effectively transfer the ownership of more

than 90 per cent of Chile's fishery resources, free of charge and in perpetuity, to the very people responsible for degrading Chile's fishery resources.

The new proposal, described as a 'Transitory Bill', sets out to establish 'Maximum Catch Limits for Fishery Enterprises' for an interim period of two years. Although it is a transitory measure, it is regarded as the thin edge of a privatization wedge; it is feared that these maximum catch limits will become fullblown ITQs after two years.

The new bill consists of three main parts. The first part proposes the introduction of a new administrative tool, described as the maximum catch limit for boatowners; the second part proposes that the artisanal fisheries registry be regularized; while the third part contains various provisions.

In a five-page denunciation, CONAPACH calls on the Chilean parliament to reject this new bill on the grounds of "the common good, justice, equity and, above all, to preserve fishery resources as an integral part of the national heritage."

According to Cosme Caracciolo, the new president of CONAPACH, this new draft bill "undermines the constitutional guarantee that everyone has the right to be treated equally by the law. It establishes discretionary ways of assigning fishery

resources to specific individuals, resources which, up to now, have belonged to Chilean society at large. In some instances, allocation may be based on historic catch records of boatowners; in other cases, according to the longitude of the authorized fishing area or the hold capacity of the vessels belonging to the recipient enterprises."

Caracciolo points out that, for large national and transnational companies, this project is truly the "means to the end". "This bill will result in the suspension of a number of regulatory measures of an environmental nature, as well as violating the constitutional rights of artisanal fishworkers to fish freely, undermining Article 19, No. 24 of the Constitution."

According to several parliamentarians and organizations such as CONAPACH, the draft bill represents a basic corruption of the constitution, as it assumes that fishery resources are '*res nullis*', that is to say 'belonging to no one', denying that they form part of the national heritage in Chile's Exclusive Economic Zone.

Serious threat

Juan Carlos Cardenas emphasizes, "As citizens, we would like to remind Ricardo Lagos that he is president of the whole of Chile, and not only of the Angelini Fishing Group and the salmon exporters. The current situation is a serious threat to the conservation of resources, national

marine ecosystems, national food security and the economic, social and cultural aspects of coastal community life”

Humberto Mella, the former president of CONAPACH, has announced that the organization is planning a programme of countrywide strikes and demonstrations. “If the government really wants trouble, they will be able to find it in every *caleta*,” he says.

As the Chilean summer approaches, and amid health warnings on the radiation caused by ozone depletion in the Southern hemisphere, it looks as if political temperatures will be soaring in the next few weeks. But hot enough to cook or roast the new fisheries bill? 🐙

Chile

This piece by Brian O’Riordan (icsfbrussels@yucom.be) has been compiled from ECOCEANOS News, CONAPACH documents, and other sources provided by Juan Carlos Cardenas of ECOCEANOS and CONAPACH