

## Feudalism at sea

**Iceland's experience with ITQs is an eye-opener to the problems and prospects of fisheries management by quotas**

**D**uring the past decade, fish resource management by a system of Individual Transferable Quotas or ITQs has been strongly promoted as a solution to the problems of ineffective management and economic inefficiency in the fisheries. The ITQ model is attractive to resource managers for a number of reasons. First, it leaves the difficult problem of distributing fishing quotas fairly and equitably among fishermen and fishing communities to the market mechanism, making life easier for the managers. Second, it leaves the problem of getting rid of excess fleet capacity to the market and thus removes the strain of buy-back programmes and compensations from government budgets. Third, it promises a more efficient fisheries industry in the future, which, in turn, will create a flow of tax revenues and even resource rentals into the governments' coffers.

To fishermen, or owners of fishing vessels, to be more specific, the system may also look quite attractive. Unsuccessful fishermen can sell their quotas to their more expansionist colleagues, thus receiving a fair compensation for leaving the industry. Those who want to expand, or need additional quota to fully utilize the capacity of their vessels, can buy it at a market price.

The aggregate result should be an economically sound fisheries industry, with improved job security and solid foundations for community development. This is, in short, the story told by the promoters of the ITQ system.

The Republic of Iceland was one of the first states to introduce ITQs as an overall management system in its marine fisheries. Those who are considering ITQs as a management option should, for that

reason, be interested in studying the Icelandic case. Are there lessons to be learnt from the Icelandic experience?

From 1984 to 1990, fishing quotas for cod and other demersal species were allocated to fishing vessels according to catch records for 1980-83. Quotas could not be divided or removed permanently from vessels, except if a vessel was wrecked or sold abroad. Quota transfers that meant a reduction of total quota holdings within a municipality had to be authorized by municipal councils and local trade unions. Market transfers of quota shares were relatively rare during this period. Quota leasing, which means that a part of an annual quota held by one boat is caught by another, was allowed from the start, and developed slowly and without much controversy until 1993.

By January 1991, the system was liberalized. Quota shares were allocated permanently, without any time limits. Quotas became divisible. They could be separated from vessels and transferred freely, as independent commodities, but only to other vessel owners.

While the 1990 fisheries law, in practice, allowed for a semi-privatization of the fishing rights in Icelandic waters, it also defined fish resources as public property. According to the law, the fishing rights defined and distributed under the law are not private property rights.

### **Confusing status**

This somewhat confusing legal status of the quota shares evoked complicated debates over the issues of taxation, depreciation and the use of quota shares as collateral. How is it possible for a private person to buy or sell something which is public property? Would such a thing be liable to taxation? Should banks

accept public property as collateral for private loans?

Initially, investment in quota shares was considered as expenditure, and quota holdings were not treated as capital, which meant that they could not be used as bank collateral. In 1993, the Icelandic Supreme Court, however, found that quota holdings should be treated as private capital, and that they could be depreciated by the same rate as for copyrights—20 per cent annually.

At first, the collateral problem was solved by mutual agreements between banks and indebted boat owners to ensure that quota shares and vessels could not be separated without consulting the bank. In the long run, this situation became very unpractical (fishing vessels representing minor market value without quota shares) and quota shares were eventually allowed as collateral.

The generous depreciation rate for quota shares is also being removed, as it has led to a reduction in tax payments from the fishing industry. The official status of quota shares as public property, while they are treated as private property for all practical purposes, can not be upheld in the long run. This was illustrated by a Supreme Court decision in December 1998, which is detailed later on in this article.

As the ITQ system, in theory at least, should strengthen the foundations of the fishing industry, it should mean more secure and even better paid jobs at sea. On the basis of such future prospects, the Icelandic Union of Deckhands (SS) was basically positive to the introduction of ITQs. The Union of Skippers and Mates (FFS) was more sceptical, and soon became explicitly negative. Since the liberalization of the ITQ system in 1991, there has been a series of bitter conflicts between vessel owners and crewmen, resulting in repeated strikes and lockouts in the industry. The reason is found mainly in the changing dynamics in the fisheries industry under ITQs especially the implications of a growing leasing market for annual quotas.

The term 'quota leasing' covers different types of transactions to transfer rights to

catch a certain amount of a certain fish species in the current year from one vessel to another. One form of transaction is an equal exchange of species—the rights to catch one species are paid for by the rights to catch another, based on an exchange rate between different species. A second form is leasing quota directly, which means that the right to catch a certain amount of fish is paid for in money, at a market price derived from supply and demand.

A third variety, which became increasingly common during 1992-93, is contract fishing, or what is often referred to among fishermen as 'fishing for others'. Fishing contracts are, in many cases, signed between vessel owners with small quota holdings and vertically integrated fishing/processing companies with large quota holdings. The vessels are then obliged to deliver their catches to the company. They receive a fixed price for the catch.

In 1993 this price was about half the market price in the case of cod fishing, the remaining 50 per cent being indirect payment for the leasing of quota from the company. The income of crew members is a fixed percentage of the price received for the catch, as defined by the share system. The practice of contract fishing outlined above means that the income of a crew on a vessel fishing under such a contract is bound to be substantially lower than the income of a similar crew on a similar vessel with sufficient quota holdings belonging to the vessel.

As contract fishing became more widespread, more crewmen experienced a drop in their income. According to their unions, there were several incidents of leasing contracts being arranged for the sole purpose of reducing the labour costs in the fisheries, a practice often referred to as 'quota-profiteering' (*kvotabrask*).

#### **Feudal system**

The system of contract fishing is often referred to as a feudal system of 'sea lords' and 'tenants'. Under the ITQ system, quota holdings are being concentrated in fewer and bigger companies, while there is a substantial fleet of fishing vessels with insufficient quota holdings for a year-round operation. In some cases,

vessels have been stripped of their quota, and sold cheaply to fishermen who intend to make a living by leased quotas. These boats, the so-called 'eunuchs', contribute to the high demand for leased quota and a high leasing price. In this situation, vertically integrated processor companies can, in fact, ask for bids from idle vessels, in order to have 'their fish' brought home at the lowest possible cost.

This, in short, was the background of the fishermen's strike in January 1994 and repeated strikes in the following years. The unions wanted to abolish the system of quota leasing, or even remove the entire ITQ system. The result has been a partial return to a system of negotiated minimum prices, and a special committee to resolve conflicts regarding prices and shares. There is a growing opinion that the share system should be reformed or even abolished to avoid the effects of ITQs upon the income of crewmen. The fact that the holders of quota shares also hold the strongest negotiating power in the industry has now been realized by the unions—despite the strikes, they have not achieved any fundamental change of the ITQ system.

After eight years of experience with the ITQ system, the controversies within the industry and in Icelandic politics are as strong as ever. Repeated polls among the Icelandic population show that most of the public is opposed to the system. It is,

however, uncertain how, or if, the implementation of ITQs can be reversed without a massive economic loss. Quota shares are considered as private property for all practical purposes, and they represent a major capital value, relative to the national economy of Iceland. Companies with big quota holdings have strengthened their position, and quite a few of them have made investments in fisheries enterprises abroad. It is thus hard to imagine how the quota-capital could be returned to the public. In any case, the present owners of quota shares would claim full economic compensation from the government if their quota assets were to be confiscated,

However, it seems that we have not yet seen the end of the ITQ story in Iceland. In December 1998 the Icelandic Supreme Court reached a verdict in a case raised by a fisherman who had been denied a fishing licence and a catch quota. The denial was based on the fact that the fisherman in question had not been an owner of an active fishing vessel in the early 1980s, the period in which 'fishing experience' was converted into fishing rights.


#### **Equal rights**

Considering the Icelandic constitution, which claims equal employment rights for every citizen and the Fisheries Law of 1990, which defines the fish resources as public property, the Supreme Court found

the denial unlawful and unconstitutional. In short, the Court found that by implementing the ITQ system, the government had given away exclusive rights to the publicly owned Icelandic fish resources to a group of people who happened to be the owners of active fishing vessels at a certain point of time. Such an act could not be justified by the need to preserve the resources or by the best public interest.

So far, the Icelandic government has responded by making a minor change in the fisheries legislation. Any owner of a fishing vessel is now free to apply for a licence, which provides the opportunity to catch some quite rare fish species that are not managed under the ITQ system. However, catch quota for any of the major commercial species must still be bought or leased from the present owners. Provided that there are limited employment alternatives for fishermen, this change will probably only increase the demand for annual quota on leasing contracts, as more vessels with little or no quota can enter the market. This, in turn, may cause a further increase in leasing prices and, consequently, a downwards pressure upon the income of crewmen. Meanwhile, the capital value of quota shares will climb further upwards.

I have chosen to dwell upon some of the problematic issues involved in fisheries management by ITQs. I will not argue that

there are no economic benefits from ITQs. I will rather ask who is enjoying these benefits, and at what cost to whom. Judging from the Icelandic experience, there seems to be little doubt that ITQ systems have major implications for the distribution of income, wealth and power. By learning from the experience of Iceland and other States that have implemented ITQs, it should be possible to make an informed judgement about the social costs and benefits of the system, as well as its moral and legal foundation. 

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