

# Catch Shares Razzmatazz

**Recent attempts to promote catch shares in Europe seem to fail to heed the potential dangers of privatization of marine resources**

A lot of water has flowed under the bridge since the beginning of the consultation process on the reform of the Common Fisheries Policy (CFP) of the European Union (EU) in April 2009. The issue of individual transferable rights, as raised in the Green Paper on the reform of the CFP, brought out by the European Commission (EC), seems to have been gradually imposed, presented by its advocates as the unavoidable solution to the major ill of Europe's fisheries: overcapacity simplistically portrayed as a problem of "too many boats chasing too few fish".

Even if we only have few concrete details on what is being prepared within DG Mare (the General Directorate of the European Commission for Marine Affairs and Fisheries)—the much awaited "CFP package" having been delayed—the European Commission is very upfront about its intention to apply management measures based on the transferability of quotas or fishing rights, at the individual enterprise or vessel level. A recent BBC report, quoting from a leaked copy of the draft 'package', highlights that "the most dramatic impact (of the package) would be the mandatory adoption of individual transferable quotas". This does not come as a shock, particularly given the recent hype about 'catch shares' being transmitted from the other side of the Atlantic. This provides an opportunity to review the shortcomings of such market-based systems and to analyze how they are being promoted, which often involves playing with words.

'Catch shares', of which individual transferable quotas (ITQs) are—in theory—just one amongst several possibilities, are a fisheries management tool based on neoliberal economic thinking: the privatization of fisheries resources and the conversion of this common good into private capital that is tradable. Introduced into several countries since the 1970s, ITQs—individual portions of a total allowable catch (TAC)—have been presented as a way to promote responsible stewardship

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among operators, benefiting both the conservation of the resources and the economic viability of the production. However, in the majority of cases where ITQs have been introduced, it has led to the concentration of fishing rights, quota leasing, and various other perverse effects.

## **Conflicting rights**

The rupture created between the 'absentee' rights owners (often known as 'slipper skippers' or 'armchair fishermen') and seagoing fishermen has, in effect, broken the link between quota ownership, on the one hand, and more responsible resource stewardship by operators, on the other, thereby challenging

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one of the main claims of ITQ advocates.

A key shortcoming highlighted by ITQ critics is that the concentration of rights in a very few hands causes many dramatic and perverse side effects in fishing communities. Catch shares literally become out of the economic reach of small independent fishermen, and those who are fortunate enough to have them often find it more profitable to lease them to others. For example, the Cape Cod Commercial Hook Fishermen's Association, based in Chatham on Cape Cod in Massachusetts in the United States (US), leases out much of their members' catch shares to operators outside their own community, including to larger trawlers operating to the north, transforming our understanding of fishing communities as physical places with real people, to virtual communities who go fishing on the Internet for economic returns on their quotas.

The transfer of quotas from small-scale fisheries to industrial fisheries can very quickly lead to the

in the market and associated 'sub-prime' and 'negative-equity' effects impacting on fishermen, small-scale fishing enterprises and fishing families. Such was the case more recently in Denmark (as reported in *SAMUDRA Report* No. 56, July 2010).

In the EU, fishery administrations are well aware of the collateral damage and perverse effects caused by ITQ trials in their neighbourhood. But either EU decisionmakers have been convinced by the advocates of 'free-market environmentalism', which is being sold as the best means to achieve fisheries sustainability while making them more 'efficient' and 'profitable', or they pragmatically suggest that they have tried all else, and this is their last option. In parallel, the concept of 'wealth-based management' of fisheries (fisheries management based on limiting allocation of fishing rights so as to maximize the potential wealth generated from resource extraction) seems to be finding increasing currency globally, including with many States, intergovernmental organizations and international institutions. For example, the World Bank is currently promoting it in African and Asian countries. Before we focus more on the case of the EU and the current reform of the CFP, let us observe how the discourse of 'free-market environmentalism' recently became established in the fisheries management on the other side of the Atlantic.

In the US, federal fisheries services started to set up catch shares programmes in various fisheries of the country in the form of individual quotas—or more precisely of individual fishing quotas (IFQs)—as of the beginning of the 1990s.

### Severe criticism

Rejection was not long in coming. From coastal communities around the country, severe criticisms of the pilot systems already in place in the waters of several States stirred up opposition at the national level, culminating in the gathering of some 5000 demonstrators in Washington, in February 2010, united to accuse

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disappearance of thousands of units in the artisanal segment, and to a severe indebtedness of the 'survivors'. Such was the case in Iceland in the 1980s, when the industrial (trawler) fleet accumulated 70 per cent of the quotas in a period of 44 months and 1,000 small vessels that had formed part of the ITQ system were scrapped, and their quotas merged with trawler quotas (as reported in *SAMUDRA Report* No. 53, July 2009). To continue their fishing-based livelihoods, such dispossessed fishers are forced to become some sort of 'sharecroppers' or 'fishing labourers'. Quota ownership and quota markets may also encourage speculation on future quota values, with booms and busts

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the NOAA and its NMFS of decimating fishing communities. According to *The Gloucester Times* of 15 February 2011, the protestors' target was "the alleged inside influence by major environmental organizations to carry out a national fishing policy that brings a further consolidation of independent fishing fleets, and encourages the buying, selling and trading of fishermen's catch shares in a policy that opens the door to outside corporate investment and, fishing activists argue, corporate control". This specifically pointed at the non-governmental organization (NGO) Environmental Defense Fund (EDF), highly active in the promotion of catch shares in the US.

Indeed, a very clear link has been established between these new policy directions and the huge amounts of money invested by private foundations in the lobby campaigns of a few environmentalist groups, often with insider influence in the decision-making and fisheries management bodies. These groups also attempt to give greater legitimacy to their claims by pretending to represent fishing communities. However, it seems that in the dozen or so fisheries that have already converted to a catch-share regime, only a third of the fishermen survived the conversion.

In America, a controversy on catch shares has been generated, polarized around two radical positions: one preaching their economic and environmental virtues, despite a glaring lack of evidence, the other rejecting outright the model, with all kinds of accusations and perhaps with too little judgment. This has left very little room for a proper debate about, for example, the social and environmental criteria that could provide for a fairer allocation of fishing rights with greater environmental, economic and social outcomes. It is this very debate that we need to have today within the EU, at a time when the reformed CFP faces the prospect of reinventing a watered-down version of its old self, with the US catch-share razzmatazz bolted on.



The Puerto de Mogan fishing harbour, Gran Canaria, Canary Islands. Fishery administrations in the EU are well aware of the collateral damage caused by ITQ trials

In the Green Paper on the reform of the CFP, published in April 2009 to initiate the public consultation process, the EC highlighted its interest in transferable rights, where "use of market instruments such as transferable rights to fishing may be a more efficient and less expensive way to reduce overcapacity". Following the consultation process, DG Mare published a summary of the contributions it had received, in which they reported: "The system of quota transfers and swaps is widely accepted, some suggest a further development of quota transfers". However, several Member States (MS)—and stakeholders—were firmly opposed to ITQs, arguing that "MS should decide on rights-based management".

The EC has always maintained that individual transferable rights should be an integral part of the reformed CFP, although they have not been clear about how such a system would be applied, especially given the many 'safeguards' that it would require.

### Common standards

The Commission seems set on establishing a common ITQ system, preferring the option in which common standards would be adopted at the level of EU for community waters, leaving with the MS the choice of the allocation regime. DG Mare,

which had already taken note of ITQ and other catch-share regimes currently in place here and there—notably by exchanging with their designers and by consulting their managers at public events or internally—has then tried to reassure sceptics by emphasizing that provisions will be built in to safeguard small-scale fisheries and that the system would have to preserve “relative stability”, through which MS maintain their shares of the overall allocation of access rights to fish. However, beyond that, some opponents of ITQs in Europe have another concern: the fundamental question of resource privatization.

In a speech given in Berlin in March 2011, European Maritime Affairs and Fisheries Commissioner, Maria Damanaki, stressed that “ITQs would not be property, but user, rights, because the resource remains a public good”. She had also stressed this earlier at a meeting with a group of small-scale fishing representatives in Brussels in July 2010. In the same way, several DG Mare officials seem to avoid using the term ‘individual’, preferring to speak of ‘transferable quotas’.

The question arises as to whether these reassurances have a legal basis. In the United Kingdom, many in the fishing industry already consider

quotas to be a kind of property, in as much as they give rise to “legitimate expectation of quota opportunities” in the future, given that “vessel owners need to provide assurances to banks and other financial institutions that underpin existing investments including fishing quota allocations and licenses” (SWFPO statement in *Fishing News*, 15 April 2011). This would seem to contradict Damanaki’s contention that ITQs would only be a user right; the banks and financial institutions would seem to see them as an asset of a fishing company. A market-based system of tradable fishing shares designed to give ‘guaranteed catch’ to fishermen can only lead to these shares being considered, or at least treated, by quota holders as property. Even if the privatization of public goods needs to be lawfully enacted, a more insidious process of ‘sea grabbing’ is actually taking place by default.

In 2009 the NGO Ecotrust Canada had warned that ITQs represent a *de facto* resource privatization. In a briefing note entitled *A Cautionary Tale About ITQ Fisheries*, this NGO—which is at the forefront of the North American debate—indicated that “some free-market proponents talk about ITQs in terms of ‘rights’ and ‘property’. Other proponents, attempting to downplay the privatization controversy, go out of their way to avoid such language”.

This choice of rhetoric was notably that of EDF, the US NGO that has been at pains to disguise the issue of private property with other words—even though this idea is at the heart of the model it is advocating. Thus, in the US, the seemingly innocuous term ‘catch shares’ has been coined as a cover for ITQs in the majority of cases, and EDF seems intent on pushing its agenda in Europe, where decisionmakers seem predisposed to play this language game, although it is regarded by others as a Trojan horse.

### Manipulation

The style of EDF, and its word play and manipulation of terms, was very apparent at the workshop

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Portree fishing harbour, Isle of Skye, Scotland. The EC has always maintained that individual transferable rights should be an integral part of the reformed CFP



on “Alternative Fisheries Models Relevant to European Fisheries”, organized in the European Parliament by EDF with the support of European Policy Office of the World Wide Fund for Nature (WWF). The EDF “Catch Shares Design Manual”, discussed at that meeting, had been presented shortly before to DG Mare functionaries at a closed-door meeting. It would seem that the closed-door strategy employed by EDF in Washington is being utilized in Brussels to get the attention of EU policymakers. As for the CFP package, no one knows whether we are going to end up with a Brussels version of that handbook, supplemented by a new avatar for ITQs under yet another portmanteau word.

It is not sufficient to focus only on ‘safeguards’, ‘protections’ and other palliatives that the implementation of an EU-wide ITQ system would require, be it overtly or not. Rather, there is an urgent need to draw lessons from experiences elsewhere and to heed the potential dangers of privatization—disguised or not—of marine resources. Once the ITQ box has been opened, there is no closing the lid. It is, therefore, vital that the CFP reform gets the issue of fishing quotas right.

Serious attention should also be given to the proposals being made by parliamentarians and civil society, including NGOs and consumers, who contend that access to fisheries should be made conditional, first and foremost, on a set of social and environmental criteria that would ensure that these common resources are exploited in a sustainable way, thereby underpinning thriving fishing communities.

By overemphasizing the potential of ‘safeguards’ and by downplaying the issue of privatization, the EU is at risk of sidelining the real debate about who should have the right to fish. 🐟

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#### For more

[www.nmfs.noaa.gov/sfa/domes\\_fish/catchshare/docs/noaa\\_cs\\_policy.pdf](http://www.nmfs.noaa.gov/sfa/domes_fish/catchshare/docs/noaa_cs_policy.pdf)  
**NOAA Catch Share Policy**

[eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0163:FIN:EN:PDF](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0163:FIN:EN:PDF)  
**Green Paper: Reform of the Common Fisheries Policy, Commission of the European Communities**

[ec.europa.eu/fisheries/reform/index\\_en.htm](http://ec.europa.eu/fisheries/reform/index_en.htm)  
**Reform of the common fisheries policy**

[www.ecotrust.ca/fisheries/cautionarytale](http://www.ecotrust.ca/fisheries/cautionarytale)  
**A Cautionary Tale about ITQ Fisheries**