

**The ITQ as a Property Right:  
Where it came from, how it works, and  
where it is going**

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Chapter Summary

Professor Scott sets the tone for the volume as a whole by asking why one might think that a rights-based approach to fishing would produce better economic and conservation outcomes at lower cost than the alternative approaches to fishery management. By way of an answer, he undertakes a detailed comparison between three management options: 1) complete freedom of entry; 2) a fishery closely regulated by government; and 3) property-based regimes.

Under a regime of free entry, there is a public right to fish. This is only sustainable, however, as long as the fishing effort remains below the stocks' natural ability to replenish themselves. Access to the stocks being free, any reasonably competent fishermen can make a living, and this attracts more and more fishing effort into the fishery. Soon profits decline and the harvesting capacity overtakes the ability of the stocks to sustain themselves, but no one has any incentive to reduce their fishing effort, since any fish left in the water will not be allowed to reproduce, but will likely just be caught by the next boat. The outcome is a classic tragedy of the commons problem, in which what is rational for each fisherman individually (catch as many fish as one can today), is irrational for all the fishermen taken together and for society as a whole (since it must lead to the exhaustion of the resource).

It was these problems which led to the introduction, in many countries, of a government regulated fishery. In Canada, regulation has focused on two main areas: closures and gear regulation. As Scott recognizes, such regulations, "have on the whole been helpful in protecting fish stocks against extinction. They have also produced a set of rules that maintain law and order, and fairness, in the intense competition between vessels in increasingly overcrowded fisheries. Coupled with limited entry and with buy-back, they have helped to maintain fishermen's incomes from falling as fast as they might have otherwise."

These advantages are not unalloyed, however. The most destructive side effect, on Scott's view, has been the wasteful over-investment in the fishery, as fishermen responded to the incentive to race against one another to catch the maximum amount of fish during the shorter and shorter regulated season. Other ill effects include too many fishermen, high administration costs, overfishing, and an atmosphere of mistrust and non co-operation between fishermen and regulators.

Interestingly, Scott sees the emergence of a rights-based fishery not as a radical innovation in the regulated fishery, but as a perfectly understandable outgrowth of regulation when complemented by strictly limited transferable licensing. Fishermen in such fisheries came to realize that they possessed a kind of property, limited, it is true, but none the less real for that. "Their right to catch fish has been treated as an interest in the fishery, having some of the characteristics [essential to a full property right] of exclusivity, transferability, security and duration... Hence in these fisheries it was not a big step to replace the license with a quota, having the same transferability and security, but more exclusivity."

On the basis of this experience, as well as economic theory, one can assess what the benefits of rights-based fishing are and to whom these benefits accrue. The essence of the answer is

that an end to the racing mentality and the conditions that created it allows fishermen to spread their efforts over much more of the year. The landed value of each fish, rather than quantity, becomes the basis of their income. The end of racing and secure access to one's own quota over the year also means that costs can be lower, because less capital investment is needed. A more valuable catch plus transferability of the quota gives the quota a higher value in the market than a license, making the fisherman who owns quota better off. Indeed we may be faced with a classic positive sum game, in which the increased efficiencies in the industry generate surpluses that can be used to compensate those unable to make the transition to a rights-based industry, while still leaving those who stay better off.

Others also benefit from the move to rights-based fishing. Regulators find that the incentives in a rights-based fishery make fishermen more amenable to co-operating in conservation decisions that improve the value of "their" fishery. On the other hand, regulatory costs rise compared to the regulatory fishery. With respect to the processors and the future of small communities, Professor Scott's conclusions bear repeating in some detail:

The buyers and processing companies also tend to prefer the system because it gives them a higher quality of fish and a market means of securing a share of the catch for their distributive channels. This preference indeed worries unions who fear that small individual fishermen will be bought out or squeezed out, to be replaced by companies and owners of several vessels; and that isolated communities from which such individuals operated will go into decline. ...[I]t is recognized that every regulatory system, every distribution of licenses, every kind of property, has produced its own geographical pattern of fisherman communities, ports, processors and shipping points. ITQs are no different. But the paper argues that it is unlikely that forces in the ITQ market will tend to centralize ownership in large companies or large communities.

In the final part of his paper, Scott carries his analysis of rights-based fishing further than a number of economists, who stop at the granting of quota to individuals. He foresees that ITQs will become the building blocks of a much more comprehensive reorganization of the fishery:

Holding an ITQ will allow large numbers of fishermen, who are not members of any single "community", to come together and cooperate in setting the ITQ, regulating fishing, regulating by-catches, coordinating their fishing of migratory and spanning stocks, and cooperating with polluters.

Hand in glove with this change in the behaviour and priorities of fishermen will come a change in the role of government. With virtually all the benefits of the fishery fully internalised, it makes sense to internalise fully the costs as well. Thus fishermen, in order to protect their property rights, will be much more likely to want to carry out many regulatory and oversight functions themselves, or via contracting with government agencies or private providers. The chief role for the state will then be to ensure an absence of free-riding in the cooperatives, and the protection of minority interests by setting and enforcing fair rules for cooperative decision making.