

Harvesting Agreements and Harvesting Cooperatives

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Moving Beyond ITQs

Individual transferable quotas (ITQs) have emerged as an alternative to direct government regulation of the fishery. The use of ITQs has met with success and obstacles at both federal and state levels. In the United States, the use of ITQs remains controversial, with few federal fisheries having adopted ITQs, including the Mid-Atlantic surf clam and ocean quahog fishery, the South Atlantic wreckfish fishery, the Alaska halibut and sablefish fishery, and the Atlantic Bluefin tuna purse seine fishery. In 1996, Congress imposed a moratorium on ITQs in other federally managed fisheries, but this expired in 2002 and was not renewed. There are also a number of state-run ITQ systems and the longest running ITQ programs are operated by Great Lakes states. As an alternative to ITQs, harvesting agreements and harvesting cooperatives are receiving increasing attention. These approaches can be quite effective in ending the race for fish and eliminating overcapacity. They can also allow for more participation of fishermen in fishery management decision-making.

Rights-based Fisheries Management

Under a rights-based management system, those individuals or groups entitled to have access to the fishery are said to have use rights; that is, the right to use the fishery resources; while others do not have the right to 'use' the fishery. Fisheries management systems that assign rights to a share of a fishery are specified by the feature of the rights, the nature of the shares in the fishery, the type of entities that hold rights, and rules concerning use of the rights. Rights can be considered as being composed of a bundle of individual rights (think of a bundle of sticks composed of individual sticks), such features of rights include access, withdrawal, management, exclusion and transfer. The make-up of the bundle varies with different fisheries and different points in time. In the past, an individual fisherman had only one exclusive right – the right to own the fish caught. Other rights were held in common. As entry to fisheries became limited, those who held permits gained the exclusive right to fish. More recently, rights to some fisheries have been made even more exclusive by assigning individual fishermen or groups (communities, cooperatives, corporations) the rights to catch a specified share of the total allowable catch. Creating individual or group rights that can be bought and sold is an attempt to create benefits by converting most of the sticks in the bundle or rights from shared rights to exclusive rights. In some fisheries, it may be appropriate to vest the rights in a cooperative or community organization. The cooperative or community organization then allocates and monitors use of the resource. Fisheries management systems that assign rights to a share of a fishery are specified by the extent to which the system

includes the various sticks, the nature of the shares (licenses, effort units, or quota shares) in the fishery, the type of entities that hold rights, and rules concerning use of the rights.

Harvesting Agreements

Harvesting agreements are used to implement rules that govern sector allocations, such as those authorized by Amendment 13 to the Northeast Multispecies Fishery Management Plan. Through a harvesting agreement, the government recognizes a group of cooperating individuals that have similar interests, such as a particular type of gear or target species. The number of license holders within the sector are limited and the sector is allocated a share of the total allowable catch. The fishermen within the sector allocate harvest shares among themselves, and may carry out certain other functions such as monitoring, data collection, and research. Harvest allocations among the license holders are usually specified in terms of a percentage of the sector's share of the total allowable catch. License holders within the sector can transfer part or all of the allocation among themselves, in accordance with the sector rules.

To function effectively, certain conditions must exist:

1. The number of participants with the sector or group must be relatively small and they must possess a common interest in making the agreement work, which is easier with relatively small groups compared to large groups
2. There must be an effective system to ensure that the actual harvests match individual allocations.
3. There must be effective penalties for violation of the agreement.
4. There must be a system to keep individuals who are not part of the agreement from taking fish that is allocated to the group out of the fishery.
5. There must be economic benefits to those fishermen who are part of the agreement.

There must also be assurances that such agreements will not be overturned by antitrust law, which generally make it illegal for producers to agree among themselves to manage production to keep prices high.

Harvesting Cooperatives

To address the antitrust issue of a collective harvesting agreement, fishery participants may form harvesting cooperatives. This has been made possible through the Fishermen's Collective Marketing Act (FCMA) of 1934 which extends an antitrust exemption to "persons engaged in the fishing industry...collectively catching, producing, preparing for market, processing, handling and marketing their fish." The FCMA further states that fishermen can "act together in associations, corporate or otherwise... in collectively catching" fishery products. Under the FCMA, a cooperative is limited to harvesters, not processors, although processing may occur once the cooperative is formed.

A harvesting cooperative differs from the cooperatives that most fishermen are used to that have been organized for the purpose of marketing fish products, buying supplies, or negotiating prices. Experiences with harvesting cooperatives are more common on the

Pacific Coast of the US than the Atlantic Coast. The Pacific Whiting Cooperative was the first fishery in which a cooperative was formed to administer a privately negotiated agreement that specifies members' shares of the total catch allocated to the sector by the Pacific Fishery Management Council. Following the success of the Pacific whiting agreement, and faced with the obvious overcapitalization of the Alaskan Pollock fleet, in 1998 Congress passed the American Fisheries Act (AFA). The AFA established the framework for the formation of two pollock harvesting cooperatives in 1999. This has been followed by harvesting cooperatives in the Alaska weathervane scallop fishery in 2000 and the Alaska Chignik sockeye salmon fishery in 2002. Other cooperative harvesting agreements have operated in the highly restricted herring roe fisheries on the Pacific Coast.

Benefits and Costs of Harvesting Cooperatives

When fishermen compete on the fishing grounds for shares of the catch, an uneconomic race for fish results. Competition also leads naturally to excess harvesting capacity. Harvesting cooperatives can slow the pace of fishing and reduce capacity, leading to more product at lower cost. They can support science and conservation efforts. They can improve communication among fishing vessels for the purpose of reducing by-catch and meeting market requirements. Some cooperatives have been successful in managing by-catch limits as well as the target species. Harvesting cooperatives can also allow for greater participation of fishermen in management decision-making. Harvesting cooperatives should be considered as a means to decentralize management, not add another layer of management. Since the race for fish is ended, harvest can be timed with market demand, allowing for increased quality and yield and optimized product mix.

Through the harvesting cooperative, the total allowable catch is shared among members in a way that is decided by the cooperative members, not by a management agency. This can decrease share negotiation time and overcome the political problem of allocating shares. If the cooperative rules allow trading, members may trade catch allocations that are made within the cooperative, but not with outsiders. The transfer of shares to a new entrant will, however, require having or obtaining cooperative membership. The value of membership in a cooperative is the result of the success of the members in managing the cooperative's allocation. That value is distributed to the members of the cooperative and is reflected in the value of the cooperative shares, but not in the value of the fishing privileges that may be held by non-cooperative members.

Harvesting cooperatives allow fishermen to make adjustments between fishing effort and total allowable catch without privatizing the resource. Since the harvesting cooperative is freed from government imposed effort controls, the members can design the most appropriate management system for the cooperative's portion of the total allowable catch. Members of the cooperative can decide to increase or reduce capacity to take advantage of changes in stock abundance or fishing technology. Through improved fleet efficiency, benefits from the fishery can be shared more widely. In contrast to ITQs, cooperative members can obtain these benefits without either acquiring additional fishing rights or selling their fishing rights.

Harvesting cooperatives come with some costs, however. If a substantial portion of a fishery wants to form cooperatives with their own allocations, the allocation arguments are similar in nature to those required for ITQs, albeit with less permanence and with less concern about people obtaining fishing rights and then “cashing out.” Agreements sometimes break down due to poor design and changes in government policy. It may be difficult for fishermen to accept decisions made by the cooperative. Increases in profitability are likely to require reduction in active fishing effort. There will be costs, both in terms of time and money, of forming and operating the cooperative.