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“After all these years” – New Zealand's quota management system at the crossroads

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ABSTRACT

New Zealand has rightly been admired for a new and innovative system of fishery management (the QMS) where ITQs to commercial fishers have been granted in perpetuity. By the turn of the century, the system was seen as a model for how to get the incentives right. 15 years later, it is worthwhile considering the challenges that have not been solved. The article focusses in particular on social aspects such as the labour conditions in the charter fleet, the discard problems, the relationship between the commercial and the recreational sector, the complicated procedures involved in setting and changing TACs, the involvement of Maori in fisheries management and finally on the relationship to the aquaculture sector. The main message is that strong rights to one group (the quota owners), without sorting out the rights for the other stakeholders in the marine area, have created long-term problems, which now partly paralyses the entire QMS. This also implies some serious lessons for countries who would like to copy the QMS; the system comes with a cost.

1. Introduction

In 2016, New Zealand's fishing industry was celebrating the 30th anniversary of its world famous quota management system (QMS), where individual transferable quotas (ITQs) figure prominently. The celebration followed the old adage, that “it is hard to be modest when you are the best!” According to Prime Minister John Key, who opened the conference: “By any definition, we can look back at the QMS and say it's been an overwhelming success.”¹ The key note speaker stated that a global study of 53 maritime countries placed New Zealand first for its marine resources management,² while the editor of the *Seafood New Zealand* (the magazine of the generic seafood organization in New Zealand) stated that “New Zealand's 30-year-old Quota Management System had led the way by providing a fine balance between utilization and sustainability to ensure viable fisheries for current and future generations.”³ The assessments were strikingly similar to the accolades that were heard by the early 2000s, when the first 15 years of operation were assessed, when the QMS served as one of New Zealand's most famous export commodities in terms of fisheries management [56]. However, a closer look at the performance the last 15 years could be worthwhile, not only to get a more sober view of what has indeed been achieved, but also to warn other countries eager to copy the QMS, that the system comes with a cost. The basic research question in this article

is; *what happens with the other stakeholders in coastal, marine and fisheries management, when one group (the quota owners) are given strong quasi property rights in terms of ITQs granted in perpetuity within a separate fisheries management system?* This article will briefly review some of the more recent developments of the quota management system, with a particular focus on:

- the complicated system of setting and changing total allowable catch quotas (TACs)
- the discard problems (the question of incentives offered by the deemed value system)
- the development of aquaculture and the related system of allocating sea space
- the consequences of the QMS for Maori ownership and stewardship of the marine resources
- the relationship between the commercial sector and the recreational fishers
- the labour practices developed within the foreign charter fleet operating in the offshore fisheries

In sum, these can be seen as important challenges to the QMS, challenges which the current fisheries administration struggles to cope with and which may be important impediments in the future. The

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¹ John Key, *Seafood New Zealand*, October 2016.

² Connelly, *Seafood New Zealand*, October 2016.

³ Pankhurst, *Seafood New Zealand*, October 2016.

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article proceeds with a short introduction of the historical background and the establishment of the QMS in 1986. Then follows six sections dealing with the challenges outlined above and a concluding discussion of the applicability of the QMS in the current setting, for New Zealand as well as for other countries considering similar ITQ-based fisheries.

The article is based on an extensive review of the research literature, official documents, in particular from the Ministry for Primary Industries (MPI), combined with interviews with key stakeholders as well as current and former fisheries administrators.

2. From rights-based fisheries to open access and back again

Most accounts of New Zealand fisheries start with the obligatory reference to early Maori fisheries, portraying them as mainly subsistence, carried out on a limited scale before the Europeans entered the scene in the late eighteenth century. Later research, in particular by the Waitangi Tribunal [72], has revealed that Maori were involved in trade and barter long before the European entry. Maori fished for more than 120 species, with a range of different fishing gear, and developed over time a sophisticated management system, with detailed rules for who could fish for what, where and when. The general principle was that each tribe (*iwi*) or subtribe (*hapu*) controlled the waters adjacent to their land, areas which were demarcated in detail and where trespassing would be punished.

This social organization lasted up to the 1860s, when the colonizers started imposing the British type of regulations, beginning with the Oyster Fisheries Act in 1866. Over the next hundred years, a number of regulations were passed, vacillating between conservation and development. In 1945, New Zealand's fleet of 1000 vessels was catching a mere 16,600 t, while the fish export constituted 0.24% of New Zealand's total export [61]. The Marine Department regulated all aspects of the fisheries, largely in line with the policies of the benevolent state. In the 1950s, the Japanese was fishing right up to the 3 nautical mile border, resulting in the establishment of a 12 nautical mile border in 1965 and a comprehensive subsidy scheme in order to establish a national fleet and processing industry. As a result, the fleet increased dramatically, from 1727 vessels in 1963–5178 in 1973, while landings increased by 6–7% per annum. Already at that time, there were signs of overfishing in the coastal zone, while the offshore fisheries were still dominated by Japan, Korea and the Soviet Union. This contributed to the establishment of the 200 nautical mile Exclusive Economic Zone in 1977, making New Zealand a marine “superpower” with the world's fourth largest zone of 4 million km² [23].

At the time of expansion, New Zealand did not have the capacity nor the competence for this type of fishing. The solution was to open up for bilateral fishing agreements, but more important; to allow New Zealand companies to charter foreign vessels, in order to reduce the financial risk. Within a few years exports increased by 400% and the employment in the processing plants increased from 1500 to 3500 [55]. However, the gains in the offshore fleet could not make up for the losses in the crowded inshore fisheries. Here the crisis was looming, and in 1984 the Government's Inshore Fisheries Management Discussion paper outlined three alternatives, with a preference for a system based on individual transferable quotas [33].

The QMS proposed in 1984 was not an entirely new idea. A similar system had in fact been proposed and partly implemented from 1982 onwards in the deep-sea fisheries. Nine companies were allocated quotas within the commercially most interesting species, while a small quota was set aside for smaller participants [17]. The new system showed impressive results within a short time, both in terms of profitability and increased employment. But the inshore fisheries showed no signs of recovery, and in a desperate effort to reduce effort, the Director General decided to concentrate on the bona fide fishers, thus excluding more than 1500 small-scale fishers, most of whom were Maori [1].

Most Maori were rather dissatisfied with the proposed new system.

They had, already in 1840 through the Treaty of Waitangi, received a guarantee from the British Queen that they should keep “the full, exclusive and undisturbed possession of their fisheries” – a claim that had never been rescinded in later legislation. Fearing an endless litigation process, the government of the day agreed with Maori parties to set up a joint working group to sort out how Maori fishing rights could be implemented in a modern setting. The provisional result was the Maori Fisheries Act of 1989, providing the establishment of the Maori Fisheries Commission, which was to receive 10% of all existing quota within the QMS plus cash to run the Commission and set up a commercial arm. After three years of further negotiations, the majority of *iwi* accepted a settlement, offering them additional 20% of all new species introduced into the QMS and 50% of the then largest seafood company in New Zealand, Sealords Ltd. With the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 the Maori Fisheries Commission was reconstituted as the Treaty of Waitangi Fisheries Commission (*Te Ohu Kai Moana*), now being responsible for administering the assets on behalf of the tribes, and later to distribute them to the 58 *iwi* having an interest in the fisheries [70]. Equally important to this commercial arrangement was the guarantee provided by the Act in terms of securing areas of specific significance to Maori as “source of food or for spiritual and cultural reasons” – the system that later was termed *Maori customary fisheries* [27]. Further development of the QMS has been described in detail in a number of assessments [9,19,30,31,50,75] and will not be repeated here. Instead, we move on to the current challenges to the system.

3. Setting the quota right and the record straight

New Zealand's basic management goals are not very different from the ones used in most other developed fishing nations. The concept of maximum sustainable yield (MSY) was incorporated into the Fisheries Act 1996, as a bottom line in terms of stock size. The whole idea behind the QMS is that total allowable catches (TACs) and in particular total allowable commercial catches (TACCs) should be fixed at levels guaranteeing some type of optimum, while at the same time securing biological sustainability. However, the sheer number of stocks to be managed soon overcame the capacity of the fisheries administration. Out of a total number of 642 stocks, of which 292 are only nominal or administrated stocks, the remaining 350 inshore and deep-water stocks are actually managed [19]. According to Mace et al. [31], TACs for 57% of the stocks have never been altered, while for 89% of the stocks there have been two or fewer changes since their introduction into the QMS. Only 16 out of the 350 stocks have experienced five or more changes in TACs over the period (*ibid*). Part of the reason for this situation is the lack of reliable data. After user payment was introduced, the principle became: “User pay, user say”, meaning that research largely was directed towards the most economically important species, while smaller species and ecosystem issues were largely ignored. In fact it has been calculated that the actual research effort, in terms of money used, has been reduced to around 50% of the 1990-level (*ibid*).

Even if we concentrate on the 350 stocks that are currently managed, it should come as no surprise that a small country like New Zealand, with very limited research capacity, is not able to fully cover all these stocks with adequate scientific data. They have to rely on industry data, in particular effort data, with all the weaknesses involved, in terms of inaccurate numbers, covering a large range of species, neglecting discards, etc. A more serious shortcoming relates to the procedures involved. According to experienced fisheries administrators in MPI, a change in a TACC may require six man-months, which means that the entire fisheries administration can only undertake a very limited number of TACC changes each year. This has to do with the process, whereby the Ministry starts by commissioning research, to be followed by development of a research plan, the contracting out of research, the consideration of research being done by the Science Working Group, to end up with the Fisheries Assessment Plenary, which

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