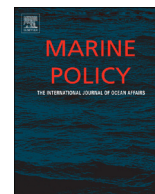




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Domestic sources of international fisheries diplomacy: A framework for analysis



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ABSTRACT

Many international commercial fish stocks are threatened with depletion; in some cases they are already badly depleted. Through Regional Fisheries Management Organizations (RFMOs), member countries are committed in principle to sustainable and scientific management of these fisheries. However, in practice, national policies toward international fisheries vary greatly across countries, from those that in practice support sustainable management to those that seem implicitly committed to fishing as much as possible in the short term. There has to this point been little comparative work looking systematically at the differences in international fisheries policies across countries, despite the importance to the effective management of international fisheries of understanding these differences. This article is an effort to address this lacuna in the literature, by creating a framework for comparing the domestic sources of differing international fisheries policies across countries. The proposed analytical framework looks at four types of differences across countries to explain variation in international fisheries policies, derived from the existing literature: fleet substitutability, the structure of the fishing industry in a state, regulatory capture, and environmental NGOs. The framework has significant potential to explain state positions in RFMOs negotiations. It may also contribute to further understanding of the general relationship between international negotiations and domestic politics.

1. Introduction

A substantial portion of the world's fisheries are international, defined as those that are found in the high seas or that contain highly migratory fish (fish species which migrate through both EEZ and high seas). National governments cannot manage these fisheries alone; they can do so only in cooperation with each other. But international fisheries are, as a whole, over-exploited and under-managed. As a result, many international commercial fish stocks are threatened with depletion; in some cases they are already badly depleted [1]. The countries that are major participants in international fisheries cooperate to manage these stocks through a group of intergovernmental organizations collectively known as Regional Fisheries Management Organizations (RFMOs). Through these RFMOs, all participant countries are committed in principle to sustainable and scientific management. And yet in practice, national policies toward international fisheries vary greatly across countries, from those that support sustainable development to those that seem implicitly committed to fishing as much as

possible in the short term.

While there are a number of studies of different national fisheries policies (for example, [2,3]), and game-theoretical work that looks at the effects of assumed differences in national policy (for example [4,5]; for a broader review of the game theoretical literature on the subject, see [6]), there has to this point been little comparative empirical work looking systematically at the differences in international fisheries policies across countries. This lack of comparative empirical work persists despite the importance to the effective management of international fisheries of understanding these differences. This article is an effort to address this lacuna in the literature, by creating a framework for comparing the domestic sources of differing international fisheries policies across countries. The proposed analytical framework focuses in particular at the policy positions taken by national delegations in negotiations under the auspices of RFMOs, because this is where specific collective international management decisions are made.

The framework looks at four types of differences across countries that have been proposed in existing literatures to explain variation in

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international fisheries policies. The first is substitutability, the extent to which a state's fishing vessels have alternatives to fishing in a given RFMO's regulatory area. The second is the structure of the fishing industry in a state (and relative to a particular fishery). The argument here is that both the relative proportion of the industry engaged in capture fishing versus fish processing, and the extent to which the state is a net importer or exporter of the fish stocks in question, could influence a state's positions. The third has a focus on potential sources of regulatory capture within states, based on how their regulatory agencies are situated within governmental structures, who represents the state at RFMO negotiations, and the extent to which the state subsidizes fishing. The fourth is the role that environmental NGOs, particularly those focused on fishing issues, play within states.

After discussion of what is to be explained by the framework (in other words, the dependent variable), the theoretical underpinnings of the proposed framework and the models of domestic politics that are focused on are identified. Then, the four explanatory theoretical propositions on the domestic sources of international fisheries policy are elaborated with some illustrative examples. The conclusion discusses further necessary work to evaluate the framework empirically.

2. International fisheries policies across countries

Japan is one of the most significant fishing countries in the world. It has ratified the UN Fish Stocks Agreement (UNFSA), which stipulates the implementation of the Total-Allowable-Catch (TAC) approach based on the calculation of Maximum Sustainable Yield (MSY), and establishes the precautionary approach as its foundational principle. But domestically Japan has TAC regulation for only 7 species and its fisheries legislation has no reference to the precautionary approach nor to the idea of MSY. The TAC for fisheries it controls is frequently set above sustainable harvest level. Japan's approach is in stark contrast with the negotiation position of the European Union (EU) and United States (US), which more frequently invoke the precautionary approach. At the same time, the general EU approach is tempered by strategic use of opt out provisions within fisheries agreements and occasional non-compliance with international rules.

There can thus be considerable differences among the international fisheries policies of different countries participating in the same negotiations, and even between the policies one state takes towards regulation within different fisheries. These positions have different implications for the sustainability of international fisheries. Since the main interest lies in explaining the driving forces that render state behavior more or less favorable to sustainable fisheries, the framework distinguishes, following Webster [7], between “strong” positions favoring a scientific committee's advice and stricter monitoring and enforcement measures, and “weak” positions favoring looser regulation.

Another way to study the strength of national policy towards fisheries is to look at actions taken by national regulators in response to negotiated outcomes in RFMOs. What a state argues for in terms of regulation may differ from what it does to implement the regulations adopted, as exemplified by Japan's unwillingness to stipulate the precautionary principle despite the requirement to do so under the UNFSA. Differences between negotiating positions and implementation behavior can indicate the degree to which states policies and positions are reflective of *de facto* policy preferences across the national fisheries policy implementation machinery. The EU, despite its precautionary negotiating position, makes strategic use of opt out provisions, removing itself from being bound by the rules agreed to; it also occasionally does not comply with those it has taken on ([8]). There is a more extensive literature on the implementation of international fisheries agreements than on negotiating stances leading up to them (for example, [9,10]). Although the framework considers negotiating position and implementation as two separate factors, the differences between the two matter: the more implementation lags stated policy and negotiating position, the lower the likelihood that sustainability is a

fundamental goal of the country's international fisheries policy.

3. International fisheries policy in theory

Exploring the driving factors determining states' negotiation positions in international fisheries governance is still in its infancy. Incorporating domestic politics and factors stemming from domestic policymaking into such analysis will enrich our general understanding of state behavior in international fisheries governance, supplementing existing theories that treat states as rational unitary actors.

Two insights drawn from the rationalist analysis of international cooperation and negotiation provide a useful starting point for this line of research. The first is that most fish stocks subject to international negotiations are common pool resources (CPRs). That is, they have the characteristics of *non-excludability* (one cannot exclude others from catching fish) and *subtractability* (the more one fishes, the fewer fish others can catch). This context generates a potential tragedy of the commons, which has profound political implications for managing such fish stocks. Barkin and DeSombre [8] neatly summarize the main implication: the non-excludability of a CPR means that actors that do not contribute to protecting that resource cannot be excluded from accessing it; subtractability of the resource means that those noncooperators can diminish the resource. In other words, if most, but not all, states get together and agree to restrict their catches of fish to levels at which the species can be sustainably caught, the resource can still be depleted by the few actors that do not restrict their catches [8]. An additional implication is that potential free riders, states that do not have much interest in the sustainability of fisheries resources, can gain more bargaining power than the states who depend on such resources because they can credibly threaten to deplete the resource absent cooperative management.

This last observation makes it critical to understand which countries are likely to be free riders in negotiations toward international fisheries governance if international fisheries are to be managed sustainably. Current research on countries' international fisheries policies sheds some light on the policies of individual countries (for example, [9]), but does not provide a basis for addressing relative interest in sustainable policies across countries.

But speaking of a “country” as a unitary actor is often misleading. Even when fisheries diplomats desire to pursue cooperative governance of sustainable international fisheries, they are faced not only with international negotiation, but also simultaneously with negotiation at domestic level with their home governments and constituents whom they have to persuade to accept any international deal pursuing sustainable cooperative governance. They are, as Robert Putnam initially observed, facing a “two-level game” [11], negotiating both with their domestic populations and with their international negotiating partners to pursue national fisheries interests. The domestic population acts mainly as a constraining condition over the fisheries diplomats negotiating at RFMOs. But key is what those interests are. The two-level games perspective, in combination with analysis of collective action, suggests that states prefer cooperative management to succeed, but at the same time would like to free-ride on that management by being less regulated than others. All states can be expected to share those preferences to some extent, though the extent to which they are willing to risk collapse of a negotiation should vary based on their alternatives. This situation frequently results in catch levels that are higher than scientific advice suggests.

The two-level game perspective highlights the need to establish who the key domestic interest groups are that constrain national negotiators in the issue at hand. In this case, for example, the domestic level of a two-level game means persuading the fishing industry to make short-term financial sacrifices for the rebuilding of the targeted fish stocks in the longer term, a rebuilding that would benefit users of the resource collectively. One source of bargaining power the fishing industry has over fisheries regulators is that they are the main provider of fisheries

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