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Setting of total allowable catches in the 2013 EU common fisheries policy reform: possible impacts

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A B S T R A C T

Fisheries in the European Union (EU) are managed through the Common Fisheries Policy (CFP), which has been revised in 2013 to achieve Maximum Sustainable Yield (MSY) for all commercial exploited stocks and ban discards, amongst other aims. One of its core instruments to achieve stock conservation objectives in the North-East Atlantic are Total Allowable Catches (TACs). These are agreed annually by the Council of the EU, informed by scientific advice but usually based on perceived short-term socioeconomic impacts. The objective of this study was to analyse the influence of major policy decisions and consequent changes in the basis of scientific advice on TAC decisions. TACs set were compared to maximum advised catch levels between 2010 and 2017, in order to determine to what extent the EU adheres to scientific advice. The results show that EU fisheries ministers persistently set fishing opportunities above those given by MSY based scientific advice. Since 2010, 60% of the TACs analysed were constantly set above the advised levels, but departure from the advised tonnes peaked at around 40% in 2013, during the CFP negotiation, and again in 2017 due to the introduction of the landing obligation. More importantly, the observed decreasing trend of overfishing that had been achieved in Europe has been halted since 2011–2012. Finally, there was no impact of ICES' adoption of the MSY approach in EU TACs decision-making.

1. Introduction

Fisheries in the European Union (EU) are managed through the Common Fisheries Policy (CFP) [1]. This overarching legislation includes global objectives to be attained and preserves the principles of economic, social and environmental objectives in fisheries management. The CFP is reviewed every ten years and since it was established it has been reformed three times to resolve overexploitation and overcapacity issues [2]. In the latest CFP reform, which was finally agreed upon in 2013, Maximum Sustainable Yield (MSY) was introduced in the legislation as the management target to be achieved for all stocks, if possible by 2015, and at the latest by 2020. The reformed CFP retains its central instrument for achieving stock conservation objectives in North-East Atlantic, namely Total Allowable Catches (TACs). Until 2014, TACs limited the amount of fish landed but not caught, while since 2015 several TACs reflect catches through the phased introduction of the Landing Obligation (LO, Article 15 of Regulation (EU) No 1380/2013), whereby all catches of TAC regulated species in North-East Atlantic need to be landed and accounted for by 2019.

The EU TACs for key stocks are agreed upon on a yearly basis by the Council of the EU, based on European Commission legislative proposals. The agreed TACs are therefore the result of a negotiation between EU Member States (MSs) representing their national interests in the Council and the European Commission. The negotiation strategy of the different MS delegations is informed by scientific advice on fishing opportunities [3], but is often influenced by national domestic interests [4, e.g. 5, 6]. The decisions are often made based on perceived short-term socioeconomic impacts to the detriment of long-term sustainability goals [2], primarily for TACs outside an adopted long-term recovery and/or management plans. In the past, there has also been a desire by the European Commission and the Council Presidency for a unanimous TAC agreement to fulfil their role of consensus building. Although this search for consensus depends on the negotiation strategy preferences of the Commissioner and the MS holding the Council Presidency, and can change considerably (E. Penas Lado, pers. comm.), it can lead to further compromises of long-term goals when setting TACs. At the same time, agreement on overarching policies with significant political impact, such as revisions of the CFP, may take precedence over TAC decisions. An additional layer in TAC decision-makings was introduced by the Lisbon Treaty, which gives co-decisive legislative

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power to the European Parliament. Although co-decision is not directly applicable to the decision on annual fishing limits, the provisions in multiannual plans, which are specified in the reformed CFP and are co-decided, have a bearing on setting future catch opportunities. Nevertheless, due to this duality of power between the European Parliament and the Council of the EU, such provisions are general and are unclear on how they will be applied in the form of explicit harvest control rules (HCRs) to set future TACs [7]. Therefore, despite several CFP reforms, the TAC system and the primary role of the Council in setting them have remained surprisingly unchanged [8].

The annually-agreed EU TACs are shared among the different MSs according to the so-called 'relative stability', a system by which MS are allocated a fixed proportion of a stock' TAC that was assigned to each MS participating in the fishery at the time of joining the EU. Since 1983, the EU has gradually capped the catches of most commercially important stocks with TACs in the North-East Atlantic [9]. The fundamental principle of the CFP is that MS can fish any stock in all EU waters, provided they have a quota for that stock [3]. Since lack of quota is in fact a reason for prohibiting a MS from entering a TAC-regulated fishery, there is a very strong reluctance to open the discussion on relative stability by fisheries ministers in the Council of the EU, as there is a risk that it could lead to decreased fishing opportunities or, as suggested by Hoefnagel *et al.* [9], it might give MSs access to areas from which they were otherwise barred from fishing. The result is an inflexible system, under which the proportion of fishing opportunities for MSs has remained constant while the fisheries exploiting those opportunities have changed over time. Although quota swaps at MS level are possible and occur frequently [9], they are often insufficient to fully accommodate the evolution of catches arising from temporal changes in stock status and distribution, market demands and technological innovation and that inevitably leads to discards [e.g.10]. The mismatch between quota availability and realised catch has been exacerbated by the introduction of the LO. Prior to 2015, a boat that had exhausted a quota could continue fishing against any remaining quotas and discard the catch for which it no (longer) had a quota. Since 2015 however, discarding of catches by fisheries subject to the phased introduction of the LO, namely fisheries for pelagic species and several demersal species, has no longer been permitted and all catches (with some exemptions) should have been brought to shore and landed. To accommodate the predicted increase in landed catch from such fisheries, the relevant 2015, 2016 and 2017 TACs were increased in accordance with the estimated catch that formerly would have been discarded [11–13], while quota swaps have been encourage and predicted to increase by the European Commission (EC). Instead, quotas swaps have decreased since 2014 [14], and the issue of quota mismatch remains and becomes acute when the quota for a stock is exhausted and especially for stocks with a TAC of zero.

Over the last two decades, there has been a general reduction in fishing mortality in European stocks and a subsequent recovery in several commercial stocks in the North-East Atlantic [15,16], in part as a result of restricted fishing opportunities produced by explicit harvest control rules detailed in long-term management plans. Although not all management plans prevented TACs being set above scientific advice, they did limit the magnitude of such disparities. In the 2013 CFP reform, the multi-annual plans (MAPs) that replace the previous long-term management plans, have no explicit harvest control rules that require a reduction in fishing mortality when reference points are reached [7,17]. This lack of specificity has led to other management measures being adopted (increased closed area season and limitation on recreational fisheries) replacing in part further restriction on fishing opportunities [18], but it is yet to be seen if such measures have been or will be as effective at controlling fishing mortality as effective enforcement of restrictive TACs.

In summary, the considerations given above indicate that, the short-term national interests of MSs, the inflexible system of relative stability, unanimous Council agreements and, recently, the LO and MAPs, have resulted in EU TACs being systematically set above scientific advice (as shown by Villasante et al. [19]) and are likely to continue. Together with the issue of overcapacity in some fisheries, this may in part explain why many European stocks remain overexploited. In this context, studying EU TAC decision-making and what influences it is extremely important. As Kleinjans [8] argues, if this component of the CFP is one of the main causes of continued overfishing then it is no surprise that (past) reforms have had little success at achieving the CFP objectives of environmentally sustainable fisheries, among others.

This study aims to analyse TAC setting in the context of the latest CFP reform, namely on the adoption of MSY objectives and the introduction of the LO amongst others, but also in view of the change in the basis of the International Council for the Exploration of the Sea (ICES) advice to the MSY approach for providing scientific advice on fishing opportunities. At the same time, the hypothesis that higher fishing opportunities were decided upon by the Council of the EU while negotiating the CFP reform will be tested, i.e. that there was a trade-off by MSs between agreeing to some CFP provisions perceived as difficult and getting higher national fishing opportunities, in detriment to established management plans. Such trade-offs are not new in the European negotiation sphere; and has happened at least since the mid-80 s, when TACs were increased by the Council in order to accommodate the Iberian accession and reach a political agreement [20]. Although one recent study has focused on the Council of the EU's decision-making by comparing TACs agreed to respective stock catch advice [21], as opposed to comparing stock advice to agreed TACs [e.g. 8,16], the present study goes further by examining the influence of major policy decisions and concurrent changes to scientific advice on TAC-setting, and whether factors such as region, species and year also had an effect.

2. Methods

2.1. Data used

The TACs, defined as catch limits set for one or more stocks in particular geographical areas, agreed by the Council of the EU and the corresponding fishing opportunities advised by the ICES were compared for the years 2010–2017. This temporal window was chosen to coincide with the change in the basis of ICES' advice to the MSY approach (see below for more details) to allow for a comparison with the CFP MSY objectives. The analysis was restricted to TACs for stocks in European Union waters to the west of Scotland, around Ireland and the Celtic Sea, hereinafter referred to as Northern Western Waters; the Bay of Biscay and Iberian waters, hereinafter referred to as Southern Western Waters; the North Sea and the Baltic Sea. Annual TACs set by the Council of the EU available at www.eur-lex.europa.eu, and the corresponding advice on fishing opportunities from the ICES stock summary advice sheets available at www.ices.dk were compiled for the years 2010–2017. Skates and rays TACs were excluded from the analysis due to the inability to align the advised catch for the various species and stocks to the four TACs. The two *Nephrops norvegicus* TACs were also excluded because the advice from ICES is based on harvest rates rather than fishing mortality and these measures are not directly comparable.

The framework for ICES advice changed from a precautionary approach until 2009 to a transition year with the introduction of the MSY approach in 2010 (2011 TACs advice) and then to the adoption of the MSY approach from 2011 onwards. ICES' MSY approach [22] is based on attaining a fishing mortality rate (F) at or below F_{MSY}, while until 2009 it was at or below F_{pa}. Biomass reference points are used to trigger advice on reduced fishing mortality relative to F_{MSY}. Between 2010 and 2017, ICES increased the number of stocks it provided quantitative advice for and also the number of stocks it officially assessed.