

## Protecting today's fish for tomorrow: reforming the resource conservation and management pillar of the European Union's Common Fisheries Policy

When T.H. Huxley, the eminent British scientist, stated in 1883 that “probably all the great sea-fisheries are inexhaustible,” he could scarcely have predicted the direction that commercial fishing would take during the succeeding century.<sup>1</sup> Today, his contention that “nothing we can do seriously affects the number of fish” has been conclusively disproved and the more pertinent question is whether we can do anything to restore fish stocks to sustainable levels. In European Union (EU) waters, the answer to that question comes down to the effectiveness of the EU's marine policy implement, the common fisheries policy (CFP).

### The common fisheries policy: an overview

When Hardin (1968), describing a long-observed phenomenon, coined the phrase ‘the tragedy of the commons’ he explained it by reference to shared grazing grounds but he could just as easily have done so in relation to fish stocks.<sup>2</sup> For the fisherman, the private benefits of every additional fish caught outweigh the private costs, even if the result – overfishing – is detrimental from the shared perspective and, ultimately, brings ruin to all. To manage this shared resource, in 1970 the six members of the then-European Communities established a common fisheries policy, although at first it did not seek to address the problem of stock depletion. However, following the near-disappearance of North Sea herring in the mid-1970s and a moratorium on herring fishing between 1977 and 1983, the then-nine member states amended the CFP in 1983 to limit the total tonnage of fish landed from European coastal waters. The principal means to this end was a system of national and individual quotas that survives to this day: total allowable catches (TACs) in the jargon.

The effectiveness of the quota system, and the CFP more generally, was soon called into question and, by 1995, a leading scholar in the field was writing that the “CFP is widely regarded as being a failure.”<sup>3</sup> A further bout of reform in 2002 produced a CFP consisting of four pillars,<sup>4</sup> with one directly aimed at preventing overfishing: the resource conservation and management policy.<sup>5</sup> The policy sets TACs for each species – i.e. limits on the annual tonnage caught in EU waters and landed in EU ports – which are allocated by member state and, beyond that, by fishing operator. So-called ‘technical measures’ are also in place to limit numbers of days at sea, set minimum net sizes and close off certain areas at given times.

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<sup>1</sup> Quoted in G. Pontecorvo, ‘Opportunity, Abundance, Scarcity: An Overview’ in G. Pontecorvo (ed.), *The New Order of the Oceans: The Advent of a Managed Environment* (New York, 1986), p.6

<sup>2</sup> G. Hardin, ‘The Tragedy of the Commons’, *Science*, 162 (1968), pp. 1243-1248

<sup>3</sup> A. Karagiannakos, *Fisheries Management in the European Union* (Aldershot, 1995), p.1

<sup>4</sup> E. da Conceição-Heldt, *The Common Fisheries Policy in the European Union: A Study in Integrative and Distributive Bargaining* (New York, 2004), pp. 17-19

<sup>5</sup> The remaining pillars deal with access to third-party waters, the size and shape of the fishing fleet (the ‘structural policy’) and market organization (common marketing standards, minimum price setting, rules for trade with non-EU countries, etc.)

## The CFP's record: accounting for the state of Europe's fish stocks

Today, the CFP is one of the EU's most maligned policies, the target of sustained criticism from stakeholders, academics and the wider public.<sup>6</sup> As the CFP braces itself for another round of reform, the European Commission – the EU's executive – has recently published a green paper discussing its current operation and detailing options for improvement. It bemoans the “current reality of overfishing, fleet overcapacity, heavy subsidies, low economic resilience and decline in the volume of fish caught,” arguing for a “whole-scale and fundamental reform” of the CFP.<sup>7</sup> The evidence of the CFP's failure to conserve stocks is overwhelming. Statistics collected by the International Council for the Exploration of the Sea (ICES), on which the EU relies for scientific advice on fishing matters, suggest that 88% of European stocks were being fished beyond their maximum sustainable yields (MSYs) in 2008 – i.e. the level of annual catch that on average can be taken year after year without impacting the productivity of the species. 30% of these stocks were “outside safe biological limits,” suggesting they may never recover. The situation is aggravated by the industry's reliance on immature catches: as an example, 93% of North Sea cod are caught before they are old enough to reproduce.<sup>8</sup>

The CFP aims to ensure that catches are kept at sustainable levels but, in practice, it has proved ineffective. Short-term political factors cause TACs to be set at levels well above scientists' recommendations and, once set, inspection systems are insufficient: quotas are routinely exceeded. The European Court of Auditors identifies 66 impediments to the accurate reporting and monitoring of catch data for quota purposes, at every level from the dockside to Brussels. As a result, “catch data are neither complete nor reliable,” preventing “proper application of the TAC and quota systems.”<sup>9</sup> In addition, quotas encourage discarding, i.e. the practice of throwing unwanted catches back into the sea. When operators hunting one species catch over-quota specimens of another, unless they land them illegally (producing so-called ‘black fish’ to be sold through unofficial channels), they must discard them, often after they have already died.<sup>10</sup> Some European fishing grounds have discard rates as high as 83%, largely due to quotas (although some fish are discarded for economic reasons, to create space in the hold for more valuable species).<sup>11</sup> Overfishing stems not just from the effective absence of limits on catches but also from the size of Europe's fishing

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<sup>6</sup> The CFP has, for example, proven a favored target of the Euro-skeptic popular press. See for example *The Sun* (15 May 2002), ‘Armada to invade Britain’ (“Britain's fishing fleet is facing ruin in an astonishing EU stitch-up which will allow the Spanish Armada to plunder our waters.”)

<sup>7</sup> Commission of the European Communities, *Green Paper: Reform of the Common Fisheries Policy* (Brussels, 2009), pp. 4-5

<sup>8</sup> ICES statistics quoted in Commission, *Green Paper*, p.7

<sup>9</sup> European Court of Auditors, *Special report on the control, inspection and sanction systems relating to the rules on conservation of Community fisheries resources, 7/2007* (Brussels, 2007), p.317/4

<sup>10</sup> T. Oliver, ‘Can Quotas Save Stocks?’ in T.S. Gray (ed.), *The Politics of Fishing* (London, 1998), p.70

<sup>11</sup> North Sea figures from United Nations Food & Agriculture Organization, *Discards in the world's marine fisheries, an update* (Rome, 2005), p.25

fleet: it remains “far too large for the resources available.”<sup>12</sup> Since 2002, it has shrunk at an annual rate of only 2%, offset by technological improvements that increase fishing efficiency by 2-3% per annum.<sup>13</sup> In sum, today’s CFP is failing to protect the fish stocks of tomorrow.

### **A proposed solution**

A fundamental premise of fisheries economics is that the yield produced by a given fishery (i.e. the tonnage of fish caught annually) is a function of the fish it contains (their size and number) and the effort put into catching them.<sup>14</sup> The CFP’s attempt to limit the yield of European fisheries – through quotas – has proved ineffective and few solutions appear to exist to the enforcement issues that have plagued it from the outset. It is therefore time for a change in focus.

**Recommendation 1:** shift the CFP from an instrument principally focused on yield, to one targeting fishing effort by abolishing quotas but introducing strict limits on access to fishing grounds

**Recommendation 2:** building on the existing Vessel Monitoring System, compel all European fishing vessels to carry global positioning satellite (GPS) trackers fixed to their hulls

**Recommendation 3:** commission ICES scientists to set limits on the total number of fishing hours permitted per month in each fishing ground so as to ensure that catches are kept within the MSY

**Recommendation 4:** establish an electronic auction system where operators buy the right to fish a given area for a set number of hours, with auctions held monthly to determine access rights for the following month

**Recommendation 5:** enforce the system centrally, with punitive fines for any vessel fishing in areas or at times for which it has not bought the permit

Implementing these five recommendations would produce the most abrupt shift in European fisheries policy since quotas were introduced in 1983. The potential benefits, though, are considerable. Doing away with TACs would bring to an end damaging practices like quota-driven discards and the systematic misreporting of catches. More importantly, placing limits on access to fishing grounds rather than on tonnage landed would – for the first time – allow for effective enforcement. The technology exists to track the movements of the EU’s 88,520 commercial fishing vessels with relative ease and, by shifting policing responsibility from the local to the central level, the CFP’s long history of lax and patchy enforcement can be brought to a close.<sup>15</sup> Meanwhile, by putting scientists rather than fisheries ministers in charge of setting the limits and by shifting to monthly rather than annual maximums, two of the major criticisms of the TAC system would be

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<sup>12</sup> Commission, *Green Paper*, p.8

<sup>13</sup> *Ibid.*, p.7

<sup>14</sup> Karagiannakos, *Fisheries Management*, p.4

<sup>15</sup> On lax enforcement, see M. Holden, *The Common Fisheries Policy: Origin, Evaluation and Future* (Oxford, 1995), pp. 161-167

addressed: that short-term political considerations drive quota-setting and that the current system is too slow to respond to rapid changes in fish stocks. Furthermore, an auction system would alter the financial dynamics of commercial fishing, encouraging operators to streamline their fleets and thus helping to address overcapacity, the tackling of which the commission considers “a pre-requisite for all other pillars of the policy to work.”<sup>16</sup> Finally, the auction process could be adjusted to promote socio-economic objectives, with concessions for those remote communities that rely heavily on fishing, much like Hague preferences today grant them increased quotas.

## **Conclusion**

The fisheries of the European Union have historically been some of the world’s richest and, even today after decades of over-exploitation, they still constitute the world’s third most-productive waters.<sup>17</sup> However, with almost one-third of species now at levels from which they may never recover and nine-tenths of species being caught at unsustainable rates, there is a widespread consensus that the common fisheries policy, as presently constructed, has not succeeded in safeguarding stocks. These five recommendations would, if implemented, radically alter the way the EU prevents overfishing and would do much to maintain fish stocks at healthy levels. That is not, of course, to say that the proposed prescription would be a panacea nor that its implementation would prove painless. The abundance of multi-species fishing grounds in EU waters would result in the underfishing of some species in order to prevent the overfishing of companion stocks. Also, in common with almost all proposals for CFP reform, the above recommendations would inevitably lead to job losses amongst the 415,000 people employed in the EU’s fisheries sector. There is, unfortunately, no realistic way to bring catches down to sustainable levels without causing layoffs.

The EU’s labyrinthine decision-making structure is such that any reform of the CFP will be the product of a lengthy process of negotiation and compromise. Two of the key tenets of the solution proposed – greater restrictions on fishing and centralized enforcement – would doubtless raise the ire of some member states and require considerable sacrifices. Painful as those sacrifices may be, they are unavoidable if the CFP is to protect Europe’s fish stocks and secure the future of the EU’s fishing industry. The great sea-fisheries, it turns out, are far from inexhaustible.

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<sup>16</sup> Commission, *Green Paper*, p.8

<sup>17</sup> Commission of the European Communities, *Facts and figures on the CFP: basic data on the CFP* (Brussels, 2008), p.1