Inefficient Decisions, Emergencies and the Benefits of Delegated Power: Measuring Commission Power in EC Fisheries Policy-Making

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Abstract: The failure of the European Union's Common Fisheries Policy (CFP) to develop a sustainable fishing environment for all member states is often blamed on the incompatibility of the territorial logic of national interests and the market forces of a de-territorialized European Union. Ironically, it is precisely this incompatibility that a common approach sought to overcome. This policy attempts to address scientific, market and socio-economic concerns within a shared state-led policymaking arena. Within this arena, the Commission's institutional significance as initiator of conservation regulations and overseer of policy implementation has often been derided within the literature. A small policing budget and a Council populated by logrolling preference outliers only add to the perception that the Commission's authority lacks any real teeth. This view neglects to consider the evolution of Commission powers in relation to ministers' preferences for decision-making autonomy over the policy's history. When these powers are seen in this light it becomes clear that both 'push' factors from the Council and 'pull' factors from the Commission are altering the institutional balance within this arena. This paper considers how Total Allowable Catch determination has evolved and puts the Commission's increasing use of emergency legislation into the context of this institutional evolution.

Keywords: European Union, Common Fisheries Policy, fisheries policymaking, fisheries management, EU integration

1. INTRODUCTION

The failure of the European Union (EU) Common Fisheries Policy (CFP) to achieve the aim of sustainable fisheries exploitation has received increasing attention from EU policy analysts in recent years. Despite the use of a shared Total Allowable Catch (TAC) and quota system and a range of other technical instruments, the conservation dilemma has only deepened over the past 20 years. Much of the literature addressing this phenomenon attempts to explain the persistence of over-exploitation by analyzing implementation puzzles. While these studies derive important insights into the complexities of coordination across 13 fishing states[1], their focus on implementation means that little attention has been focused on decision-making processes at the EU level.[2] Assumptions about the policy and institutional effects of EU decision-making often preface analyses but are rarely substantiated, which is curious given that the rules brokered in Brussels bind actors within a common supranational conservation regime. This paper draws some links between the institutional boundaries of the design of the TAC determination process and increases in Commission activism over time. In particular, associations are made between ministers' attempts at vote seeking, incidences of over-fishing, and the Commission's increased use of its formal emergency powers. It is shown that, as the TAC regime has evolved, ministers have tried to protect the differentiated benefits they glean from the negative feedback of external and internal forces. Their attempts have contributed not only to an increased incidence of over-fishing, but have also paved the way for the European Commission's activism allowing it to stake a more central claim as regulator of the European fisheries commons.

The paper is subdivided into three sections: The first presents two key assumptions that underpin the analysis: ministers express particular rather than national interests within the fisheries policymaking arena and, furthermore, formal rules alter the ranking of preferences over time. The second section provides a brief description of the policymaking process within which TAC determination takes place and considers the institutional boundaries of this process in more detail. The combination of two variables are conceptualized as providing relatively rigid boundaries to ministers' actions: TAC determination decision-making rules derive less benefits per minister as the number of member states increases and the use of biological indicators as a basis for reducing depletion risk makes it more difficult for ministers to derive TAC benefits for individual fishing

industries over time. In other words, as the number of member states has increased within the Council and the biological state of the resource pool has worsened, it has become increasingly difficult for ministers to obtain their preferred options 'cheaply'. Delegation to the Commission is a method of shifting both the burden and the blame of failed policy away from ministers once the benefits of this decision-making arena have reached depletion levels. The final section of this paper presents some observations concerning the Commission's use of its powers, concluding that it is taking an increasingly activist stance regarding conservation, buttressed by increased powers and a less exploitative Council. In other words, the evolution of choices made within these institutional boundaries has provided a window of opportunity for the forces of conservation at the EU level. This is due both to the 'push' of the Council's desire to blame-shift policy failure to the Commission and the 'pull' of the Commission's desire to assert its will using the powers it has been delegated.

2. TWO COMMON ASSUMPTIONS MADE RE EU POLICYMAKING

2.1. Fisheries ministers express particular preferences – not national ones

Within the literature on EU fisheries policymaking, it is generally assumed that member states act within the Council to pursue the national interest (Holden 1994; Karagiannakos 1995; Payne 2000). By this rationale, legislative output is simply a function of the preferences of member states weighted according to their bargaining power (Hoffmann 1966; Moravcsik 1998). Policy failure is assumed to stem from one of at least three likely occurrences: National governments are conceptualized as apathetic regarding their conservation goals, their preferences for more fishing trump their conservation goals or, 'games' played across policymaking arenas cancel out any conservation attempts (Jensen 1999; Payne 2000). All three of these possibilities overlook a key aspect of the institutional history of the EU, however. Councils have evolved along *sectoral* lines and many of them do their business below the radar of the media, national government scrutiny or, indeed, institutional scrutiny at the EU level.

Recent studies show that Councils of ministers tend to come in two varieties. Some encompass more than one policy community and are relatively high-profile in terms of the attention they engender from the media and politicians at all levels of politics within the EU. Decisions made in these, such as those concerned with budgets, foreign affairs or competition, are not brokered within the same kind of setting nor in the same manner as those made in specialized Councils like the fisheries arena (Franchino and Rahming 2002: 15). In generalist Councils, decisions tend to be subject to more scrutiny and ministers tend to adhere to the preferences expressed by national governments to a greater extent. This is the case for a number of reasons: The ministers attending these Councils are usually senior ministers, who must respond to a more differentiated constituency at home, which gives them strong personal incentives to adhere to the preferences of their own governments. Furthermore, since the issues they address tend to overlap more often across policy arenas, generalist Councils are more subject to controls on their choices by the General Affairs Council or the European Council, giving them an equally strong institutional incentive to adhere to national preferences as well (Hix 1999: 63-68).

For generalist Councils, then, it can be argued, as Hix and others have, that ministers' particular incentive (vote-getting) and the preferences of national governments tend to be congruent. Specialist Councils, however, do not follow the same pattern. Unlike their generalist counterparts, they tend to be composed of junior ministers serving well demarcated constituencies (Hayes-Renshaw 2002). Indeed, fisheries ministers have been shown to have a more peaked preference for supporting the interests of fishers within the fisheries Council (Franchino and Rahming 2002: 20-23). Throughout the history of the TAC regime, in fact, they have tended to be 'preference outliers'.[3] Instead, of acting on the preferences of national governments, fisheries ministers' preferences have been governed by somewhat divergent *personal* preferences in support of national fishing interests (Franchino and Rahming 2002: 20-21).

2.2. Formal rules shape EU preferences

A second assumption that is often made within the intergovernmentalist literature is that national preferences shape formal rules and not the other way around (Moravcsik 1998). EU actors, via this lens, are seen as autonomous of their environment in that it is they who decide to create these

institutions and it is they who have the power to dissolve them. This makes joining and leaving sound like a relatively low-cost operation, however, which it clearly is not (Hirschmann 1990). As Monnet famously put it, 'Rien n'est possible sans les hommes, [mais] rien n'est durable sans les institutions' (1976).[4] A focus that downplays the difficulties member states have in navigating complex intergovernmental environments does not present a complete picture. Indeed, 'national governments are only in control of both national and EU decision-making insofar as they can successfully steer the complex organisational networks which operationalise governance' and fisheries policymaking is certainly 'complex' (Armstrong and Bulmer 1998).

There is no dispute that the *institutional design* of the CFP was brokered so that member states - not supranational bodies – maintained firm and authoritative control over policymaking outputs, policy implementation and even the monitoring of policy outcomes via the creation of a small policing budget and limited monitoring powers for the Commission (Lequesne 2001). The extent to which governments have maintained the same level of autonomy in their institutional choices over time is less clear and the extent to which they are to blame for any institutional drift is also open to question. In the case of the CFP, given the first assumption concerning ministers' preferences, when ministers re-weight the benefits and costs of collective action as resources deplete and enlargement takes place, it cannot necessarily be concluded that the institutional choices made are the intended consequences of member states. This has obvious significance with regard to who or what is actually driving the integration process. Within the context of fisheries conservation policy, this has implications for the likely future approach taken regarding resource management and its conservation.

3. THE TAC DETERMINATION PROCESS

TAC determination involves four key institutional actors: the International Council for the Exploration of the Sea's (ICES) Advisory Committee on Fisheries Management (ACFM), the Commission's Scientific, Technical and Economic Committee on Fisheries (STECF), the European Commission's Directorate-General of Fisheries (DG-FISH), and the Council of Ministers of Fisheries. [5] The process itself is also relatively straightforward, in spite of the complexity of the knowledge required and the network of actors involved. First, information concerning the state of the shared marine resource is gathered from a variety of sources including national governments, the EU's own research facilities and via a number of regional fisheries organizations, most notably ICES.[6] Among species subject to the TAC system, most of this information is analyzed within the framework of the ACFM and an independent report is generated concerning the likelihood of depletion at different levels of exploitation along with a suggested precautionary and maximum level of exploitation above which depletion is likely. Commission experts within the Scientific, Technical, and Economic Committee on Fisheries (STECF) then consider this advice in light of the scientific and economic repercussions of action on this basis. Not only is the advice itself required under EU law, the CFP also requires that it form the basis of the Commission proposal for yearly catch levels on species covered by the TAC system (EEC 1983). Furthermore, Commission advice must be in keeping with the principle of 'relative stability'[7], enshrined within the CFP as a mechanism for allocating differentiated benefits across member states within this shared system. So, proposals indicate not only maximum catch levels premised upon the scientific and economic advice but also proposed national quotas within this maximal quantity. The last stage of the policymaking process takes place in December of every year. The Commission submits the proposed quantities to the Council and ministers may vote to accept the proposal, to modify it or to reject it altogether.[8]

3.2 The Role of the Council

As the above implies, it is the Council that has the institutional power to make binding decisions on behalf of member-states and to delegate responsibilities for fishing to other institutional bodies. With a total number of votes of 87, Article 148 of the EC Treaty stipulates that 62 votes are required in order for proposed TAC regulations to be passed under qualified majority voting rules.[9] The distribution of these votes across member states is depicted below in Figure 1 alongside the distribution of votes when Council members are unable or unwilling to set TACs by QMV and opt to alter the proposed quantities under unanimous rule instead.

Figure 1
Voting Weights and Voting Power in the Council

	Unanimous Voting	Voting Power	Qualified Majority Voting	Voting Power
Germany	1	100	10	11.7
UK	1	100	10	11.7
France	1	100	10	11.7
Italy	1	100	10	11.7
Spain	1	100	8	9.6
Netherlands	1	100	5	5.5
Greece	1	100	5	5.5
Belgium	1	100	5	5.5
Portugal	1	100	5	5.5
Sweden	1	100	4	4.5
Austria	1	100	4	4.5
Denmark	1	100	3	3.5
Finland	1	100	3	3.5
Ireland	1	100	3	3.5
Luxembourg	1	100	2	2.1

Source and note: The table is a reproduction of the data presented in Table 3.3 in Hix, 1999: 70. Voting power is the 'proportion of cases where a member state is pivotal', in keeping with Shapley-Shubik's method of evaluating the distribution of power within a committee (ibid.).

Considering again the requirement of 62 votes then two further observations are worthy of mention: First, such a high qualified majority gives power to a blocking coalition. Given that a number of these states have little interest in the TAC system, trade-offs may be necessary to satisfy different needs under this type of decision-making system. For example, until recently Mediterranean fish resources were not subject to the TAC system at all. This left Italy (10 votes) and Greece (5 votes) outside the TAC regime with a more pointed interest in definitions of minimum mesh sizes, which have had a far more significant impact upon exploitation levels for their fishers. France (another 10 votes) also benefited from the lack of EU regulation of the Mediterranean region, taking in important landings of tunas within these waters, in particular.

A second observation concerning qualified majority voting is that it was conducted far less frequently than the literature has indicated in the past.

> From 1985 to 2000, the Fisheries Council increased more than 30% of the Commission's proposed TACs and the increases averaged 30%. (…) Although the Council adopted the Commission's proposals in the majority of the cases, each increase should be taken very seriously because overexploitation may lead to stock collapse. In effect, this policy output has severely jeopardized the conservation objectives of the CFP (Franchino and Rahming 2002: 25).

In other words, this legislative body, which has authority to make rules on behalf of member states, has demonstrated a pattern over its history of setting TACs higher than advised and, as a result, under conditions of unanimity. As is intuitive but is also well documented within the literature on coalitions, unanimity indicates that all actors' best preferences have been met within the arena. What is curious then is that while the 1980s were characterized by the unanimous decision-making mentioned above, since 1993, this tendency has dramatically altered. The benefits of unanimous decision-making, therefore, no longer outweigh the perceived costs (see also Baron 1991; See Shepsle and Weingast 1982).

3.3 The Role of the Commission

The Commission's portrayal as a 'toothless' participant within this policy process, given ministers' historical willingness to supersede proposals when they saw fit, is somewhat overstated. Not only does it (now) provide public record of the variation between its formal position regarding levels of

exploitation and the final regulation, it also acts as the main watchdog over the application of legislation and of the EU's Treaties (Lequesne 1999). The question of public record is not taken up here. However, it is worth noting that there does seem to be some relationship between the increased availability of records of this process and more 'responsible' decision-making within the Council. Further investigation of the importance of transparency at this level is required in order to come to any empirically verifiable conclusions, however. What has been substantiated, as explained earlier, is that the opacity of the Council's arena plays a role in determining the nature of decision-making within this body. The extent to which opacity or transparency plays a role in the increased legitimacy of the Commission within policy arenas governed by sectoral Councils' decisions has been less studied. This is the subject of my on-going research.

To continue with this brief depiction of the Commission's role within this process, however, its views are asserted at all three stages within the EU decision-making mechanism. At the lowest level of the Internal Working Group (IWG) on fisheries issues national civil servants examine Commission proposals, allowing member states to make suggestions as to the content of the final proposal and providing an opportunity for the Commission to impress its agenda upon them. Many of the main political issues with the Commission's proposal are identified at this early stage allowing both sets of actors an opportunity to gauge the intensity of preferences prior to the submission of formal proposals or the onset of the formal decision-making process.

Following IWG analysis, the Coreper then has the opportunity to broker further modifications that they hope will better reflect their ministers' stated preferences. While Hayes-Renshaw and Wallace (1997: 98) estimate that 85% of Council work is completed by these technocrats this is less so in the case of TAC determination, where decisions have tended to be made in marathon sessions in the month of December, as stated earlier. Interesting to this analysis is the fact that the Commission does not seem to give way very much to actors at these echelons. Commission delegates 'regard themselves as "guardian of the stocks"' (Lequesne 2000: 357). Empirical evidence of the correlation between their formal proposals and the scientific advice shows that they have only increased the quantities of TAC proposed an average of only 0.15% over a fifteen year period, signaling that very little change takes place during these intermediary stages (Franchino and Rahming 2002: 13).

3.4 Institutional Boundaries: Biological Indicators, Relative Stability and the Voting Process

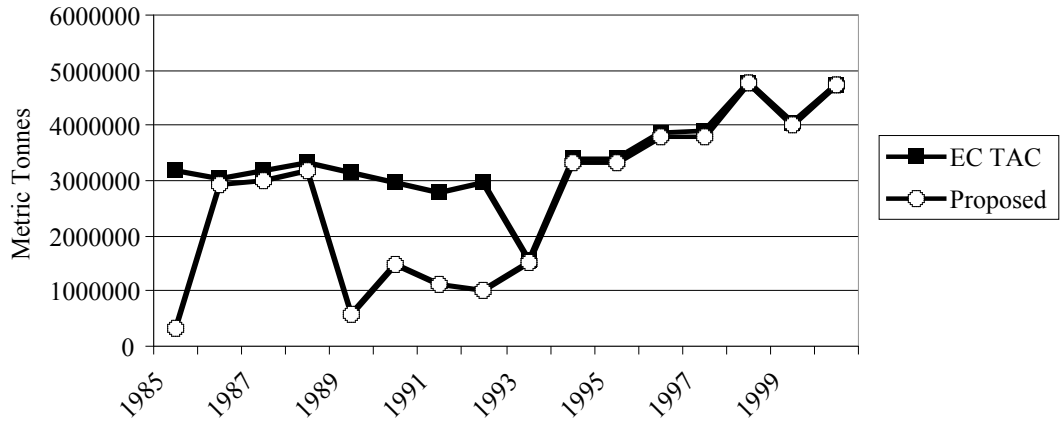
Since it has been ascertained that the Commission does not tend to increase these proposals, it is worthwhile to consider what is observed with regard to policymaking *outputs* rather than *inputs*. There are strong indications that Council members use scientific knowledge strategically to reduce the likelihood that their actions will a) not do irreversible damage to the resource or b) unintentionally lead to Commission intervention. While many questions remain unanswered concerning the validity or, indeed, veracity of the science upon which advice is premised, there is little doubt that it provides at worst a marginally better basis for policy than no advice at all (Holden 1994). So, even if epistemological critiques are taken into account, the scientific advice provided by the ACFM provides a benchmark against which ministers can assess the state of the environment (Symes and Phillipson 1999). Analysis of some of the major fish species exploited show some interesting patterns regarding the use of this information and Council choices within the same year.

First, as mentioned earlier, TACs in the early years were generated under conditions of unanimity and primarily under conditions of QMV in the 1990s. This is confirmed by closer consideration of some of the decisions made regarding key species in the EU. Haddock, cod, whiting and plaice have traditionally been four of the most important species for EU fishers. During the 10-year period from 1983 to 1993, agreed levels of TAC on North Sea haddock stocks were higher than proposed quantities four times. Over the same period, TAC levels for North Sea cod were higher than proposed rates eight times. For whiting, TACs were higher in seven of the ten years. Finally, for plaice, ministers set TACs higher every year. It can therefore be concluded that the Council was acting unanimously since ministers cannot raise TACs above the formally proposed rates without doing so. And, since plaice TACs were raised every year, decisions must have been unanimous every year since the Commission presents the formal proposal for a regulation as a single document rather than splitting TACs into individual proposals for regulation.

A second pattern observed concerns variance in TACs. The above analysis demonstrated that not all

TACs are raised or are increased by the same amount or proportion when decisions are made under unanimity. In fact, there is a fair amount of variance across species and regions as to which TACs are raised above proposed levels and which are not. This has led observers of the CFP to conclude that the process of decision-making is best conceptualised as a 'policy fiasco' or 'garbage-can' decision-making (Cooper 1999). A closer analysis refutes this conclusion.

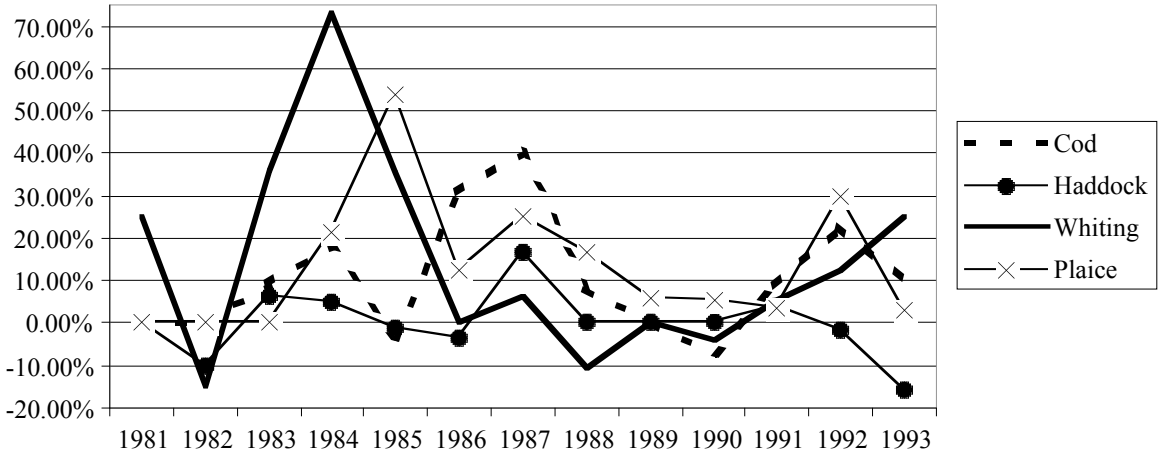
Figure 2
Sum of All Set and Proposed Community TAC (1985-2000)



(Source: Original dataset, 2002)

Choices about whether or not to raise TACs are strategic. There is an identifiable and patterned relationship between choices to raise some TACs in relation to both of the biological indicators to which Council members refer when considering the risk to the 'health' of the marine resource.[10] A cursory glance at TAC determination can easily lead one to conclude that ministers do not care at all about biological indicators given their willingness to exceed advised quantities so regularly, in the first decade of the CFP's existence. This is not the case.

Figure 3
Percentage difference between proposed TAC levels and Actual TAC



Source: Karagiannakos, A. (1995) Fisheries Management in the European Union , Avebury: Aldershot

During the 1980s, TAC levels on significant species varied from a more than a 73% rise in the whiting TAC in 1984 to a 15% *reduction* in haddock TAC in 1993, as Figure 3 shows. These two

TACs represent the outlying cases, however.[11] With only a few exceptions, variances in levels are relatively stable when viewed over time, fluctuating in the plus or minus 25% range rather than simply plunging and rising randomly from year to year. This variation corresponds well to one of Gray's observations:

> Even the head of the Advisory Committee on Fisheries Management (ACFM) (…) [agrees] that 'scientific predictions of fish stocks are generally accurate only to within margins of plus or minus 25 per cent' (1998: 4).

In other words, TAC fluctuations seem to coincide with scientific experts' self-imposed margin of error. A more conclusive basis for the assertion that ministers have been acting strategically in their choices of TAC tests a null-hypothesis of no correlation, pairing the samples of the quantity of fish at the average F and the determined EC TAC. Using a T-test on 1170[12] paired samples, the null hypothesis is rejected and it is confirmed that the correlation is moderately significant (0.445) at the 0.01 level. A second test confirms rejection of the null hypothesis of no correlation between paired samples of the quantity of fish within the spawning stock biomass in a given year and the determined EC TAC as well. In this case, the correlation was slightly weaker but still significant (0.429) at the 0.01 level. This slight variation is unsurprising given that the F rate is a socio-economic indicator as well as an expectation of sustainable resource exploitation at the determined maximum and precautionary levels. If the assumptions made concerning ministers hold true, they would be more likely to pay attention to the data pertaining to the economic wealth of fishers than the more conservationist data aimed solely at protecting marine resources. In summary, there is a relationship between the knowledge entering the decision-making arena and the policy-making outputs.

Finally, a third pattern can be seen when considering the institutional boundaries of the TAC determination regime over time. As the number of individuals interacting within this arena increases, the difficulty of achieving consensus also increases. Strategic decision-making in the early 1980s took place within an arena limited to a small number of individuals who benefited from the creation of a regime premised upon the principle of relative stability. This principle provided the mechanism through which member states (and ministers) were able to differentiate pools, stocks and species for individual fishing industries, thereby reducing the incidence of interstate conflict present in the 1970s and also providing what were assumed to be sustainable exploitable benefits for individual member states. As a result, unanimity was even easier to achieve since not only were increases in TAC the only method for increasing an individual state's national quota, differentiation meant TAC increases could be spread across targeted categories to provide additional benefits to all members in different waters or on different species or stocks (Rahming unpublished).

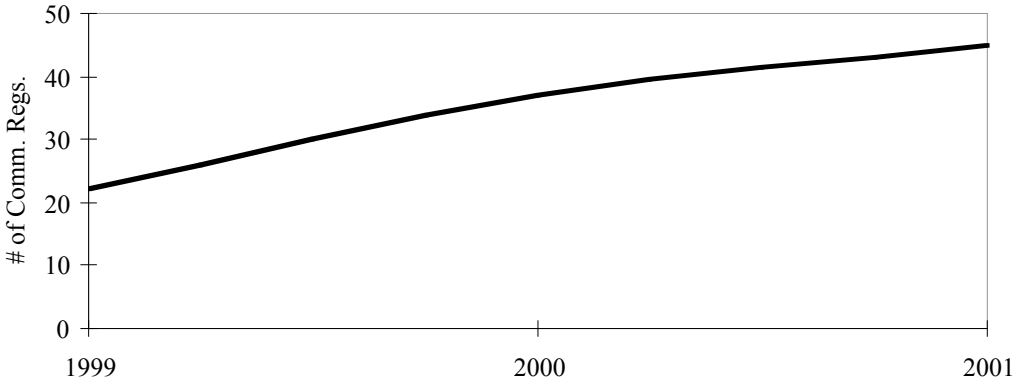
4. COMMISSION POWER OVER TIME

The EU has enlarged in increments, highlighting the salience of the principle of relative stability as a method of differentiating TAC benefits across member states. Just one new minister can have extensive conservation consequences. 'The mere addition of one interest around a specific species leads to an increase in the (…) quantity of TAC of about 370 tons' (Franchino and Rahming 2002). If one state is to benefit under unanimity, all must find their share of benefit or the status quo Commission proposal would remain a less costly choice for the minister. Furthermore, every 'additional member state leads to the adoption of almost one and half new regulations or to the addition of about 3000 words to the existing statutes in force' (Franchino and Rahming 2002). If we consider that any new legislation in this area essentially increases delegation to the Commission this has serious implications for the process of widening and deepening in the EU. To clarify, not only does the Commission have explicit policing powers within the control regulation governing the CFP, Article 226 of the EC Treaty empowers it with the ability to initiate proceedings against members that do not fulfill their obligations. As the number of pieces of legislation increase, the likelihood of this failure occurring also does. So, even if no specific powers are conferred upon it within the legislation, the fact that an increase in member states increases delegation is important. When seen in conjunction with ministers' particularistic preferences, there is an added likelihood that legislation, as the number of member states increase, will include explicit delegation of powers when unanimity can no longer be reached and it becomes apparent that it is politically cheaper to maintain TACs within the proposed rates. Figure 4 demonstrates that not only has the incidence of basic legislation increased over time, ministers have increasingly found it in their interest to delegate authority for fisheries conservation to the Commission over time.

Figure 4
Number of Pieces of Legislation Representing a Net Increase in Commission Control Over Member States

Also, Commission delegates increasingly employ emergency powers to block member states' actions in defense of the environment. As mentioned much earlier, this compounds ministers' current incentive to shift the blame for both strict regulations and future over-fishing to DG-FISH's address. Figure 5 shows how quickly the Commission is adapting to its increased powers in this area.

Figure 5
Yearly Incidence of Commission Regulations Prohibiting Fishing



Source: Original Compilation of all Commission Regulations Prohibiting Fishing (1998-2000), 2002

Since 1998, it has had increased power to respond to member states' implementation of fisheries policy (EEC 1998). And, in only 2 years, the number of Commission Regulations employing this emergency measure has almost doubled. It remains early days and it is impossible to stipulate whether its actions constitute a long-term trend towards a more reactive approach to Council decision-making. However, it does provide some hope for a future institutional design premised on a more conservationist approach and driven by the goal of providing the public value of 'conservation' to the wider EU constituency.

5. CONCLUSIONS

The institutional evolution depicted above has obvious implications for the continued expansion of the EU beyond its current 15 members, should the institutional design of the TAC regime remain the same. Landings in applicant states with fishing interests, such as Poland and the Baltic States, have increased substantially over the past decade outside of the EU TAC regime. They would have

strong interests to push for high TACs within the EU on species of interest to them, such as sprat, herring and cod. Since these are species of fish that are also of high interest to current members as well, it is likely that this will put further pressure upon the institutional design created when the EU contained only nine fishing states, providing even more marked incentives for ministers to opt for delegation over the negative publicity low TACs will attract.

Furthermore, the Commission's increased powers as the Council blame-shifts and delegates away areas in which they no longer derive political benefit has provided the Commission with the opportunity it has craved for so long. Nascent evidence of a sustained, active approach towards curbing over-exploitation suggests that the institutional design of the TAC determination regime may yet have positive outcomes for fish resources – albeit unintentionally.

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Endnotes

[1] Luxembourg and Austria have no fishing fleet.

[2] Notable exceptions include Holden's (1994), Karagiannakos (1995), Steel (1999) and Lequesne (2001). In relation to the wealth of literature conducted at other levels of analysis, however, *policymaking* is a relatively understudied area.

[3] Their individual preferences for satisfying the wants of national fishing interests tend to be higher than the preferences assigned to their national governments. See Franchino and Rahming (2002) for a detailed explanation of how these preferences were mapped within the context of EU fisheries policymaking. See Budge, Klingemann *et al* (2001) for more on coding.

[4] 'Nothing is possible without the men, [but] nothing is durable without the institutions' (own translation).

[5] There are many other important actors, such as the European Parliament (EP), the European Court of Justice (ECJ), the Economic and Social Committee (ECOSOC), the Committee of the Regions (CoR) and the European Court of Auditors (ECA). For example, it is increasingly argued that the European Parliament's Committee on Fisheries plays an important role within fisheries policy-making as well (Steel 1998, 2000). For the purposes of this analysis, these actors do not play a central role.

[6] While scientific information is also provided under the auspices of other regional organizations, such as the North-West Atlantic Fisheries Organization, ICES has a formal institutional role within the process. And, the majority of stocks subject to CFP fall within this region.

[7] The principle of relative stability refers to the allocation key established within the framework of the CFP. Shares of each species were allocated to interested member-states when the CFP was conceived. These shares are fixed so increases in national quota can only be achieved by increasing the total allowable catch.

[8] Without a regulation on TACs, fishers cannot fish. It has never occurred that ministers have opted not to create a regulation.

[9] In cases where the requirement of a Commission proposal is not explicit, the article establishes that a minimum of 10 member states must agree with the enactment in order for the vote to be adopted.

[10] There is also the risk that the Commission will intervene to respond to lack of implementation or crisis. Ministers capitalizing on this arena would also have an incentive to resist the Commision 'pull' as well.

[11] It is interesting to note the years in which these decisions were taken. The 1984-85 period directly preceded the entry of Spain and Portugal and the 1993 decision followed the renewal of the policy in 1992. Ministers were subject to increased media and institutional scrutiny and demonstrated a conservationist bent across almost the full range of stocks.

[12] This dataset is a modified version of the one Franchino and Rahming employed (2003). The format of the data has been altered somewhat in light of the different needs this thesis has of the set. First, Franchino and Rahming originally used the F data as it is presented in the ACFM reports. Upon reflection, it became clear that what was really important was not the *percentage* but the real *quantity* of fish this rate reflected for decision-makers. The calculation for the F rate is 'the negative of the power of the exponential function "e"' (Holden, 1994: 264). So, the real rate is 1 minus the proportion produced by this function. And, the real quantity of fishing to which this (and maximum/precautionary limits) refers is the result of this equation multiplied by the SSB. The new dataset reflects this change. Also, the dataset has been reduced somewhat to counterbalance an uneven distribution of incidences where we had full information on some species and regions and incomplete data on others. Information on earlier years was less available and, as a result, it can seem that less unanimity was prevalent. The unanimity thesis remains supported regardless of the dataset used by the simple observation that it takes only one change to invoke this procedure within this decision-making arena and observations exist for all of the early years.