

# **Political contestation and the Reform of European Fisheries Policy**

Stephan Engelkamp and Doris Fuchs

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University of Muenster

Scharnhorststr. 100

D-48151 Münster

Germany

<http://www.uni-muenster.de/nachhaltigkeit>

## Contact

Center for Interdisciplinary Sustainability Research (ZIN)

University of Muenster

E-Mail: [zin@uni-muenster.de](mailto:zin@uni-muenster.de)

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## 1 Introduction<sup>1</sup>

The European Union's fisheries policy has been characterized by a sustained failure of the sustainable management of European (and global) fish stocks. In 2013/2014, however, the EU adopted a reform of its Common Fisheries Policy (CFP) that appears to imply a major overhaul, entailing the gradual introduction of the maximum sustainable yield aim, the prohibition of controversial fishing practices, specifically the discarding of large amounts of catch, and a reform of the structural policy (Linke and Jentoft 2013; Salomon and Holm-Müller 2013; Salomon, Markus, and Dross 2014). How can these developments be explained? While the jury on the actual effects of these reforms is still out, the potential sources of that substantive reforms require elucidation.

This paper presents the results of a process-analysis (George and Bennett 2005) that was conducted to identify the factors that led to the formulation of the CFP reform package. Our inquiry is based on a content analysis of relevant official documents, policy papers and statements by stakeholders, as well as on interview research. Our analysis shows changing institutional structures, non-state actor constellations, and discursive strategies providing a fertile ground for the reforms. While strong motivation and strategic action characterized efforts of both the relevant Commissioner and the Presidency of the Council, we argue that two factors, in particular, stand out to explain the reform outcome: Firstly, and most importantly, the EP gained more influence in the decision making process with respect to the CFP due to the application of the co-decision procedure, in accordance with the Lisbon treaty. Secondly, and relatedly, environmental non-state organizations (ENGOs) formed an effective, coherent coalition and were granted access by the Commission and the EP, to an extent previously unheard of in the context of the CFP, while the fisheries sector failed to form a unified front. The ENGOs further made good use of this opportunity of access by employing discursive strategies that proved extremely effective in raising public awareness and engendering political support for a more sustainable reform of the Common Fisheries Policy.

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Interesting processes of politicization can be identified as key mechanisms for facilitating the CFP reform. Politicization may be defined as "an increase in polarization of opinions, interests or values and the extent to which they are publicly advanced towards the process of policy formulation within the European Union" (Wilde 2011, 560). We identify two related aspects of this mechanism. First, we find a politicization of time, especially by members of the EP, which exercised its newly conferred power of co-decision in fisheries to slow the policy process down substantially. This reconfiguration of the timing of the reform agenda established new power dynamics, by means of which changing actor constellations became politically relevant for the eventual outcome. The multi-level governance structure of the EU fisheries policy enabled these actor constellations and helped bring about unanticipated outcomes.

Second, the politicization (and de-politicization) of technical and value-oriented issues within the negotiation processes is noteworthy. Fisheries policy is a highly complex and in many respects very technical matter. While political and economic interests are clearly at stake, these are often shrouded in technical detail. Considerable expertise, resources, and manpower is necessary to understand what is involved when it comes to discard practices, net sizes, funding regulations, or specific quota allocations. Material interests are important for explaining the CFP reform outcome, of course. But it is not only how and on which level of decision-making they are represented in political institutions that matters, but also how they are articulated. It is in this respect that the differences between the lobbying strategies of the fishing sector and the environmental NGOs are important. Indeed, a remarkable aspect of the CFP reform case was the NGO campaign Ocean 2012, which lobbied for a more sustainable fisheries policy and has been considered hugely influential by all interviewees.

Critics may, of course, argue that key actors with high stakes in fisheries like the fishing sector and some member states (notably France, Spain, Italy, and the UK) will simply ignore the actual outcome of the CFP reform, as quotas of total allowable catch (TAC) are still being allotted by the Council of Ministers and the implementation of the CFP's basic regulation will be left to Member States. This objection is indeed valid, and it is as of yet too early to address, as the provisions for implementing the CFP reform are on the political agenda right now. However,

this paper covers some of the most recent events in EU fisheries that may help to assess the political relevance of the 2013/14 CFP reform for sustainable environmental governance.

The paper pursues its objectives in four stages. The next section provides some background on the EU fisheries policy and its institutional context. The following section places the paper in the relevant theoretical and research context and lays out the methodological approach. The subsequent section discusses the findings of the process analysis, before the final section summarizes our findings and points to possible avenues for further research.

## **2 Background: The EU's Common Fisheries Policy**

After the Second World War, the core objective of the Community's fisheries policy was to rebuild the sector in order to more effectively provide fish for European consumers. In this context, the fisheries policy first was part of the Common Agricultural Policy (CAP) and managed by the respective directorate/commissioner. In 1970, the Council adopted legislation to establish a common market for fisheries products and established a structural policy for fisheries with the goal of coordinating the modernization of fishing vessels and on-shore installations (Griffin 2013). The adoption of the Exclusive Economic Zones and the accession of new member states with substantial fishing fleets made it necessary to institute a common conservation policy to collectively regulate the use of fishery resources (Payne 2000). In 1983, therefore, the Directorate for Maritime Affairs and Fisheries was created. Since then, the Common Fisheries Policy has been an object of exclusive competency of the EU institutions. Currently, it is organized in four areas: fisheries management, international policy, market and trade policy, and policy funding (European Commission 2015).

In 2002, the European Union finalized a reform of its Common Fisheries Policy. Its focus was on structural policy: it abolished direct EU subsidies for the scrapping of fishing boats, established the idea of long-term management plans and institutionalized regional advisory councils in order to de-centralize the policy and establish links to stakeholders. Moreover, the reform identified biodiversity protection, resource conservation, and ecological sustainability as important political aims. Yet, it did not venture so far as to formulate maximum sustainable yield (MSY) as a binding political target (European Commission 2009; Griffin 2010; Griffin 2013; Kraak et al. 2013).

Virtually all assessments of the CFP, to date, agree that the 2002 policy reform and the CFP in general, have largely failed in their aim of conserving fishery resources. Most studies conclude that there are still too many fishing vessels chasing too few fish (see for examples Barkin and DeSombre 2013; Cardinale et al. 2013; Cotter 2010; Daw and Gray 2005; Griffin 2013; Khalilian et al. 2010; Kraak et al. 2013; Payne 2000; Raakjær 2011; Raakjær 2011; Symes 2005; Symes 2009). They argue that the system of subsidies, tax cuts and direct aid supported over-

capitalization, while the practice of setting annual quotas proved vulnerable to political pressure and, together with the equal access principle, contributed to decreasing the efficacy of conservation policy. This argument finds support in the inclusion of a provision on 'relative stability' that ensured member states the same proportion of a fish stock's total allowable catch each year, without regard for the absolute size and health of that stock in the Commission's regulation proposal for establishing the Common Fisheries policy in 1983. Scholars also blame the failure of the fisheries policy on the distribution of decision making power among the EU's institutions. They note that the Commission may have the authority to regulate fisheries resources in EU waters through directives and quotas, but lacks the capacity to directly monitor or enforce these rules (Barkin and DeSombre 2013, 66-7). This, in turn, places the Council in the main if not sole driver's seat with respect to Common Fisheries Policy (the EP only used to have a consultational role). With repeated failure of policy reforms to achieve more sustainable results, scholars today consider some 80% of all species in EU waters to be overfished (Jarchau, Nolting, and Wiegler 2009; Kraak et al. 2013, but see Cardinale et al. 2013).

While the CFP's goals were frequently amended and modified, the structure of economic interests of its main stakeholders - the European fishing nations and their respective fishing industries - has changed negligibly. Big fishing nations like Spain, Portugal, Greece or France, but also countries that lean closer in the direction of sustainability like Great Britain or the Netherlands continue to support their domestic fishing fleets with direct financial aid like subsidies or tax exemptions (European Commission 2014). The fishing industry, itself, appears to apply high discount rates, favoring smaller short-term benefits in terms of fish caught over greater longer-term benefits that could result from adhering to maximum-sustainable yield targets. Indeed, and in spite of the comparatively high degree of political regulation, the EU fishing game appears to represent a clear example of the tragedies of the commons (Hardin 1968), facilitated by political decisions and processes dominated by strong national and industrial special interests.

Still, in 2013/2014 a major policy reform of the common fisheries policy was pursued, which according to then Commissioner Maria Damanaki promises radical

change in the form of an end to overfishing and discarding (Damanaki 2014). How can such reforms be explained? Rationalist approaches would look for changes in the constellations of actors and institutional decision-making contexts for an explanation. Constructivists, in turn, would argue that such changes may have been made possible through changes in actors' values, norms and perceptions and would enquire the ways interests are framed and articulated. As we will show below, evidence of both types of developments can be found, in this case. Indeed, we would like to argue that it is due to their congruence that the potential for radical reforms arose.

### 3 Methods

This paper presents the results of a process-analysis (George and Bennett 2005) which was conducted to identify the factors that led to the formulation of the CFP reform package. We traced developments in the political debate on the fisheries reforms through relevant official documents, policy papers and statements by stakeholders, as well as the transcripts of qualitative interviews that were conducted in Brussels in the aftermath of the CFP reform. The body of texts consists of policy documents, including official European regulations, the relevant Green Paper, and documentation on plenary debates as well as various position papers from non-state actors. The material was selected according to the criteria of political relevance for the 2013/14 reform of the Common Fisheries Policy and related policy regulations. This comprises the Basic Regulation of the CFP, which includes the establishment of various control measures on fishing vessels, directives on capacity reduction management, and resource conservation measures, the Common Structural Policy provisions, which reorganized the structural funds for fisheries, and the regulation on the Common Organization of the Markets in fishery products and aquaculture. While the origins of the current reform can be traced back to the first concerns about over-fishing in European fisheries in the 1970s, the more immediate events connected to the current reform are the Commission's Green Paper "Reform of Common Fisheries Policy" (2009) and the most recent Commission proposals for a new regulation of the CFP from July and December 2011 (European Commission 2011b, 2011c, 2011d). Moreover, we analyzed internal policy evaluations and policy assessments from the Commission and various non-state actors. The material also comprises the key plenary debates in the EP on the CFP reform process since 2010, following the publication of the Commission's highly influential Green Paper on the CFP reform (2009). Where available, we relied on official English translations of EU documents.<sup>2</sup>

In 2014 and 2015, we also conducted qualitative, semi-structured expert interviews with decision-makers and policy advisors in the EP and the Commission

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<sup>2</sup> This is convenient for official regulations and many policy papers issued by the Council and the Commission. It is more complicated in the case of minutes of parliamentary debates, which are available online only since December 2001. In 2013, the European Union decided to stop translating plenary debates in every community language for financial reasons.

as well as with representatives of environmental non-state organizations and the fishing sector. When the interviewees permitted, the interviews were recorded and transcribed for content analysis. In order to select interviewees, we started with elected and administrative officials who were directly involved in the formulation of the CFP reforms. We then identified further key actors, e.g. certain political advisors to the parliamentary committees (especially the PECHE committee on Fisheries in the EP) and representatives of the political groups as well as influential non-state representatives through the snowball-sampling approach.<sup>3</sup>

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<sup>3</sup> To this end, we asked all interviewees at the end of the interview to identify the ten most influential individuals during the CFP reform. While several names like Commissioner Damanaki, the rapporteurs of the European Parliament and their ‘shadows’ or the Presidency of the Council of Ministers were, not surprisingly, frequently given, more interesting was that most respondents mentioned the same policy advisors and NGO representatives.

## 4 Process Analysis

Our process analysis starts with a discussion of the role of the relevant actors before shifting focus to the interactions between them. This latter aspect is most important, as it highlights how the dynamics between the actors influenced the outcome. Due to consideration of space, we shall limit our discussion to those aspects that highlight the underlying mechanisms that we suggest were critical in bringing about the 2013 CFP reform. We begin our analysis with two institutional actors that facilitated a sustainability-oriented reformulation of the CFP reform: we first study the role of European Commission and its Commissioner for Fisheries, before we turn to the Role of the Council and its Presidency. While both actors were important in creating a fertile ground for the reform, we argue that the real political change originates from developments in (the role of) the Parliament and from the lobbying campaign of non-state actors. In a final step, we look at interactions between different institutions and actors.

### 4.1 The European Commission and its Commissioners

The reform process of the EU's Common Fisheries Policy started in 2009 when the European Commission published its Green Paper. The Green Paper had been drafted under the direction of Joe Borg, who was Commissioner for Maritime Affairs and Fisheries in the first Barroso Commission (2004-2009). The Green Paper found that over-fishing is still a critical issue in European fisheries, it demanded more regulation and called for a more radical over-haul of EU fisheries policy. Moreover, it also raised awareness of the discard problem, albeit without demanding a ban of all discards.

While Commissioner Borg is credited with initiating the current reform process, the reform itself is, however, most often connected with his successor, Maria Damanaki. When Commissioner Damanaki took office in 2010, she made it clear that she wanted a big reform of the CFP (Damanaki 2009).<sup>4</sup> Like Borg before her, Damanaki was responsible for fisheries and maritime affairs only, in contrast to previous Commissioners like Franz Fischler, who was also in charge of agriculture

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<sup>4</sup> All our interviewees counted Commissioner Damanaki among the most important driving forces in the CFP reform, this was particularly the case for the NGO representatives, interviews 5, 6 and 10.

and rural development.<sup>5</sup> This tailoring of responsibilities made it easier for Damanaki to focus on fisheries and may, in part, explain why she became one of the key driving forces behind the reform.

Within the Barroso Commission, Damanaki first had to overcome internal resistance for a more sustainable CFP reform, notably against the Commissioner for the Internal Market, Michel Barnier, who was French Minister of Agriculture and Fisheries before his appointment as Commissioner (interview 11). In July and December 2011, Damanaki presented the proposals for the CFP reform (European Commission 2011a, 2011b, 2011c). In contrast to previous reforms, the Commission proposed a reform package that comprised three parts: a “New Basic Regulation for the CFP”, a “Regulation on the Common Organisation of the Markets in Fishery and Aquaculture Products” and a “Regulation on the European Maritime and Fisheries Fund (EMFF)”.

The set of proposals required all fish stocks to be brought to sustainable levels above MSY by 2015 and the adoption of an ecosystem approach by all fisheries, with long-term management plans based on scientific advice. Furthermore, the basic regulation proposed the gradual introduction of a partial ban on the practice of discarding unwanted fish. Instead, the proposal demanded a landing obligation of all catches. To achieve the aim of ending overfishing, the Commission suggested market-based approaches such as individual tradable catch (ITC) shares. The latter instrument, however, failed to win a majority in Parliament, as large groups of the EP (as well as important Member States in the Council like France, for instance) resisted the introductions of ITCs. Regarding the structural policy, the Commission proposal stated that financial support would only be granted to environmentally-friendly initiatives contributing to “smart and sustainable growth”. A stricter control mechanism would be implemented to rule out any funding of illicit activities or overcapacity. The Commission also supported measures for small-scale fisheries, improved data collection and strategies to promote aquaculture.

What differentiated Damanaki in terms of process management was that she included input from environmental NGOs early on after the publication of the Green Paper in a public consultation period that lasted until the end of 2010 (cf. Interviews 5, 6, 7 and 10, see also Griffin 2013). Before Damanaki, the DGs

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<sup>5</sup> The current Fisheries Commissioner Karmenu Vella is also in charge of DG Environment.

responsible for fisheries, notably the DG MARE, were almost 'closed shops' for NGOs. The situation had started to change gradually with the 2002 reform and notably with the institution of the regional advisory councils (RACs). However, while NGOs were represented there, scholars still perceived the RACs to be dominated by the fishing sector (Griffin 2013). Thus, Damanaki's purposive inclusion of the environmental organizations in the consultation process represents a fundamental change. All of our interviews provide evidence that Damanaki was a facilitating factor within the policy process, attending meetings and pressuring for a more sustainable reform. And yet, the role of the Commission and of Maria Damanaki as individual actors alone cannot fully explain the policy outcome, as some of her proposals were rejected in the final regulation while other, more radical provisions, such as the discards ban, were adopted.

## 4.2 The Council of the European Union and its Presidency

After the publication of the Commission's proposals in the second half of 2011, Member State reactions were diverse. While some countries like Sweden, Denmark and the UK largely welcomed the reform, big fishing nations like France or Spain were less supportive. France, for example, criticized the proposition on transferable fishing rights and was backed by Germany on this issue. Spain, in particular, voiced opposition against the discard ban, stated that the goal to reach the MSY target by 2015 was "unrealistic," and demanded more time for the fishing sector. In June 2012, the Council agreed on a "general approach on the CFP" that included a delay on a complete discards ban until 2018. Regarding the MSY target, the Council decided on a "where possible" target by 2015, which was to be extended to all stocks by 2020. The compromise was brokered by the Irish Minister for Fisheries Simon Coveney, who held the Council presidency during these negotiations.

This aspect highlights the potentially strong influence that the presidency may exercise in the Council. Yet, the way in which this channel of influence is actually deployed depends on the political interests of the respective Member State and on the time schedule of the political agenda. For example, under the Polish Presidency, when the Commission issued its proposals for a CFP regulation, the Council agreed to set up an internal working group to negotiate the reform

proposals. Apart from that, the Polish presidency restrained itself from facilitating technical issues. The next three presidencies of the Council (Denmark Jan-Jun 2012, Cyprus Jul-Dec 2012 and Ireland Jan-Jun 2013) were all committed to reaching an agreement on the CFP reform. However, according to our interviews, the Irish presidency was regarded as particularly active in promoting a more sustainable reform. Within the Irish presidency in the second half of 2013, the personal involvement of the Irish Fisheries Minister Simon Coveney stood out as a driving force behind the reforms (interviews 1, 2, 3, 5, 6, 9, and 11). In contrast to previous presidencies, for example, Coveney flew to Brussels and Strasbourg frequently to lead Council meetings personally<sup>6</sup> and to meet directly with decision-makers from the EP and stakeholders. A former MEP himself, Coveney still enjoyed strong links to the Parliament. His personal involvement helped raise the stakes in the negotiations, as it demonstrated a high political commitment on the part of the Irish Presidency. The fact that our interviewees identified the Irish Presidency as a driving force in the CFP reform process may come as a surprise given that Ireland is one of the larger fishing nations in the EU with its own vested interests. Hence, it was not foreseeable that the Irish Presidency would play the role of a pacemaker. Yet, Coveney is remembered for pushing the process along and urging negotiators in trilogue to finalize the file during his presidency. Many interviewees describe Coveney as a young and very ambitious politician who invested much time and energy to end his presidency in a more sustainable reform outcome that he could present to Irish voters as a personal success (interviews 1, 4, 5, 9 and 11).

Similarly to Damanaki and the role of the Commission, we find with Simon Coveney a facilitator of the reform who put pressure on Parliament and Council and made sure that the reform process stayed on track. However, we cannot detect a structural impact such as the multilevel reinforcement through successive presidencies as described by Schreurs and Tiberghien (2007) in the case of European Climate Governance. In the case of the CFP reform, the Danish, Irish and Lithuanian governments (Jul-Dec 2013) were all credited in our interviews with high technical expertise and efficiency when they took their respective presidencies. Yet, few presidencies during the CFP case invested political resources

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<sup>6</sup> One interviewee remembered how Coveney joined the final trilogue meeting with Parliament and Commission at 0:30 am to personally preside the negotiation and make sure that the file will be finalized (interview 11).

like the Irish, who, of course, led the Council during the critical phase, when the reform proposal were first adopted in Parliament and then had to be negotiated with Council and Commission.

### 4.3 The European Parliament and its Rapporteurs

With the European elections in May 2009, the parliamentary committee for fisheries affairs (PECHE) witnessed a serious change, both in composition and in political authority. Politically, the European People's Party (EPP) and the Socialists and Democrats group (S&D) had always dominated the Fisheries Committee; but in previous legislatures, the main cleavage ran through their members' geographic background. The Fisheries Committee had been traditionally dominated by voices from the big Southern European fishing countries like France and Spain. With the 2009 elections, however, this composition changed slightly: 'Nordic' (and more 'Green') voices were now better represented (Interview 8).

This change cannot simply be expressed by referring to party affiliations. Things are more complicated in the EP. While the Greens were traditionally in favor of a more ecologically-minded CFP, this counts as well for some MEPs of the European United Left/Nordic Green Left (GUE-NGL), the liberal group ALDE (Alliance of Liberals and Democrats for Europe) and the Eurosceptic EFDD group (Europe of Freedom and Direct Democracy), if for various and different reasons (interviews 3 and 8). For example, the Member of Parliament Ulrike Rodust, who became responsible for the basic regulation file as rapporteur, has been credited across all political groups and institutions with being an ardent supporter of a more sustainable reform. And yet, she reportedly had to fight the hardest battles within her own political group, the S&D (interviews 2, 5, 8 and 9).

While green voices (even in the broadest sense) certainly did not have a majority in the committee, some of the new members were frequently described as being extremely active. This was notably the case with Isabella Lövin, a Swedish journalist from the Green party, who entered the committee and instantly engaged in a campaign against the fishing policy of the European Union. Lövin was an activist and award-winning book author on fisheries (2012); she initiated an informal activist network among interested MEPs from different political groups ('Fish for the Future') and maintained close contacts with environmental groups.

Within the Fisheries Committee, she played the role of a ‘trouble maker’, according to observers, questioning all kinds of compromises and taken-for-granted routines within the committee (Interviews 1, 5 and 6).

These factors of individual personality and committee constellation provided a fertile ground for a more active committee, but more fundamentally important was the EP’s gain in authority following the provisions of the Lisbon Treaty. Through the latter’s application of the co-decision procedure to fisheries governance, the EP became a co-legislator with veto power in this field.<sup>7</sup> Before Lisbon, the Commission frequently neglected the advisory role of the European Parliament, and indeed virtually all amendments suggested from the Fisheries Committee. Hence, parliamentary work in the Fisheries Committee was considered frustrating, boring and politically irrelevant, as one respondent remembers (Interview 8). The new power constellation after the Lisbon Treaty turned the Commission’s reform package on the CFP into an opportunity for Parliament to exercise its new authority for the first time in the field of EU fisheries.

The highly symbolic meaning of the CFP reform became a political issue within Parliament from the very beginning. After the European Commission published their proposals, a rapporteur - a Member of the EP who drafts the report that is put to vote in the relevant committee - is appointed for each proposal. In the case of the fisheries reform, the distribution of files among political groups in the Fisheries committee became a source of internal conflict within the EP. After a series of political queries, Ulrike Rodust (S&D) became the rapporteur responsible for the CFP regulation, the most important piece of the reform; the British conservative Struan Stephenson (ECR) took the common market regulation; while the EP’s position towards the new fisheries fund was negotiated by the French Christian-democrat Alain Cadec (EPP).

The first thing that the Parliament did after the release of the Commission’s proposal was to re-negotiate the political agenda. While Commissioner Damanaki wanted to negotiate the CFP reform as a whole, the Members of Parliament

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<sup>7</sup> ‘Measures on fixing prices, levies, aid and quantitative limitations and on the fixing and allocation of fishing opportunities’ (Council of the European Union 2008, Art. 43.3) remained in the decision-making capacity of the Council, however, on the basis of a proposal from the Commission (Griffin 2013, 31), a point which remains contested until today (see below).

insisted that it would be impossible to work on the whole package at once with sufficient rigor. In contrast to the Commission, whose directorate generals consist of experienced experts who generally work on their topics for years, the parliament has only few advisors on technical matters. Moreover, the individual MEPs have even less resources at their disposal, as they maintain only a handful of assistants who are seldom experts on the respective policies they are in charge of. As a result, the Parliament's decision to work on the Commission proposals one after another slowed things down radically. This re-configuration of the timetable, in turn, enabled the Parliament to effectively sharpen the wording of many Commission provisions and to introduce many, more detailed amendments. For example, the Parliament tabled around 2,500 amendments to the Commission proposal (for the basic regulation only).

When the Parliament finally adopted the basic regulation in February 2013, it insisted on stricter provisions on several controversial issues with a large majority. More than 500 deputies supported the CFP reform's key part, a majority that exceeded the relatively small majority in the Fisheries Committee by far. In the Committee, the Rodust report gained support from all political groups except the EPP members. Some MEPs critical of the reform were eventually swayed by individual provisions that they could use to represent as personal victories to their constituencies. In plenum, however, several national delegations (such as the German EPP group) decided to vote in favor of the basic regulation proposal, even against the recommendations of their political group leadership. The Parliament also went beyond what had been proposed by the Fisheries Committee (interview 11). Specifically, the MEPs decided that the MSY target must be reached by 2015, and that quotas must be set according to these goals. They also voted for a gradual introduction of a 'discards ban', but eliminated an allowance to discard five percent of catches. Furthermore, the EP watered down the controversial concept of transferable fishing rights. A requirement for Member States to collect data on private agreements between ship owners and third country governments was also among the other provisions, a topic that resurfaced on the structural reform file and was amended with regards to data-collection on the beneficiaries of EU funds. In the voting on the structural policy in October 2013, the Parliament rejected subsidies for the construction of new vessels after a controversial plenary debate,

but voted in favor of capacity enhancement of existing vessels. It reduced the overall funding for fleet measures and instead increased funding for research, data-collection and control measures.

The Parliament hence seized the opportunity to use its newly gained political power in the case of the fisheries reform. Yet, focusing on the activities of its Members alone cannot explain why the Fisheries Committee, which used to be close to the fisheries industry, voted in favor of a more sustainable reform project. In a policy field that is normally not characterized by a high degree of political attention, not to speak of cleavages, the plenum adopted the MSY target, tightened provisions against on-sea discards, and rejected market-based provisions for tradable catch rights, in some political groups even against the advice of their respective political leaders. To account for this outcome, we need to turn our attention to the role of the non-state actors, which lobbied for the CFP reform.

#### 4.4 The stakeholders

Fisheries policy in Europe is frequently described as being characterized by highly organized and resourced vested interests (Griffin 2010; Payne 2000). In fact, fishing sector organizations like Europêche or the Spanish fisheries Confederation CEPESCA have permanent representatives in Brussels. The initial responses of fishing sector organizations to the Commission's reform proposal in 2011 were as could be expected: sector representatives voiced their disappointment and accused the Commission of giving too much attention to environmental concerns at the expense of socio-economic concerns for European fishermen (Europêche 2011). In particular, they denounced the MSY target and the proposed (if gradual and partial) discards ban as unrealistic and difficult to achieve. Instead, they suggested a "gradual" and more "flexible" implementation of the MSY objective, depending on the individual fish stock in question. While the fishing industry representatives were generally positive about provisions regarding the financial instruments in the EMFF and their funding options for European fishermen, they voiced their regret that no more money for the scrapping of old vessels was to be provisioned.

However, the position of the European fishing industry on the CFP reform was far from unified, in fact, one cannot speak of "the European fishing industry" in the first place, as huge differences exist within the national organizations

represented in Europêche, not to speak of those parts of the fishing sector that are hardly represented at all. The latter is for example the case for large parts of small-scale fisheries in Portugal (interview 3). Hence, internal rifts appeared from the beginning: while Spanish and Scottish fishing organizations harshly criticized the reform proposal, the Danish Fishermen's Association stated that "Danish fisheries are economically viable" and "already geared towards the changes the European Commission envisages" (CFP Reform Watch 2011). With the fishing sector divided and national industry associations disagreeing about their position towards the CFP reform, it became increasingly difficult to lobby decision-makers with clear and coherent messages. In fact, statements of Europêche, for example, were relatively scarce - at least compared to statements from environmental groups, which soon dominated the stakeholder discourse on the CFP reform (interviews 1, 4, 5, 6, and 11). Moreover, the sector appears to have grossly underestimated the rise in political authority of the EP and its effects. While the fishing sectors maintained its lobbying focus on the Council and individual governments, they neglected the EP. Even liberal and conservative MEPs from traditional fishing countries mentioned the peculiar absence of industry lobbying (interviews 1 and 5).

In contrast, environmental NGOs were extremely active in monitoring and lobbying the Parliament. In 2009, a group of NGO representatives already active in European Fisheries met to form an alliance to pressure for a more sustainable CFP. The resulting NGO coalition Ocean2012 was initiated by the US-based charity foundation PEW, which had just opened office in Brussels, and four other environmental NGOs (interview 5). The overall aim of the campaign was to focus on over-fishing. The NGO coalition grew to 50 members by the end of the year 2009, and when the Ocean2012 campaign ended with the finalization of the CFP reform in early 2014, it consisted of 193 environmental groups. The members of Ocean2012 decided to present themselves as a united front vis-à-vis MEPs, Commission and Council. Hence, they always approached decision-makers as a group of several NGOs under the heading of Ocean2012. With the publication of the Commission proposals, they started an intensive lobbying campaign that focused on the EP in particular (interview 5). They organized hearings, at times together with MEPs, circulated policy and opinion papers, wrote open letters to the Parliament at large as well as to individual members, and staged dramatic performances in front

of the EU institutions to draw media attention. Before committee and plenary votes, Ocean2012 bombarded MEPs with emails detailing the NGO positions as well as with individual letters from the MEPs' constituencies (interview 11). Reportedly, PEW also financed similar campaigns on the national level, targeting national audiences in selected Member States (interview 10). Ocean2012 deviated from current practice in European fisheries, which tended to frame the policy in terms of a largely technical and depoliticized issue, by highlighting the moral dimensions of over-fishing and discarding edible fish at seas. NGOs framed over-fishing as justice issue not only for societies and small-scale fishermen who depend on sustainable fisheries to make a living, but also for future European consumers to rely on a healthy diet.

Contemporaneously and independently from the Ocean2012 initiative, a chef from the UK, Hugh Fearnley-Whittingstall, launched his own campaign to end discards in 2010, Hugh's Fish Fight<sup>8</sup>. Fearnley-Whittingstall is a celebrity chef and broadcaster in the UK, who runs his own cooking program on a major private TV channel. His campaign against the practice of discarding edible fish at sea soon attracted media attention throughout the UK, and he created an online petition collecting more than 870,000 supporters from 195 countries. His campaign is credited with raising awareness of the discards problem and pushing the UK government in particular to take a more active stance against over-fishing by several interviewees (interviews 4, 5, 6 and 9). Interviewees also noted that MEPs in the Fisheries Committee from the UK had to take the campaign into account, as they found themselves suddenly under the scrutiny of the public and media in their constituencies. Moreover, the Fish Fight campaign soon diffused across Europe, spawning similar initiatives in Germany, France, the Netherlands, Spain and several other European countries.

Both campaigns succeeded in attracting media interest and public awareness at unprecedented levels when it comes to EU fisheries, which continued to have a rather boring and technical image among journalists (interview 5). With all big players of the environmental and fisheries scene represented in Brussels (WWF, Greenpeace, PEW, Ocean2012) on board, and with the media support of Hugh's Fish Fight, the NGO campaign increasingly gained momentum. As some of the key

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<sup>8</sup> See more at <http://www.fishfight.net/>

activists of the campaign told us in our interviews, the resulting politicization of the fisheries policy and growing public attention helped convince MEPs, who were otherwise not particularly interested in the CFP reform (interviews 5, 6 and 10). Now, however, it became possible for those MEPs to gain the moral high ground and ‘vote green’ for a celebrated cause, without fearing any real damages, except perhaps for a minority of MEPs from fishing countries, who may have supported weaker regulations in fisheries otherwise.

#### 4.5 Interactions

When the Commission presented its suggestions for a CFP reform package in July 2011, it was certainly not expected that it would take nearly three more years for the EU to finally complete the process and pass the necessary laws. The basic regulation and market regulation, adopted by Council and EP in December 2013, came into effect on January 1st, 2014. The last file, the EMFF for the years 2014-2020, was finally adopted by the EP in April 2014 and was formally approved by the Council in the following month. The final outcome, after the trilogue negotiations between representatives from the EP, Council and Commission entailed a stricter wording in all conflictual issues, namely on the MSY target, the discards ban, the landing obligation and the re-organization of the funds. The outcome also included transitional periods on the MSY and the discards ban and provisions that enabled funding for fleet modernization. Hence, it constituted a compromise that was closer to the Council position and was designed to please fishing nations and the sector. And yet, the Council position was more positive towards the critical issues MSY and discards than might have been expected given the economic interests of the big fishing nations. The Council negotiations are still largely ‘black boxes’; hence, it is difficult to speculate about how the Council position came about. However, it is possible that a context of high attention and the comparatively high degree of politicization as a result of the NGO campaign, as well as the influence of the ‘greener’ Member States in the EU helped to negotiate a compromise closer to the EP position. In any case, the final outcome can be read as ‘more sustainable’ in terms of resource conservation than initially envisaged by the Commission proposal. Yet, it was a reform which eventually won the support of both the Green political group in Parliament and of the Spanish government in the Council.

In our reading of the CFP case, the increased institutional authority of the European Parliament after the Lisbon Treaty is one of the major explanations for this outcome. Another is the change in constellations among the non-state actors, which benefitted from the new role of the Parliament. The discursive strategies of the coalition of environmental non-state actors were influential, as well. Indeed, the interactions between the institutions and the relevant stake-holders and their respective strategies provide the best explanation of the CFP reforms.

By politicizing time and slowing down the policy process, the EP, first of all, was able reduce the inequality in expertise and resources vis-à-vis the other institutions in the legislative process. We mentioned above the need, especially for MEPs, to familiarize themselves with the files in order to be able to influence highly technical issues like in fisheries policy. Especially the rapporteurs took time to get familiar with the details of the EU fisheries policy, they met with staff from DG MARE, scientists and stake-holders and organized special hearings on different policy aspects (interviews 1, 2, 5, 7, 9, and 11). This also facilitated closer contacts with the NGO alliance, which provided expertise and political advice for MEPs.

The re-configuration of the agenda also helped the political lobbying campaign of the environmental NGOs, which over time developed into probably one of the most successful civil society campaign Brussels has seen so far (interviews 1, 4, 5, 6, 9, 10, and 11). In contrast to previous reforms, NGOs also had close contacts to the Commission, notably staff in DG MARE, who stated that they considered the NGOs as transmitters of policy ideas to the MEPs (interview 9). Also, Commissioner Damanaki met frequently with Ocean2012 representatives to discuss current issues of the reform process and explain the standpoints of the Commission on controversial CFP topics (interviews 5, 6 and 10). While improved access to key decision-makers may have been instrumental for the successful NGO campaign, the way in which they framed the policy issues also proved effective. Ocean2012 drew heavily on the topics of over-fishing, the economic irrationality and short-sightedness of over-fishing practices and the idea of injustice of the current fisheries regime with respect to small fishermen and future generations. This strategy helped to politicize the fisheries issue and moved it away from technical matters like net sizes, abstract quota regulations and indicators like MSY. The most effective story to tell, however, was the discard ban. Nobody really liked the

practice of throwing perfectly edible fish overboard. Hence, this made a perfect peg to raise media attention (interview 5 and 6), especially with the support of the UK Fish Fight campaign that increasingly diffused and won support throughout Europe. In fact, the success of the discard story is now coming back to the legislative process, as the issue of implementing the discard ban is on the agenda and consensus on the relevant regulations for mixed fisheries seems difficult to reach.

Furthermore, the slowing down of the schedule enabled political actors to employ the multi-level governance structure of the EU more effectively. In particular, we find a strategic alliance between key players: Commissioner Damanaki, Simon Coveney as acting Council President, and Ulrike Rodust, the S&D rapporteur in charge of the basic regulation file, frequently met during the Irish Presidency, hence at a crucial phase of the CFP reform process, to coordinate their strategies and lobby Parliament and Council for a more sustainable outcome. This form of cooperation became especially important during the trilogue period, when all parties were under high pressure to reach a consensus and prevent political failure (interview 1, 2, and 11).

The individual EP rapporteurs played a facilitative role in this process. In Parliament, the most important task of a rapporteur is to reach a consensus with the colleagues from other political groups, the so-called shadow-rapporteurs, in order to organize majorities for the final votes in the plenum. This is exactly what is called for in trilogues. Personal leadership styles may play a role in these negotiations. According to our interviews, two rapporteurs stand out as representatives of different, yet effective political styles: Ulrike Rodust, the S&D rapporteur of the basic regulation, is credited with being a very constructive and inclusive rapporteur across the political board. She reportedly cooperated closely with other political groups, maintained contacts with Commissioner Damanaki and the Council Presidency, and with representatives of the Ocean2012 campaign. On the other hand, Alain Cadec, who directed the EMFF file on the structural funds, is characterized as being very experienced in fisheries politics, and as a strong leadership personality who maintained control over what one respondent termed "his shadows". He supported subsidies for new vessels but got defeated on this issue in Parliament; yet, he obtained most of his other amendments adopted.

Moreover, he succeeded in achieving a consensus in the highly politicized file of the structural funds in the trilogue negotiations. In contrast to Rodust, Cadec had the almost unconditional backing of his political group, the EPP, which made it easier for him to lead the negotiations on controversial parts of his file. However, Cadec was also able to take high political risks in his negotiations with Council and Commission. For example, at one point in the trilogue in December 2013, when negotiations of the EMFF were almost concluded, a stalemate developed over budget allocation issues. After the Commission refused to support the consensus reached on the budget, the Presidency demanded further concessions of the EP to ensure a unanimous vote in the Council. Here, Cadec decided to stop negotiations with the Lithuanian Presidency and the Commission and walked out of the meeting with the EP delegation. Immediately after this incident, Cadec held a press conference denouncing the Council's proposal as a provocation, whose acceptance would have been "a humiliation". When the parties eventually decided to take up the negotiations again in 2014, the Presidency had rotated to Greece, which followed a more conciliatory stance vis-à-vis the Parliament. In consequence, the Lithuanian government, which had hoped to finalize the file under their presidency, had to accept its failure. Cadec concluded the trilogue negotiations with Greece in January 2014 and subsequently got elected president of the current legislature's Fishing Committee.

Thus, these individual actor constellations certainly helped to facilitate the consensus-seeking process in the EU governance system. However, that these facilitating aspects came to matter in the first place was possible only because of the institutional rise in authority of the European Parliament and the politicization of the policy through the extensive lobbying campaign by the environmental NGOs.

## 5 Outlook

While the CFP reform was formally concluded in 2014, the story does not end here. Critics of the reform may challenge the assumption that a more sustainable outcome in the European fisheries sector will be achieved by pointing to the fact that Member States are still in charge of implementing the provisions of the CFP reform. Moreover, as Art. 43(3) of the Lisbon Treaty states, the Council, on a proposal from the Commission, adopts measures on fixing prices, levies, aid and quantitative limitations and on the fixing and allocation of fishing opportunities. Hence, the Council may still decide annual quotas. In effect, the Ministers once again overruled scientific advice and decided to set higher quotas than recommended by the Commission, in December 2014. However, this time, the EP argued that the Council does not have the right to decide on the TACs after Lisbon. In support of this argument, it cited Art. 43(2) of the Lisbon Treaty, which grants the EP co-decision power with the Council, when issues are relevant for achieving the “provisions necessary for the pursuit of the objectives of the [...] common fisheries policy”. Specifically, the EP argues that one cannot formulate the multi-annual management plans that are an integral part of the CFP’s basic regulation without deciding on corresponding quotas. In contrast, the Council argues that the setting of TACs merely constitutes technical regulations which are under the authority of the Member States.

Unable to resolve the legal dispute with the Council, the EP decided to go to court with the matter, and in December 2015 the European Court of Justice did indeed rule in favor of the Parliament and declared that the contested regulation must be annulled. Fearing such a defeat, the Council had already agreed to inter-institutional task-force with representatives of EP and the Commission to negotiate new procedures regarding the setting of fishing quotas and the formulation of multi-annual management plans ahead of time. This task force issued a final report in 2014 suggesting a way ahead in the implementation of multi-annual management plans in the CFP involving the Commission, the Parliament and the Council.

When trying to explain the 2013/14 Common Fisheries Reform, we find a fertile ground that resulted from a contingent, but largely supportive actor constellation in EU multi-level governance: a very active Commissioner, who was free to focus on

one portfolio, was highly motivated to push a big reform during her administration, and provided access to environmental interests during the consultations; a young incoming Irish Minister for Fisheries, who took the Council presidency during a critical stage of the reform process; within the newly empowered EP, in which a group of MEPs were particularly committed to pushing for a more sustainable reform and accessible for representatives of environmental non-state organizations. The European Parliament was decided to use its opportunity of co-decision after the Lisbon Treaty. Moreover, the voices of vested interests were weakly articulated following disharmony among the different groups representing the fishing sector, and finally, an environmental NGO campaign used the new rules of the game much better than the fishing industry and succeeded in winning support for a more sustainable regulation by politicizing controversial aspects of the reform.

In our view, one particularly important institutional difference from previous reforms was the rise in authority of the Parliament. It was especially the way key parliamentarians in charge of the CFP files used their new power that made this institutional difference relevant. Their first step, slowing down the process, subsequently triggered other mechanisms, such as the growing influence of the NGO coalition over time and the coming to office of a Council Presidency supporting the reforms. Thus, the institutional re-organization of EU governance by the Lisbon Treaty may have helped to overcome the traditional dominance of short-term interests in this case.

Environmental non-state organizations effectively organized and were granted and used their access by and to the Commission as well as the EP. At the same time, the fisheries sector, traditionally well-institutionalized as an influential sector in EU fisheries governance was unable to speak with a unified voice and seems to have underestimated the rise of parliamentary power in fisheries policy. (This will likely not be the case a second time. Thus, future results of EU CFP reforms may look very different again).

Finally, the discursive strategies of the environmental coalition in the form a clear politicization of issues previously considered to be of a mostly technical nature appear to have facilitated the reforms considerably. The ‘discard’ story sold

extremely well, and was able to garner significant public attention due to the involvement of popular media personalities. On this basis, voting for substantive reforms became a good way for MEPs to occupy the moral high ground, even if they were not particularly positioned towards “green” policy solutions originally. Again, this is all the more the case, as the fishery sectors failed to provide an innovative and powerful alternative in the discursive struggle on the meaning of the CFP reform.

In sum, the CFP reforms in 2013/2014 are not a case allowing either rationalist or constructivist explanations to dominate. We cannot tell for certain, if the change in institutional structures and actor constellations would have succeeded without a convincing discursive strategy by the environmental non-state organizations, or if this strategy had proven influential without the EP’s rise in authority and the discord among the fishery sector interests. From our perspective, it is most likely that relevant changes in institutional contexts, interest coalitions and discursive strategies were jointly needed. The case is scientifically particularly interesting, moreover, for pointing out how political contests may (be) change(d) through a politicization of process characteristics and issues.

What does the political future of the CFP reforms look like, at this point? Current developments indicate that struggles about the meaning of the CFP reform are under way. This is exemplified by the inter-institutional dispute on TACs and multi-annual plans, and - we would predict - will be also the case with the question of what “above MSY” really means. On the one side, the successful influence the EP exercised in the case of the CFP reform so far gives room for some optimism regarding a more sustainable fisheries policy. On the other side, it is unlikely that the fisheries sector has not learned from its failure to obtain the desired policy outcome. Moreover, public attention and pressure is difficult to sustain even with the best discursive strategy, while business interests tend to be able to contest issues over long periods of time. Thus, the outcome of the future struggles on remaining aspects of the reform and especially on the often highly influential “details” of implementation and with them the success of the reforms in terms of actual impact will be of considerable interest.

## **List of Interviews**

- Interview 1, assistant to a Member of the European Parliament, Brussels, 21 November 2014;
- Interview 2, policy advisor, European Parliament, Brussels, 8 January 2015;
- Interview 3, policy advisor, European Parliament, Brussels, 8 January 2015;
- Interview 4, representative of a fishing sector lobby organization, Brussels, 20 January 2015;
- Interview 5, representative of an environmental non-governmental organization, Brussels, 21 January 2015;
- Interview 6, representative of an environmental non-governmental organization, Brussels, 28 January 2015;
- Interview 7, EU Commission staff, Brussels, 29 January 2015;
- Interview 8, policy advisor, European Parliament, Brussels, 5 February 2015;
- Interview 9, EU Commission staff, Brussels, 5 February 2015;
- Interview 10, representative of an environmental non-governmental organization, Brussels, 5 February 2015;
- Interview 11, Former assistant to a Member of the European Parliament, Bremen, 11 February 2015.

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