The EU purse seine fleet in the Indian Ocean: Legalising the misreporting of catches must not be the solution to a technical problem

Background

Tropical tuna species such as yellowfin and skipjack play a critical role for the food security and development opportunities of coastal States in the Indian Ocean. Purse seine vessels are the dominant gear type in the region, accounting for the majority of tropical tuna catches. Most purse seine vessels in the Indian Ocean are flagged to Spain and France, which have been operating in the region since the 1980s.

These fish stocks are managed by the Indian Ocean Tuna Commission (IOTC). Yellowfin tuna is currently the most contentious item on the IOTC agenda. Its stock is in an alarming state and was included on the IUCN Red List of Endangered Species as "near threatened" in 2009. Since then, the situation has only deteriorated. According to the scientific committee of the IOTC, the stock is currently overfished, and yet, overall catch levels have not declined, with overfishing still occurring. The Spanish and French fleet are responsible for the largest shares of the industrial catches of yellowfin tuna (21% and 15% respectively). Both countries have overshot their quotas in 2017 and 2018.

With the adoption and reduction of catch limits for yellowfin tuna in 2017, the commercial strategies of the fishing companies have changed: vessels have redirected their efforts from targeting generally single species free-swimming schools (comprising older fish) to more mixed species schools (comprising a higher number of juveniles) via Fish Aggregating Devices (FADs). This resulted in an increase in juvenile catches of yellowfin and bigeye tunas, which can negatively affect the status of the stocks. It also makes it more difficult for fishers to identify the type of tuna fished given the similarity of yellowfin and bigeye specimens when they are small.

The technical problem

All EU purse seine are required to submit an electronic logbook to fishing authorities in which masters of the vessels report in near real time all data regarding their fishing activities and estimated catches. According to the current EU fisheries Control Regulation, the difference between the catch estimated by the masters in their fishing logbook and the actual catches reported in the landing declaration cannot exceed 10% per species. A failure to respect this 10% margin of tolerance is an infringement and can be subject to fines. The accumulation of 18 penalty points for the misreporting of catches can lead to the temporary suspension of a vessel's activity. Three points are allocated to a serious infringement for misreporting of catch, and therefore at least six serious infringements would need to be detected to trigger a first suspension.

EU scientists have noted that most tuna species captured by the purse seine fleet are easily distinguishable, since they have characteristic physical features. Skipjack tuna is easy to distinguish by the horizontal stripes that run down its body. Large adult bigeye and yellowfin tuna are characterised by dissimilar body and fin shapes. However, distinguishing between

juvenile yellowfin and bigeye can be challenging, as these differences are less noticeable when the fish are young.[1]

Given the large number of juveniles caught when deploying FADs, vessels of the Spanish and French fleets have often misreported their catches, a situation which puts them at risk of having their fishing licence suspended.[2] For the fleet, the answer to overcome this problem is to increase the margin of error allowed in the logbook when estimating catches. In fact, they propose to introduce a 10% tolerance margin for the total catch instead of the more exact per species, as has been required by EU law since 2009.

However, such an increase would have devastating consequences for tropical tuna stocks and would incentivise misreporting: yellowfin tuna has several restrictions which do not apply to bigeye, and also strong commercial interests exist to report yellowfin as bigeye tuna, since the latter's market price can be double that of the former. Such an increase would undermine reliable catch information by species, which is a fundamental base for scientists when making stock assessments, with devastating consequences for the sustainability of these already overfished stocks.

Lack of effective control of EU purse seine catches

The Spanish and French administrations are responsible for monitoring and controlling the activities of their purse seine vessels and the reporting of their catches, even if the landings take place in the ports of Indian Ocean costal States such as the Seychelles or Mauritius.

Following an access to document request by the organisations producing this briefing, it has become clear that an infringement procedure by the European Commission will be opened against France related to the lack of control of the activities of its external fishing fleet. Indeed, France is barely controlling what its fleet declares to have brought to port in their landing declarations and sales notes in non-EU countries, and the French government does not have any procedure in place to verify the accuracy of those reports.

The French administration claims not to have any competence to control how landings take place in non-EU countries. However, this is not necessarily true. Spain, by contrast, has implemented an Inspection Protocol to control the catches of yellowfin tuna unloaded in ports of the Indian Ocean, which included a team of Spanish inspectors based in the Seychelles, carrying out inspections of all Spanish purse seine vessels in port, at unloading, during large parts of the fishing season. While these were only time-limited inspections to get an estimate on the catches brought to port and reported, the information gathered by Spanish inspectors certified that Spanish purse seiners had been fishing above their quota (by 1,309 t) and overfished large amounts of yellowfin tuna. In fact, much yellowfin tuna was being reported as bigeye. Such misreporting is only likely to increase with a larger margin of tolerance.

A video produced by the main French producer organisation of frozen tuna, Orthongel, argues that to know the exact quantities landed it is necessary to wait for the sales notes produced by the canneries or processors, where the fish is sorted and weighed by species.[3] Spanish and French administrations also believe that catches recorded in sale notes are the most reliable source of information on total catches retained by purse seiners. Yet, to wait for the weighing

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[1] *"Comments on the assessment of catch by species in the tropical purse seine fishery"*. Document prepared by Jon Ruiz, *et al* to discuss the feasibility of onboard sampling to improve catch composition estimates.

[2] http://www.orthongel.fr/docs/videos/Explication_Marge_of_tolerance-en.mp4

[3] http://www.orthongel.fr/docs/videos/Explication_Marge_of_tolerance-en.mp4

of the actual catch when tuna enters the EU market or the processing plant entails very severe risks. It can take weeks for the tuna to get to the processing plants, and the information from sales notes is gathered only once a year. Nevertheless, waiting for the sales notes creates huge gaps of which unscrupulous operators can take advantage to hide illegal catches. Furthermore, tuna can also be directly transported to non-EU countries after being brought to port. Large amounts of Indian Ocean tuna catches by EU purse seiners are sent directly to Ecuador, a country which is yellow-carded by the EU since it has *"serious deficiencies in terms of controlling the activity of the tuna fishing and processing industries"*.[4]

It is shocking that total catches of overfished stocks are only confirmed once sales notes are available. The information in the fishing logbook is after all the only real time catch information that authorities have. It is from this information that quota uptake is monitored, to make sure that catches do not exceed the quota allocated to each vessel. Reliable estimates in fishing logbooks are the only way to prevent overfishing of a species which is already under stress. Yet, if the margin of tolerance was increased and EU Member State authorities do not ensure the proper validation of catch data in logbooks, fishing companies will be responsible for the control of their own quota uptake, leaving a State prerogative (fisheries control) completely in the hands of private actors (fishing companies). Certainly, this cannot and should not be the case where those controlled are the ones controlling themselves – a system that would leave open a wide space for irregular practices.

Allowing such an increase in the margin of tolerance would also introduce further loopholes to the system, legalising underreporting and erasing almost 40 years of progress brought about by successive EU Directives and Regulations, by taking EU standards on catch reporting and control back to the year 1983! At the same time, fisheries technology on-board vessels as well as equipment allowing the precise estimation of quantities and catch composition have significantly improved in recent years.

The solutions

The high level of juvenile catches in FAD fisheries is in itself a threat to the sustainability of tropical tuna fisheries. Nevertheless, it is undeniable that additional effort and investments are required to have robust estimates when catches contain many juveniles. However, allowing the misreporting of catches can under no circumstance be the solution. Instead, fishers and governments should focus on adopting appropriate control systems and improving the IOTC management framework to manage tropical tuna stocks sustainably in the long term. We therefore recommend the following solutions:

1) Incentivise the targeting of free schools fishing. Moving away from FADs and multi-species fishing and transitioning to fishing on free-swimming schools of one species would considerably reduce the number of juveniles caught by EU purse seiners. Free-school fishing would imply catching mostly yellowfin tuna, or mostly skipjack tuna (with some large yellowfin usually below them). By fishing in such a manner, catching mostly large specimens, the identification of the tuna species caught would be easier and there would fewer difficulties to comply with the 10% margin of tolerance obligation.

2) Invest in on-board sampling. Scientific analyses confirm the difficulty of properly estimating tuna catches and species composition with a 10% margin of error without significant financial investments by the fishing sector when using FADs and catching more than 5,000 individuals at

[4] DG MARE. *"Questions and Answers – Illegal, Unreported and Unregulated (IUU) fishing and issues at stake in Ecuador"*

once. Some RFMOs are however managing to do it successfully, as it is the case in the WCPFC.

In purse seiners deploying FADs, the brail can be monitored and measured by putting it into a portable “pool” with running sea water and doing 5 dipnet (a smaller net to scoop out random samples), returning the rest of the fish to the hopper (a platform on the deck used for sorting). Another option would be to randomly grab a 10 second ‘run’ of the conveyor belt every 30 minutes of conveyer run time. This would, however, require two scientific observers on-board: one on the bottom of the conveyor belt to measure the catch and one on the top deck to measure the amounts of other fish, sharks, dolphins, turtles and rays discarded to make sure there is no high grading. This would increase the operating costs of the fishing vessels but would make it feasible to comply with the current rules.

On-board sampling is easier when not using FADs and fishing for mono-specific or small sets of individuals.

3) Improve control at landing and e.g. require an inspector from the flag State to be present at landing to ensure that weighing is conducted accurately.