



Recommendations to the UK on the setting of fishing opportunities for 2022

August 2021

On behalf of Blue Marine Foundation, ClientEarth, Marine Conservation Society, Oceana and Whale and Dolphin Conservation, we wish to present our recommendations on the setting of Northeast Atlantic fishing opportunities for 2022. Our intent is to assist the UK Government in making decisions on fishing opportunities that end overfishing, significantly contribute to restoring and/or maintaining all fish populations above healthy levels and safeguard marine ecosystem functions.

Overfishing and UK ambitions as a sovereign coastal state

The UK Government stated its commitment to become a world leader in fisheries management by ‘setting a gold standard’ following its departure from the EU¹ as well as continuing to uphold the vision of ‘clean, healthy, safe, productive, and biologically diverse seas’ set out in the UK’s Marine Strategy². The UK has proudly publicised its claims of leadership on marine conservation issues including a specific commitment signed by the Prime Minister within the ‘Leaders’ Pledge for Nature’ to end the unsustainable use of the ocean³ and an acknowledgement within the G7 Environment Ministers’ Communique⁴ of the negative ecological, economic and social impact of overfishing. The 2020 UK Fisheries Act⁵ and the UK-EU Trade and Cooperation Agreement⁶ (TCA) commit to ensure that fishing activities are environmentally sustainable and contribute to restoring and maintaining fish stocks above scientifically defined maximum sustainable yield (MSY) biomass reference points.

It is vital the UK Government delivers on these objectives to achieve sustainable fisheries and healthy, resilient marine ecosystems – key components of Good Environmental Status (GES) under the Fisheries Act. Such achievements are also essential if the UK is to support prosperous domestic fishing fleets and coastal communities, as well as meet its commitments and obligations under international law such as the United Nations Convention

¹ Department for Environment, Food and Rural Affairs (DEFRA). 2018. [Fisheries white paper: Sustainable fisheries for future generations](#). 25 October 2018.

² Department for Environment, Food and Rural Affairs (DEFRA). 2019. [Marine Strategy Part One: UK updated assessment and Good Environmental Status](#). October 2019.

³https://www.leaderspledgefornature.org/wp-content/uploads/2021/06/Leaders_Pledge_for_Nature_27.09.20-ENGLISH.pdf

⁴<https://www.gov.uk/government/publications/g7-climate-and-environment-ministers-meeting-may-2021-communique/g7-climate-and-environment-ministers-communique-london-21-may-2021>

⁵ UK Fisheries Act. 2020. [Link](#).

⁶ Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland of the other part. 2020. [Link](#).

on the Law of the Sea⁷ (UNCLOS), the Convention on Biological Diversity (CBD) and the United Nations Sustainable Development Goal (SDG) 14⁸.

Despite these national and international commitments, overfishing persists in UK waters, affecting both UK and shared stocks. In 2020, the deadline year for ending overfishing under SDG 14, only around 38% of fished stocks were sustainably exploited, a far reach from the 100% goal. The remaining stocks are either subject to overfishing (29%) or their status is simply unknown (33%)⁹. It is essential that ending overfishing is given the highest priority by the UK Government, with renewed, accelerated commitments to consign overfishing to the past. This will give marine ecosystems the chance to rebound and build resilience to large-scale threats such as climate change.

In 2021, a “super year” for the marine environment, we expect the UK to fulfil its ambition to be a global champion of sustainable fisheries and step up to the challenge of ending overfishing. In the current climate and ecological emergency faced by our ocean every meaningful environmental decision matters. As an independent coastal state, the UK has the opportunity and responsibility to lead the way in achieving sustainable fisheries, as required under the UK Fisheries Act and international agreements¹⁰. A true demonstration of the UK’s commitment will be seen through its setting of fishing opportunities for 2022 in line with sustainable exploitation levels.

Main recommendations on setting fishing opportunities

Persistent political decisions to set total allowable catches (TACs) above scientifically advised levels are driving the ongoing overfishing of Northeast Atlantic stocks and a substantial roadblock in sustainable fisheries management. This continued failure to follow scientific advice is not in the best interests of achieving GES, nor of the fishing industry, and is of great concern to us. We therefore call on the UK Government to stop repeating past management errors and show political strength of will to fulfil its domestic management commitments and international agreements related to the setting of fishing opportunities.

The following outlines our main specific recommendations on the setting of fishing opportunities for 2022:

- Set fishing opportunities below the best available scientific advice provided by the International Council for the Exploration of the Sea (ICES), both for stocks with advice based on the ICES MSY approach and for stocks with advice based on the ICES data-limited precautionary approach;
- Apply the precautionary approach – as defined by the United Nations Fish Stocks Agreement¹¹ (UNFSA) and enshrined in the UK Fisheries Act – when setting TACs for stocks where there is no scientific advice on MSY-based catches. This should include the setting of precautionary fishing limits and additional measures to mitigate the risk of overfishing, as well as enhanced monitoring and data collection to enable the definition of MSY reference points for the stocks concerned;
- For stocks caught and assessed within a mixed fishery, factor in ICES mixed fisheries considerations to ensure that all stocks are restored and/or maintained above biomass levels capable of producing MSY. Where the

⁷ UNCLOS. 1982. [United Nations Convention on the Law of the Sea](#).

⁸ <https://sustainabledevelopment.un.org/sdg14>.

⁹ [UK Fisheries Audit](#). 2021. Report produced by Macalister Elliott and Partners Ltd. for Oceana.

¹⁰ Such as the United Nations Convention on the Law of the Sea ([UNCLOS](#)), United Nations Fish Stock Agreement ([UNFSA](#)) or the Sustainable Development Goals on life under water ([SDG14](#)).

¹¹ UN, Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks. [Link](#).

mixed fisheries approach supports a reduction in single species TAC below the MSY advice in order to safeguard the more vulnerable stocks caught in the fishery, this should be followed;

- Factor in the widely recognised poor compliance with the Landing Obligation (LO) by setting TACs lower than the recommended ICES maximum catch advice, to ensure the agreed TAC does not lead to fishing mortality beyond sustainable levels.¹² If quota adjustments are granted to account for previous discards, the UK should make them accessible only to vessels which demonstrate full compliance with the LO;
- In the case of stocks with zero catch advice, ensure that ‘bycatch TACs’ are not granted unless and until a rebuilding plan has been implemented. This plan should effectively reduce bycatch, set the relevant stocks on a pathway to recovery above levels capable of producing MSY as soon as possible, and be closely monitored and enforced using remote electronic monitoring with cameras (REM);
- Demonstrate the UK’s commitment to taking an ecosystem-based approach for forage fish (including Norway pout, sand eel, sardines and sprat) which have an important ecological role in supporting marine wildlife (such as seabirds, marine mammals and other commercial fish species), by accounting for the requirements of dependent predators. This means setting their TACs below the advised levels where ecosystem needs are not already fully factored into the scientific advice the TACs are based on;
- Set TACs below the maximum catch advice for species vulnerable to the impacts of climate change to provide a “climate buffer” and improve population resilience;
- Do not remove TACs, as the removal of a direct limit on fishing mortality is not a solution to sustainable management. In instances where a TAC has already been removed, it should be reinstated. Removing a TAC downgrades the concerned stock from a situation where the catches are capped to limit fishing mortality, to a situation where catches are effectively unlimited.

Fish stocks shared with third parties

Many of the UK’s important fish stocks are transboundary and shared with third parties. Following Brexit, this means there are over 100 stocks for which annual catch limits need to be agreed with other parties such as the EU and Norway, or through the Northeast Atlantic Fisheries Commission (NEAFC) Coastal States process. To facilitate the adoption of joint management measures for shared stocks we welcome the fact the UK has become a NEAFC contracting party¹³, and has established bilateral agreements and memoranda of understanding with the main Northeast Atlantic coastal fishing states, including Norway¹⁴, the Faroe Islands¹⁵, Greenland¹⁶ and Iceland¹⁷, plus the EU¹⁸. While such arrangements provide management and negotiation frameworks, annual fishing opportunities still depend on annual negotiations between the UK and these third parties.

¹² ClientEarth, 2020. [Setting Total Allowable Catches \(TACs\) in the context of the Landing Obligation.](#)

¹³ The Northeast Atlantic Fisheries Commission. 2020. [The United Kingdom becomes the 6th Contracting Party to NEAFC.](#)

¹⁴ UK Government. 2020. [Framework Agreement on Fisheries between the United Kingdom of Great Britain and Northern Ireland and the Kingdom of Norway.](#)

¹⁵ UK Government. 2020. [Framework Agreement on Fisheries between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Faroes.](#)

¹⁶ UK Government. 2020. [Memorandum of Understanding between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Greenland on enhancing cooperation on fisheries and related issues.](#)

¹⁷ UK Government. 2020. [Memorandum of Understanding between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Iceland on enhancing cooperation on fisheries and related issues.](#)

¹⁸ Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland of the other part. 2020. [Link.](#)

To date, international agreements for Northeast Atlantic shared stocks have not always delivered sustainable exploitation of these resources. The frequent lack of agreement on stock shares led to the setting of unilateral quotas which exceed the agreed TAC and/or the scientific advice, resulting in overfishing¹⁹.

The UK and the third parties with which it shares fish resources must become constructive partners in the fight against overfishing, biodiversity & habitat loss and climate change. To achieve this, we urge the UK and other coastal states involved in the setting of fishing opportunities for shared stocks to follow the recommendations below:

- Agreements on shared stocks must implement a genuine precautionary approach as defined by the UNFSA. When the available data and information are uncertain, unreliable, or inadequate, decision makers should engage in more cautious management, and a lack of scientific certainty cannot preclude management action as outlined in the UK Fisheries Act;
- Agreements on shared stocks must include provisions regarding abundance of fish populations, limit reference points for mortality, and precautionary and ecosystem considerations. In addition to objectives to maximise long-term sustainable yields, coastal states must act with urgency to conserve biodiversity, reduce the impact of fishing activity on fish populations, sensitive species and on the whole ecosystem, including the seafloor, and use scientific knowledge to inform management decisions;
- Unilateral processes leading to catches above scientific advice should be avoided. Talks on joint management should be comprehensive, including all relevant coastal states and stakeholders. In line with UNCLOS, collaboration on management should be multilateral when more than two coastal states have a stake in a given fish population, or fishery, in order to ensure transparency across all relevant states;
- Multi-annual management should be the underlying approach by default. Although details will need to be revisited regularly, all stakeholders benefit from agreeing to, and working toward, long-term sustainable management objectives. This includes stable sharing arrangements, harvest strategies that include precautionary harvest control rules for setting catch limits, a robust monitoring and evaluation scheme, a periodic review process, and any necessary mechanisms to transition from previous arrangements to a new system. For certain at-risk species and stocks, immediate emergency measures may be necessary;
- Coastal states should set explicit standards for the scientific advice based on which decisions will be made, using the best available, peer-reviewed scientific advice from independent institutions recognised at the international level. Published scientific advice from ICES should be used as the basis for management;
- The UK should contribute to the timely implementation of the bilateral agreements and memoranda of understanding with the main Northeast Atlantic coastal fishing states. Priority should be given to the sustainable management objectives and principles, the precautionary approach, and agreeing TACs in accordance with the best available scientific advice by ICES and governed by the MSY objective, as required under the TCA;
- Regarding NEAFC coastal states negotiations on pelagic stocks (mackerel, herring, and blue whiting), the contracting parties should prioritise resolving the allocation issues around these stocks and ensure that overall catches for each stock does not exceed scientific advice and in no case lead to unilateral quota increases;
- The management of shared stocks should be consistent with the transparency obligations and rights under the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters.²⁰ Underpinning scientific advice, management proposals, negotiations, positions of the parties and decisions should be published for public scrutiny, with access guaranteed for all stakeholders;

¹⁹ This situation applies to key commercial stocks to the UK such as Northeast Atlantic mackerel, Atlanto-Scandian herring and blue whiting.

²⁰ UNECE. 1998. Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters ([Aarhus Convention](#)).

- Where the UK and the EU fail to reach an agreement on TACs for shared stocks by the 20th of December 2021, provisional unilateral TACs must not exceed the respective party’s share of the maximum catch level advised by ICES, as per Article FISH.7.2 of the TCA. This represents an important safeguard to ensure that stocks are not fished unsustainably where no agreement is reached.

Mixed Fisheries and interspecies considerations

Achieving sustainable exploitation of each stock in fisheries targeting multiple species (mixed fisheries) can represent challenges, particularly when dealing with overfished stocks. Demersal fisheries around the UK are a representative example of this issue with a diversity of species and fisheries inducing numerous biological and technical interactions.

So far management decisions for mixed fisheries have mostly prioritised the exploitation of the most productive stocks, while ignoring the consequences of this approach on the most vulnerable bycatch stocks or populations. This is particularly concerning as in most cases this results in fishing mortality rates exceeding scientifically advised levels for at risk stocks, to avoid the closure of a fishery. This approach perpetuates the depletion of vulnerable populations, when the focus should be on rebuilding depleted stocks which would avoid fisheries closures in the long-term.

There are multiple measures that can be implemented simultaneously to mitigate these challenges and reduce fishing pressure where necessary. Using a combination of the tools below, fishers and managers should be able to reduce the likelihood and mitigate the impact of “choke” situations whilst still fishing within MSY limits. These tools are not currently being used to their full extent (and in some cases not at all). The UK Government should ensure that all these options are used to their maximum effect, particularly for at-risk species and stocks. These include:

- Use mixed fishery MSY advice provided by ICES to assess the compatibility of single-stock TACs with the ambition to safeguard the most vulnerable stock(s) caught in the fishery;
- Set TACs below the ICES single-stock maximum catch advice for certain stocks to account for mixed fishery interactions, and to ensure that no stocks in the fishery are fished above scientific advice;
- Adopt spatial measures to reduce fishing pressure on more vulnerable species, including temporary and permanent closures, real-time closures and ‘move-on’ rules;
- Ensure independent, reliable monitoring and full documentation of catches through observer coverage and Remote Electronic Monitoring with cameras (REM);
- Mandate the use of the best available technology and practices to improve the selectivity of fishing activity. A list of authorised mitigation measures should be made available for each active mixed fishery to support fishers. Inclusion of selectivity measures employed during fishing activity should be included within the legal requirement of logbook reporting to track progress and place the burden of proof onto fishers to prove they are doing everything possible and practicable to minimize unwanted catches.

Landing obligation challenges

Since the LO came fully into force in 2019, TACs have been set based on total catch advice (albeit with some deductions for exempted discards), rather than landings advice as they used to before 2015. Despite the LO having been phased in since 2015 and formally having been fully in place since 2019, it is recognised that non-compliance

is widespread.²¹ Setting TACs based on catch rather than landings advice, while illegal discarding continues, allows for unsustainable catches potentially far beyond scientific advice.²² Poorly implementing the LO poses significant risks to sustainable fisheries and decisive steps must be taken to remedy the current situation.

Furthermore, there are industry voices who claim that failures of implementation mean that the policy is unworkable, and that a reform/elimination of the LO is needed. NGOs are of the opinion that the LO has not been given a chance to work and that the underlying problems (such as a lack of fishing gear selectivity and effective avoidance of unwanted catches) can and must be tackled under the existing framework. Any future catching policy should ensure the full ethos of the current LO is maintained and should outline how its success is going to be quantified. Provisions should also be made to fully document fisheries while collecting relevant data. To avoid negative effects of the failure in the implementation of the LO on the setting of sustainable catch limits we recommend the following:

- Factor in poor compliance with the LO by proposing and setting TACs lower than the ICES maximum catch advice, to ensure that the agreed TACs do not lead to fishing mortality beyond sustainable levels, even to account for so-called “top-ups” and exemptions to the LO;
- Access to quota “top-ups” should be made conditional on demonstrated vessel compliance with the LO, notably through REM and/or appropriate independent observer coverage;
- The UK should introduce more robust controls. Illegal discarding should be treated as a serious infringement;
- The UK must create and promote quota redistribution solutions, beyond traditional swaps, to avoid closing fisheries if quota is available elsewhere;
- The UK should monitor the probability of early fisheries closures²³ and ensure that data on implementation of the LO improves and informs annual fishing opportunities. If a high risk of early closures remains, even after all possible measures have been applied, an effective bycatch reduction or elimination plan should be implemented, if necessary with support from public funds.

Depleted stocks with zero or very low catch advice

Recent data published in 2021 by ICES highlights the critical status of a number of stocks key to the UK for yet another year. Examples of these severely overexploited stocks include West of Scotland cod, Celtic Sea cod, West of Scotland and West of Ireland herring, Irish Sea whiting, and North Sea cod²⁴ among others. For most of these stocks the ICES advice is for strong reduction in catches, or even zero catch. With climate change also likely to be affecting the resilience of some fish populations²⁵, effective efforts to recover these stocks are needed more urgently than ever²⁶.

We are extremely concerned that limited effort has been made by all parties involved in the management and exploitation of these stocks to apply effective recovery measures. Any prospect of recovering these fish

²¹ Communication from the Commission to the European Parliament and the Council. 2021. [Towards more sustainable fishing in the EU: state of play and orientations for 2022](#).

²² L. Borges. 2020. [The Unintended Impact of the European Discard Ban](#). ICES Journal of Marine Science.

Also see: [ClientEarth's](#) and [Our Fish's](#) briefings on the LO.

²³ For mitigation tools, please see the 2018 NGO paper [“Recovering fish stocks and fully implementing the Landing Obligation”](#).

²⁴ ICES advice for the referred depleted stocks: [West of Scotland cod](#), [Celtic Sea cod](#), [West of Scotland and West of Ireland herring](#), [Irish Sea whiting](#) and [North Sea cod](#).

²⁵ Drinkwater, K.F. 2005. The response of Atlantic cod (*Gadus morhua*) to future climate change. ICES Journal of Marine Science, Volume 62, Issue 7, 2005, Pages 1327–1337. <https://doi.org/10.1016/j.icesjms.2005.05.015>

²⁶ Sumaila, U.R. and Tai, T.C. 2020. End Overfishing and Increase the Resilience of the Ocean to Climate Change. *Frontiers in Marine Science*. <https://doi.org/10.3389/fmars.2020.00523>

populations appears unlikely under the current unsustainable status quo conditions. These stocks are a public resource and recovering them is a necessity to contribute to a healthy resilient marine ecosystem and to provide long-term benefits to coastal communities.

Managing mixed fisheries containing stocks that have received zero or very low catch advice presents a number of challenges. However, there are steps that can be taken to reduce unwanted catches and minimise the impacts of fishing on depleted stocks. Many such measures, presented in the advice below, would also help to achieve sustainable mixed fisheries generally. With specific regard to low/zero catch advice stocks, we recommend the following:

- Follow the scientific advice provided by ICES and set catch limits for depleted stocks accordingly. The UK should prioritise the recovery of depleted stocks over short term profit maximisation, as this is in the long-term interest of coastal communities and the marine environment;
- Where adopted, ‘bycatch TACs’ should prioritise the recovery of the depleted stock and should not be set unless and until the relevant management authority has put in place a rebuilding plan or multi-year management strategies with clear recovery targets, timeframes and bycatch reduction strategies to achieve them;
- Ensure that fisheries using ‘bycatch TACs’ are fully documented using REM and/or appropriate observer coverage, and strong remedial measures are in place;
- Management measures for mixed fisheries likely to catch depleted stocks must prioritise the recovery needs of these stocks rather than the full exploitation of the possible fishing opportunities of healthy stocks in the same fishery,²⁷ and must under no circumstances exceed the scientific advice;
- Request ICES to provide additional mixed fisheries scientific catch scenarios focusing on options which allow vulnerable stocks to rebuild to inform fisheries management of the actions and/ or reductions in healthy stock TACs which would be required. Evaluation of such scenarios could present options which avoid immediate fisheries closures while still allowing depleted stocks to recover over the required period of time;
- Adopt spatial measures to reduce fishing pressure on vulnerable bycatch species, including temporary and permanent closures, real-time closures and ‘move-on’ rules;
- There are no mixed fisheries concerns with the herring stock in divisions 6a and 7b-c. Consequently, the UK should set a zero TAC in line with ICES advice.

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²⁷ ClientEarth, 2020. [Ask the right question, get the right answer: Scientific advice for bycatch or non-targeted stocks that have zero catch advice.](#)