

Joint NGO response to the Commission consultation on the setting of fishing opportunities for 2020

19 August 2019

On behalf of The Pew Charitable Trusts, Oceana, ClientEarth, Seas At Risk, FishSec and Our Fish we present our response to the European Commission consultation on the setting of fishing opportunities for 2020, including our recommendations regarding the proposing and setting of Northeast Atlantic, North Sea and Baltic Sea Total Allowable Catches (TACs).

In previous years we have produced individual responses to the Commission consultation on fishing opportunities. The vast majority of the points raised in those contributions have not been addressed by the Commission, and remain valid this year. For reference, a list of recent documents and recommendations is attached as an Annex.

We urge the Commission to ensure that the TACs proposed and set for 2020 meet the objectives and requirements of the Common Fisheries Policy (CFP), ensure that the Landing Obligation (LO) is effectively implemented, and commit to a process of proposing and setting fishing opportunities that is transparent to citizens and civil society organisations.

Commission reporting on progress in implementing the CFP

For the last five years NGOs have contributed detailed policy recommendations addressing the data and reporting shortfalls in the previous Commission communications on fishing opportunities, and offered management recommendations to resolve the challenges facing various European stocks.

It remains all too clear that insufficient progress is being made to deliver the CFP's objectives. The Scientific, Technical and Economic Committee on Fisheries (STECF) emphasized in its latest CFP monitoring report that *"many stocks remain overfished and/or outside safe biological limits, and that progress achieved until 2017 seems too slow to ensure that all stocks will be rebuilt and managed according to F_{MSY} by 2020"*.¹

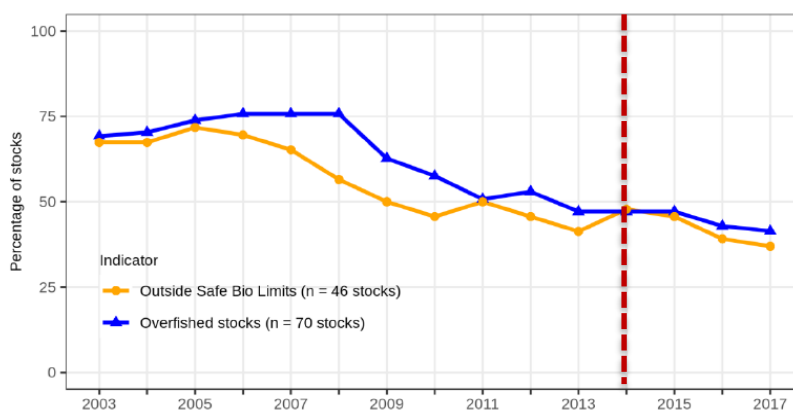


Figure 1: Trends in stock status in the Northeast Atlantic 2003-2017. Two indicators are presented: **blue line:** the proportion of overexploited stocks ($F > F_{MSY}$) within the sampling frame (64 to 70 stocks fully assessed, depending on year) and **orange line:** the proportion of stocks outside safe biological limits ($F > F_{pa}$ or $B < B_{pa}$) (out of a total of 46 stocks). **Source:** Modified from [STECF \(2019\)](#). Added **red line:** CFP entry into force: 1 January 2014.

¹ [STECF \(2019\) - Monitoring the Performance of the Common Fisheries Policy](#).

According to the STECF report, around 41 percent of analysed stocks (29 of 70) remain overfished in relation to the Maximum Sustainable Yield (MSY) exploitation rate. This is down from 47 percent (33 of 70) in 2014 (Figure 1), a net reduction of 4 overfished stocks since the entry into force of the CFP in 2014. We would also like to draw attention to the fact that stocks where suitable information on the MSY exploitation rates is available account for only a small proportion of all stocks in the Northeast Atlantic which fall under the scope of the CFP. Many stocks have data-limited scientific advice on catches based on the ICES precautionary approach and are omitted from the Commission reporting to the European Parliament and Council.

As such, the Commission communication² continues to present an overly optimistic interpretation of progress towards the CFP objectives. To address this, the Commission should acknowledge explicitly the assumptions and limitations its figures are subject to, and include sources for the data and calculations not originating from the publicly available STECF report. This is crucial to avoid misinterpretation and to ensure that areas where progress is lacking are highlighted and addressed. Furthermore, the Commission should not put an emphasis on reporting in terms of landings volumes, but instead focus on the number of stocks in line with the fishing mortality and biomass objectives of the CFP. This is necessary and would help avoid presenting a misleadingly positive impression of progress towards ending overfishing that does not adequately reflect the CFP's legal requirements, which apply to all stocks regardless of landings volume or data availability.

Progress in implementing the CFP through the setting of fishing opportunities

We have addressed in detail a long list of policy omissions and inaccuracies in previous responses to the Commission's annual consultation. The observations and recommendations we gave to the Commission in our responses to the 2018 communication still apply, wholly and in detail, because the state of fish populations and the severity of overfishing remain broadly unchanged (see Annex).

The transition period foreseen in Article 2(2) of the CFP, with the MSY exploitation rate to be achieved by 2015 where possible, and at the latest by 2020 for all stocks, is all but over.

The Commission annually asks for the best available scientific advice on catches, which is being delivered in a comprehensive way at significant expense to EU taxpayers by independent scientists; in spite of this going into 2020 over 40 percent of TACs remain higher than this scientific advice.³ The Commission tendency to treat stocks that are primarily taken as bycatch and/or subject to data-limited precautionary approach advice with lower ambition than those that are targeted and/or subject to MSY-based advice remains of major concern, especially since the CFP's Article 2(2) MSY objective applies to all harvested species. This approach misconstrues the precautionary approach and goes against a key principle of good governance, namely the establishment of measures, including the setting of catch limits, in accordance with the best available scientific advice.

Until now, the EU institutions have actively chosen fishing pressures for many stocks higher than the scientific advice that will deliver long-term sustainable catches, and in many cases stocks remain outside safe biological limits (Figure 1). This risks the collapse of certain fish populations and damages marine ecosystems. It also undermines the potential long-term social and economic benefits that could be achieved from sustainably managed fisheries⁴ and reduces the supply of sustainable European sourced fish for consumers. Risking such sustained high fishing pressures has serious real-world consequences, as this year's scientific advice for iconic stocks like North Sea cod demonstrates. Fisheries management should aim higher than this short-termism, and indeed EU law in the shape of the CFP requires this.

We are also concerned about the Commission's support to date for various approaches to address the challenges of the LO (such as quota top-ups, LO exemptions and bycatch TACs) despite the clear

² [COM\(2019\) 274 Final. Communication from the Commission to the European Parliament and the Council on the state of play of the Common Fisheries Policy and consultation on the fishing opportunities for 2020.](#)

³ [Pew Charitable Trusts \(2019\) - Analysis of Fisheries Council agreement on fishing opportunities in the north-east Atlantic for 2019.](#)

⁴ [Oceana \(2017\) - Healthy Fisheries are good for business.](#)

recognition by the Commission itself that compliance remains poor.⁵ Continuing to propose such approaches while unreported discarding continues based on an incorrect assumption of full compliance jeopardises the achievement of the CFP's objectives.

For example, setting bycatch TACs to address the “choke” risk in return for ineffective bycatch reduction plans and without any action to ensure that the bycatch TACs are respected is inappropriate and counter-productive to the delivery of the CFP's objectives. The STECF's evaluation⁶ of the North Western Waters bycatch reduction plan⁷ clearly confirms concerns that it is not fit for purpose.⁸ Allowing business as usual to continue in the absence of a clear, ambitious route towards bycatch minimisation and stock recovery sets a dangerous precedent, endorsing inaction instead of honouring the commitments made at the 2018 December Council.⁹

Furthermore, we are seriously concerned about the Commission's intention to base its TAC proposals on catch rather than landings advice (albeit with the above-mentioned deductions), which is based on the assumption that all catches will be landed. In the absence of adequate monitoring and control, this approach risks increasing fishing mortality above scientifically advised sustainable levels and undermines the very basis of future scientific advice, if discarding continues unreported. Simultaneously, very few improvements in bycatch avoidance and selectivity have been demonstrated or incentivised in the five years during which the LO has been in force.

In conclusion, the use of all these approaches to ease in the LO, while robust and effective monitoring, control and enforcement are lacking, has only increased the risks for stocks.

Recommendations for the Commission

We call on the Commission to follow scientific advice in all of its TAC proposals for 2020, for both target and bycatch stocks and irrespective of the advice basis. Moreover, the Commission should defend these proposals vigorously, guiding fisheries ministers to deliver science-based catch limits during the October and December Council meetings. Specifically, we recommend that the Commission should:

1. TAC proposals for 2020

- Propose TACs not exceeding scientifically advised levels. This means not exceeding ICES advice under the MSY approach or the F_{MSY} point value catch limits for stocks where MSY-based reference points are available; and not exceeding precautionary approach catch limits where MSY-based reference points are not available.

Where MSY-based advice is available, the Commission should not propose catch limits based on precautionary approach reference points in order to allow for higher fishing pressure, since this would undermine the CFP's objectives.

- For some stocks, propose TACs lower than the ICES single species catch advice when considering mixed fishery interactions, to ensure that no stocks in a mixed fishery are fished above F_{MSY} .
- Take a precautionary approach when setting TACs for stocks where there is no scientific advice on maximum 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 for the stocks concerned.
- Introduce measures for all non-TAC stocks that aim to ensure each stock's recovery and sustainable exploitation in line with the CFP objectives, for example through recovery plans.

⁵ [COM\(2019\) 274 Final. Communication from the Commission to the European Parliament and the Council on the state of play of the Common Fisheries Policy and consultation on the fishing opportunities for 2020.](#)

⁶ [STECF \(2019\) - 61st Plenary Meeting Report \(PLEN-19-02\)](#), p.102 onwards.

⁷ By-catch reduction plan (BCReP) in the North Western Waters. 2019-05-14 version. Draft received on 15 May 2019.

⁸ [Joint NGO letter to the Commission on bycatch reduction plans. 24 May 2019.](#)

⁹ Statement of the North Western Waters regional group made at December Council 2018. Available [here](#).

2. Correct implementation of the Landing Obligation (LO)

- Propose TACs lower than the catch advice, since otherwise there is a serious risk of increasing fishing mortality above sustainable levels in light of the general lack of compliance with the LO.¹⁰
- Strongly encourage member states to make any quota top-ups which are nevertheless adopted accessible only to vessels which demonstrate full compliance with the LO.
- Continue to account for any discards allowed under exemptions from the LO in TAC proposals, both for *de minimis* exemptions and dead discards under high survival exemptions.
- Ensure reliable and robust methods of full catch documentation (e.g. observers or remote electronic monitoring) are in place (in particular, CCTV on vessels identified as being at medium, high or very high risk of non-compliance with the landing obligation), and especially where exemptions from the LO are applied.
- Refrain from proposing to remove TACs or add species to the prohibited species list in order to avoid the full implementation of the LO. Regardless of whether a stock is subject to the LO, the Commission should propose appropriate measures and safeguards to fulfil the MSY objective of the CFP, as well as robust methods of full catch documentation for fleets catching vulnerable stocks or prohibited species.
- Ensure that the shortcomings of the North Western Waters bycatch reduction plan are immediately rectified, and access to the bycatch TACs is suspended until robust full catch documentation is put in place.
- Ensure additional bycatch TACs are not granted unless and until the relevant member states put in place a bycatch reduction plan that effectively reduces bycatches, sets the relevant stocks on a pathway to recovery above levels capable of producing MSY as soon as possible, and is closely monitored and enforced.

3. Improving the transparency and accountability of the TAC setting process

- Make publicly available the information and considerations used when proposing TACs for stocks subject to a mismatch between TAC management units and scientific advice.
- Make publicly available the proposed TAC adjustments in relation to the LO (quota top-ups for previous discards or deductions for exemptions from the LO), including the proposed figures before and after these adjustments have been applied, as well as any underlying calculations and data.
- Make all of the decisions regarding the points above publicly available shortly after the meetings are completed.

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¹⁰ [COM\(2019\) 274 Final. Communication from the Commission to the European Parliament and the Council on the state of play of the Common Fisheries Policy and consultation on the fishing opportunities for 2020.](#)

Annex – List of NGO recommendations and documents

- Documents related to Commission communication on fishing opportunities:
 - [ClientEarth letter to the Commission regarding the Commission’s upcoming TAC proposal and its approach to the 2019 fishing opportunities in the Northeast Atlantic](#). October 2018.
 - [ClientEarth’s response to the Commission’s consultation on fishing opportunities for 2019](#). August 2018.
 - [Pew Charitable Trusts submission to the European Commission’s Consultation on Fishing Opportunities for 2019](#). August 2018.
 - [Oceana Contribution to European Commission’s Consultation on Fishing Opportunities for 2019](#). August 2018.
 - [ClientEarth letter to the Commission regarding recommendations for the Commission’s communication on fishing opportunities for 2019 and report under CFP Article 50](#). April 2018.
 - FishSec & SAR [Cover Letter](#) and [Annex](#) regarding the Communication from the Commission concerning a consultation on Fishing Opportunities for 2018. July 2017.
- Documents related to TAC setting for 2019 and 2020:
 - [Joint NGO recommendations on Baltic Sea fishing opportunities for 2020](#). June 2019.
 - [Pew Charitable Trusts analysis of Fisheries Council agreement on fishing opportunities in the north-east Atlantic for 2019](#). March 2019.
 - [Pew Charitable Trusts analysis of Fisheries Council agreement on deep-sea fishing opportunities for 2019 and 2020](#). January 2019.
 - [Joint NGO recommendations on fishing opportunities for 2019 – Cover letter, Policy Annex and TAC Annex](#). December 2018.
 - [Pew Charitable Trusts analysis of Fisheries Council agreement on fishing opportunities in the Baltic Sea for 2019](#). November 2018.
 - [Joint NGO recommendations for Deep Sea Fishing Limits 2019-2020](#). September 2018.
 - [Joint NGO recommendations on Baltic Sea fishing opportunities for 2019](#). July 2018.
- Documents relating to the landing obligation (LO):
 - [Joint NGO letter to the Commission highlighting concerns and recommendations about the implementation of the landing obligation](#). July 2019.
 - [Joint NGO letter to the Commission on bycatch reduction plans](#). May 2019.
 - [OurFish letter to the Commissioner](#). February 2019.
 - [ClientEarth and Seas At Risk letter to Commission regarding outstanding concerns about exemption requests for the 2019 discard plans](#). August 2018.
 - [Joint NGO position: Recovering fish stocks and fully implementing the landing obligation](#). May 2018.