



July 2020

Recommendations for the European Commission and the EU Council on the setting of Northeast Atlantic fishing opportunities for 2021

Background

Fisheries ministers and the European Commission failed to achieve the objective of ending overfishing in the Northeast Atlantic region, as per the 2020 deadline outlined in Article 2.2 of the CFP. In 2020, when the transition period and legal deadline to end overfishing concluded, 46 percent of Northeast Atlantic TACs were still set exceeding scientific advice by fisheries ministers in December 2019. Even in the Commission's TAC proposal that set the basis for these decisions, almost half of the proposed TACs exceeded scientific advice.¹

In addition to failing to meet the CFP's own legal deadline for achieving sustainable fisheries, these TAC decisions do not uphold the original intent of the regulation to recover stocks and provide high yield fisheries, and therefore cannot deliver the related environmental, social, and economic benefits.

Although progress has been made for some commercially important stocks, a significant proportion of stocks are still poorly managed, with the rationale for this remaining unclear, or less sustainable management being justified spuriously by a lack of scientific data, or their lower economic importance. This goes against the CFP which requires the same policy response and objectives for all harvested species and demands an ecosystem-based approach. Deprioritising less productive or less comprehensively assessed stocks undermines the EU's claim to be a leader in sustainable fisheries management. This indicates that the European Commission and Council have, in the case of EU fisheries management, fallen short of EU obligations relating to the application of the precautionary principle as required under Article 191(2) of the Treaty on the Functioning of the European Union (TFEU),² or of international commitments under the UNFSA³ and UN Sustainable Development Goal 14.⁴

Nevertheless, important decisions must still be taken to end overfishing, especially now that the 2020 deadline has passed. Setting TACs not exceeding scientific advice and effectively implementing the landing obligation (LO) remain top priorities if the CFP's legally binding objectives are to be delivered, international commitments are to be honoured, and the ambition of the EU Biodiversity Strategy achieved.

¹ [Pew Charitable Trusts \(2020\) - Analysis of Fisheries Council agreement on fishing opportunities in the Northeast Atlantic for 2020](#)

² [Communication from the Commission on the precautionary principle COM/2000/0001 final](#)

³ https://www.un.org/Depts/los/convention_agreements/texts/fish_stocks_agreement/CONF164_37.htm

⁴ <https://sustainabledevelopment.un.org/sdg14>

Recommendations for the Commission and the Council

The Commission and the Council should propose and agree on TACs in accordance with the following recommendations:

- **Propose and set TACs not exceeding the best available scientific advice provided by ICES**, both for stocks with advice based on the ICES MSY approach and on the ICES data-limited precautionary approach.
- Where applicable, **propose and set TACs not exceeding the F_{MSY} point value** specified by the EU multi-annual plans (MAPs).
- **Factor in the widely recognised poor compliance with the LO** by proposing and setting TACs lower than the catch advice, to ensure that the agreed TACs do not lead to fishing mortality beyond sustainable levels.
- If quota adjustments are granted to count for previous discards, member states should make them accessible only to vessels which demonstrate full compliance with the LO.
- In the case of TACs with zero catch advice, **ensure that 'bycatch TACs' are not granted unless and until the relevant member states put in place a bycatch reduction or rebuilding 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 using remote electronic monitoring (REM).
- In mixed fisheries, **propose TACs for some stocks lower than the ICES single species wanted catch advice**, to ensure that no stocks in the mixed fishery are fished above F_{MSY} , in order to comply with the objective of restoring biomasses above levels capable of producing MSY.
- **Call on Northeast Atlantic Coastal States to follow their common international commitments** to end overfishing in 2020 for shared stocks with the EU, for the objectives of the CFP to be achieved.
- **Improve transparency** by following the EU Ombudsman's recommendation of proactively making public documents related to the adoption of the TAC Regulation at the time they are circulated to member states or as soon as possible thereafter.⁵

Specific recommendations for the Commission on its TAC proposals

- The Commission should recognise and defend that **the setting of fishing limits is the central tool to rebuild and maintain the biomass of fish populations** (CFP Article 2.2) and that 'last hope' remedial measures to save depleted stocks are not the solution to achieving that objective⁶.
- Where emergency or remedial measures are needed to save and rebuild stocks, the Commission should link them to the adoption by ministers of reliable, legally-binding and robust methods of full catch documentation, like observers or REM, in order to have a proper understanding of the fishing activity. This should be a high priority to ensure that TACs, 'bycatch TACs', the LO and its exemptions are respected.
- The Commission should improve the transparency of its TAC proposals by making publicly available:
 - the rationale, data and studies used when TAC proposals exceed scientific advice, including for 'bycatch TACs' linked to zero catch advice;
 - the information and considerations used when proposing TACs for stocks subject to a mismatch between TAC management units and scientific advice;
 - the proposed TAC adjustments in relation to the LO, including the proposed figures before and after these adjustments have been applied, as well as any underlying calculations and data;

⁵ [Recommendation of the European Ombudsman in case 640/2019/FP](#)

⁶ Moreover, legally speaking, the prerogative of the Council of fisheries ministers is restricted to the setting and allocation of fishing opportunities, as per article 43.3 of the TFEU.

- any proposals subsequent to the official Commission proposal (TACs 'non-papers').
- **The Commission should defend its science-based proposals on fishing limits vigorously** at all stages up to and including the Council meetings, setting the tone and guiding fisheries ministers to set science-based catch limits.