



Oceana Contribution to European Commission's Consultation on Fishing Opportunities for 2019

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Contact person: Javier Lopez, Marine Scientist jlopez@oceana.org

tel. +34 911 440 880 www.eu.oceana.org

Overview of the state of play

There are only 18 months left to achieve the 2020 deadline to stop overfishing¹. However, despite the progress made in reducing fishing pressure in the Atlantic waters and adjacent seas during the recent decade, the Scientific Technical and Economic Committee for Fisheries (STECF) has confirmed repeatedly that the improvements achieved so far are insufficient to meet the Common Fisheries Policy (CFP) commitments.² In particular, in the Mediterranean and Black Sea the situation remains deeply worrying.

Ending overfishing will not only contribute to the Good Environmental Status of the European marine ecosystems, as required by the Marine Strategy Framework Directive³, but also to the good socio-economic performance of the European fleet and related industries⁴. During recent years, the increase in the number of sustainable fish stocks has led to increased productivity, and together with decreased fuel use intensity, have resulted in an upward trend of gross profit and net profit margin for the EU fleet⁵.

According to the most recent data (2016), both economic indicators are at high records: 2.1 billion euros and 17%, respectively. This trend consolidates the gradual recovery of the economic performance of the EU fleet that overall is considered profitable. On the other side, total employment (full-time equivalent, FTE) has seen a downturn, by on average, 1,3% per

¹ Common Fisheries Policy. Regulation (EU) No 1380/2013 of the European Parliament and the Council on the Common Fisheries Policy.

² Scientific, Technical and Economic Committee for Fisheries (STECF) – 57th Plenary Meeting Report (PLEN-18-01). Publications Office of the European Union, LUX, 2018.

³ Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive)

⁴ Healthy fisheries are good for business – How better management of European fisheries will create jobs and improve the economy, Oceana, 2017 <https://eu.oceana.org/en/publications/reports/healthy-fisheries-are-good-business>

⁵ Scientific, Technical and Economic Committee for Fisheries (STECF) – The 2017 Annual Economic Report on the EU Fishing Fleet (STECF-17-12). Publications Office of the European Union, LUX, 2017.

year since 2008. This is mainly owing to a decrease in the numbers of vessels, while the wages per employment are increasing, on average 2,7% per year.

The sustainable exploitation of fish resources is more feasible to attain through multiannual plans (MAPs) that contain a clear roadmap to achieve specific sustainable targets. Since the entry into force of the CFP (January 2014), two MAPs have been adopted; the Baltic Sea MAP and the North Sea MAP, while another three are currently under discussion: the Western Mediterranean MAP, the Western Atlantic Waters MAP, both plans for demersal species, and the Adriatic MAP for pelagic species.

Despite this positive initiative, it is surprising that, the aforementioned MAPs include the possibility of setting fishing mortalities above the MSY reference point. This goes against CFP objectives. Also, with the exception of the Western Mediterranean MAP, the MAPs lack meaningful technical and conservation measures.

The landing obligation represents a fundamental shift in the management of EU fisheries, including the setting of fishing opportunities. According to the CFP¹, as of January 2019 the landing obligation will fully affect all catches of stocks subject to catch limits (TACs), and in the Mediterranean also to species subject to Minimum Conservation Reference Sizes (MCRS). This fact represents a significant challenge, especially for demersal mixed fisheries when there is small or no quota for any of the caught species (choke species risk).

Beside the existence of exemptions (like high survivability and *de minimis*) and flexibility measures (inter-annual and inter-species) reflected in the CFP and in use, there are other management measures that have a significant potential to prevent, or at least mitigate, choke situations. Such measures include the redistribution of national quotas, quota swaps among Member States, and the use of public funds (like the European Maritime and Fisheries Fund EMFF). Unfortunately, the use of public funds is poorly implemented⁶.

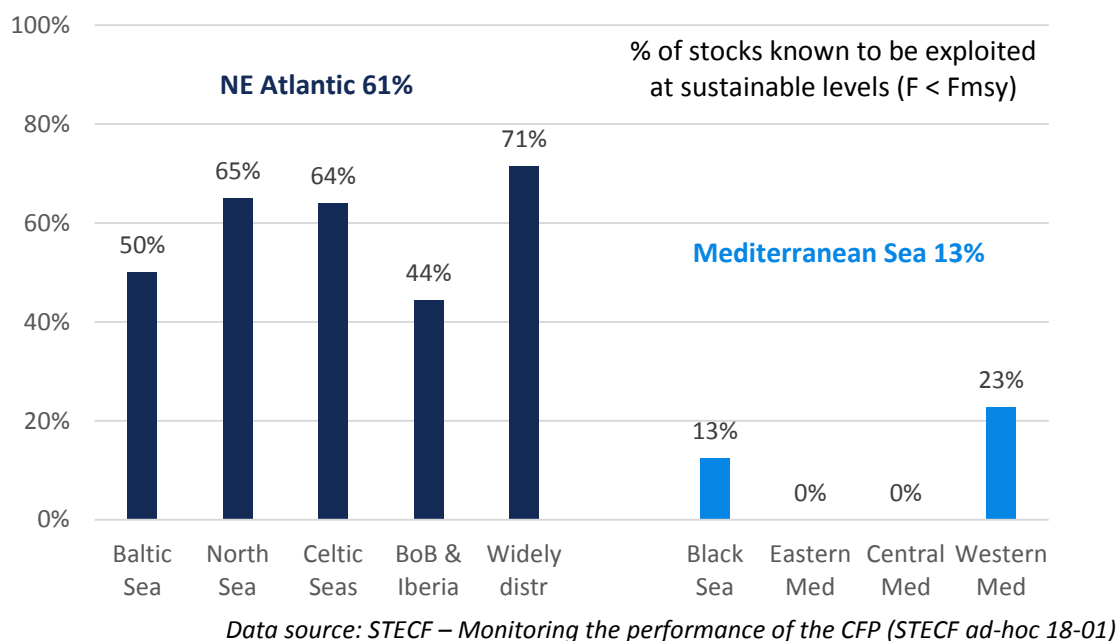
Several positive commitments and declarations related with the international governance and external dimension of the EU fleet are in place, such as regional fisheries management organisations (RFMOs) recommendations.

Oceana welcomes the positive effects the IUU card system has in tackling IUU fishing by third countries. Oceana is also hopeful about the potential benefits of the new external fisheries regulation⁷ in making the EU fleet more transparent, accountable and sustainable.

Nevertheless, additional efforts and measures are still needed to improve fisheries management and standards outside (and inside) EU waters. In the scope of this consultation, Oceana stresses the need to set sustainable catch limits for shared stocks, and stocks subject to coastal states consultation. Such a lack of agreement on quota shares is regularly leading to excessive catch limits for key stocks like mackerel. In the context of Brexit, this lack of sustainable international agreements represents an upcoming challenge.

⁶ FAME Support Unit, AT01.2 ad-hoc consultancy Landing Obligation Final Report (AT1.2 5/5), Version 1, February 2018.

⁷ Regulation (EU) 2017/2403 of the European Parliament and of the Council of 12 December 2017 on the sustainable management of external fishing fleets, and repealing Council Regulation (EC) No 1006/2008.



Oceana overall recommendations

Oceana welcomes the communication⁸ from the European Commission (EC) and the guidelines for the setting of the fishing opportunities for 2019, as they are considered suitable to move fishing mortality rates towards sustainable levels. In particular, Oceana supports the EC's commitment to propose catch limits in line with the MSY approach, or the precautionary approach in cases where the former fails, and to keep landing obligation adjustments in line with scientific advice.

At the same time, Oceana is particularly concerned about the possibility of using the whole Fmsy range values, including those above Fmsy, for setting fishing opportunities for stocks included in the Baltic and North Sea MAPs.

The EC communication is clear on the **overall (qualitative) objective** to continue increasing the number of stocks exploited at sustainable levels. However, **Oceana recommends having a clearer roadmap with quantitative targets and needed outcomes to ensure the achievement of the CFP commitments and deadlines.**

The good progress - though not sufficient enough - in increasing the number of TACs set in line with Fmsy must be stepped up to recover all harvested fish stocks. As the European Commission states its communication, *"This is no time for complacency. We need to continue moving in this direction as 2020 is approaching rapidly."*

The gap between scientific advice and the actual decisions on fishing opportunities made at the Agrifish Council still persists⁹ and must be overcome. Setting fishing opportunities, and in particular catch limits in line with the scientific advice, is one of the most effective ways of ensuring that the exploitation rate of fish stocks is sustainable and compatible with the socioeconomic and conservation objectives.

⁸ 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 2019 (COM/2018/452 final).

⁹ Nimmo, F., Cappell, R., 2017. Taking Stock – Progress towards ending overfishing in the EU. Report produced by Poseidon Aquatic Resource Management Ltd for The Pew Charitable Trusts.

To tackle **overfishing in the Mediterranean and Black Sea** different commitments have been agreed during recent years (MedFish4Ever and SOFIA Declarations, swordfish plan, national management plans, General Fisheries Commission for the Mediterranean recommendations etc.) and other proposals are being tabled (like the EU MAPs proposals). Oceana welcomes these initiatives and urges decision makers to turn them into concrete and urgent actions. Oceana recommends, in the short term, a mandatory and significant reduction of fishing effort, an implementation of catch limits and a restriction on the use of destructive and non-selective fishing gears like bottom trawling.

Only fishing mortality rates set below the Fmsy value can ensure the restoration of stocks above levels capable of producing MSY, in accordance with the requirements of the CFP. If, in spite of this, fishing opportunities are still set above those that correspond to Fmsy to accommodate adverse significant **socio-economic impact** on the fleets, involved Member States with interests in these fisheries should provide solid scientific socio-economic evidence showing in which terms the Fmsy exploitation rate would seriously jeopardize the socio-economic sustainability of the fishing fleets. The social and economic evidence should be made publicly accessible ahead of negotiations, at least two months in advance of the respective Council meeting, as proposed by the EC. Oceana considers the STECF as the most appropriate institution to scrutinize such evidence. Oceana urges the EC to be critical of the socio-economic justifications and compare them with the current STECF information on the economic performance of the EU fleet.

As previously indicated, Oceana is concerned about the content and scope of the new multiannual plans (MAPs). According to the CFP, **the scope in terms of species, targets and content of the MAPs** could be more ambitious, however new MAPs focus on the exploitation rates. Oceana recommends to not propose fishing opportunities exceeding Fmsy reference point (but in line with one of the key objectives of the CFP) and to add technical and conservation measures implementing the ecosystem-based approach in the MAPs in line with Article 10 of the CFP.

On the basis of extreme biological characteristics such as low productivity most **deep-sea species** and ecosystems are the most vulnerable to intense fishing pressure, and their population productivity and recovery capacity are very limited. Due to these particular characteristics, the exploitation of these resources should be as precautionary as possible. In 2016, the Commission, the Council and the European Parliament agreed upon revised rules for the fishing of deep sea species in the EU and CEEAF waters¹⁰. Additionally, the European Union has made commitments to manage deep-sea fisheries consistent with the global standard established by the United Nations General Assembly (UNGA)¹¹. This standard requires European Union to: end overfishing of deep-sea species; rebuild depleted stocks; prevent by-catch of vulnerable species; and protect vulnerable marine ecosystems from the adverse impacts of fishing for deep-sea species.

The setting of fishing opportunities for deep-sea stocks is biannual, so the 2018 decision will be valid for 2019 and 2020, the year by which fishing mortality for all harvested species has to be set below Fmsy.

Unfortunately, most of the stocks are assessment limited, putting the viability of the fisheries and the stocks at serious risk. Knowing the limitations of the assessment, Oceana urges the Commission to propose fishing opportunities not only in line with the scientifically-advised

¹⁰ Regulation (EU) 2016/2336 of the European Parliament and of the Council of 14 December 2016 establishing specific conditions for fishing for deep-sea stocks in the north-east Atlantic and provisions for fishing in international waters of the north-east Atlantic and repealing Council Regulation (EC) No 2347/2002.

¹¹ Resolutions 61/105 and 64/72 adopted by the General Assembly of the United Nations.

levels but also with explicit consideration of catch composition (mixed-fisheries and non-target species) and impacts on habitats. Fishing opportunities should not be allocated for most vulnerable deep-sea species, like orange roughy and deep-sea sharks.

Despite efforts to adopt discard plans, Oceana remains sceptical about the real implementation of the **landing obligation**¹² in practise. Oceana has concerns about several adopted measures like the reduction of Minimum Conservation Reference Sizes (MCRS) and exclusion of stocks from the TAC system to facilitate the implementation of the landing obligation, and considers that the adoption of this kind of measures does not contribute to the responsible exploitation of the fish stocks.

Oceana believes that political measures like the application of selective fishing practices, redistribution of national quota and swaps among member states are necessary and should be fully used to facilitate the timely implementation of the landing obligation. Member States have as well to make a better use of the public financial instruments, like the EMFF, to enable the real implementation. When setting fishing opportunities for stocks covered by the landing obligation, data sources, methodology and adjustments (TAC uplifts) should be publicly available. Oceana emphasizes the need to implement a proper control and enforcement system.

Oceana is concerned about the approach used lately by the EC, where production of the stocks was clearly prioritized. There is a trend where the stocks with economic relevance are proposed to be managed according to high standards while the **low-economic and/or low-quota uptake stocks** are managed through lower standards (usually precautionary approach). This approach has resulted in the application for several years of a roll-over agreement between the EC and the Council for a group of 26 stocks considered by-catch stocks (despite ICES catch reduction recommendations) and implementation of the precautionary approach (instead of the MSY approach) for stocks considered by-catch in MAPs. Oceana is against this approach, not only because it is contrary to one of the CFP main principles, but also because all species, regardless their productivity, should be managed according to the best standards.

For several years, and in an increasing trend, certain TACs of stocks have included **by-catch footnotes** allowing that a quantity of the TAC (usually a percentage) be used to cover by-catch of different species. The aim of these footnotes could be related with the implementation of the landing obligation. This represents a clear risk for the status and sustainable management of the by-catch stocks as catches under these footnotes are not counted against the TAC of the relevant by-catch stocks. In fact, STECF warned about the possible impacts of this additional allocation of fishing opportunities on the by-catch stocks and inconsistencies with the CFP objectives¹³.

Should they be continued, Oceana recommends that by-catch under such footnotes provisions count against the TAC of the stock caught (if that is the case) rather than the TAC of the target stock, and there should be guarantees that by-catch does not increase fishing mortality of species caught above the scientifically advised levels. On this last aspect, allowed by-catch

¹² Further considerations on the implementation of the LO while meeting the CFP's MSY objectives can be found in the joint NGO position paper (2018): <http://image.pewtrusts.org/lib/fe8215737d630c747c/m/1/NGO+Position+Recovering+fish+stocks+and+fully+implementing+the+Landing+Obligation.pdf>

¹³ Scientific, Technical and Economic Committee for Fisheries (STECF) - 55th Plenary Meeting Report (PLEN-17-02); Publications Office of the European Union, Luxembourg. p. 57.

should be set individually for the different by-catch stocks (rather than common percentage for a group of species based on the target species TAC) and according to the scientific advice. The allowed by-catch should be deducted in advance when setting the respective TAC (of the by-catch stock) and never result in a fishing mortality above the scientifically-advised levels.

Setting fishing opportunities for **shared stocks** (with Third Countries) requires cooperation of the parties concerned. While Oceana appreciates the Commission's efforts to promote consensus and sustainable agreements, a lack of agreement, mainly on quota shares, is hampering the sustainable exploitation of shared stocks, resulting in overall catch limit above sustainable levels and CFP requirements. This situation is detrimental for species particularly relevant in terms of catches such as mackerel, blue whiting or herring. Oceana urges the Commission to engage with Third Countries and seek the consensus needed and promote agreements on fishing opportunities in line with the best scientific advice available towards Maximum Sustainable Yield.

Oceana specific recommendations for setting 2019 fishing opportunities

- Catch limits for stocks non-managed through MAPs
 - Catch limits should be set at levels that correspond to fishing mortality levels below F_{msy} to ensure the restoration of stocks above levels capable of producing MSY, in accordance with the requirements of the CFP. This includes stocks for which there is proper MSY assessment or MSY proxies.
 - For stocks for which advice on MSY levels is not available, fishing opportunities should be set according to precautionary approach advice, and if unavailable, according to the best available scientific advice.
 - Emergency measures should be applied, including closing of fisheries recommended by ICES, for stocks which are already known to not be able to achieve the MSY objective by 2020.
 - Fishing opportunities should take into account an ecosystem-based approach to fisheries management, when available.
- Catch limits for stocks managed through MAPs
 - MAPs should be applied only when they are consistent with the CFP objectives, in particular with the MSY objective.
 - In cases where management objectives of MAPs are inconsistent with the CFP or are considered not precautionary by ICES, fishing opportunities should be set ignoring MAPs provisions.
 - For stocks covered by the Baltic¹⁴ and North Sea MAPs, the proposed and adopted fishing mortality should not exceed the F_{msy} value. It is important to observe the fact that despite the existence of ranges, only fishing mortality rates set below the F_{msy}

¹⁴ For details of the NGO position on Baltic Sea fishing opportunities for 2019, please consult: https://eu.oceana.org/sites/default/files/20180801_joint_ngo_recommendations_on_baltic_tacs_2019_final_003.pdf

value can ensure the restoration of stocks above levels capable of producing MSY, in accordance with the requirements of both the CFP and the MAP itself. Oceana therefore recommends not using the upper fishing mortality ranges specified in the plan (Annex I, Column B). For stocks considered by-catch stocks MSY approach should be implemented when available in preference to the precautionary approach.

- The Baltic MAP requires an immediate update in certain areas. Annexes I and II which contain values of fishing mortality ranges and reference points are not up to date for some of the stocks concerned. Very importantly, Western Baltic herring stock had been benchmarked this year and the new assessment changed the overall perspective of the status of the stock which resulted in a large change in this year's advice as compared to 2017. Oceana therefore recommends a rapid update of the Baltic MAP's Annexes in accordance with the best and most recent scientific advice provided by ICES.
- Catch limits for stocks affected by the landing obligation
 - By no means should the landing obligation be used as an excuse to remove TACs, reduce or remove MCRS, or to postpone the MSY 2020 deadline.
 - TAC adjustments due to the discard ban implementation should never imply a fishing mortality above those recommended by scientists according to the corresponding MSY or precautionary approach.
 - Swaps of quotas between Member States and redistribution of national quotas should be implemented as a useful tool to enhance and overcome or minimize some challenges related with the implementation of the landing obligation, e.g., choke species.
 - No uplift should be adopted when discards are impossible to quantify, and no estimates based on real catches are possible to calculate.
 - For stocks affected by *de minimis* exemption, the percentage of authorised discards should be discounted from the uplift, as these discards will not count against the quota. There is a need to confirm that *de minimis* exemption is being used before extending that measure by one more year.
 - For species affected by high survival exception, no uplift should be adopted. Management according to expected landings should continue as discards of these species will continue to be allowed.