



THE
PEW
CHARITABLE TRUSTS

Submission to Commission's Consultation on Fishing Opportunities for 2016

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The Pew Charitable Trusts
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Summary

The Pew Charitable Trusts welcomes the Commission's Communication initiating a consultation on fishing opportunities for 2016¹, and encourages the Commission to produce a written analysis of the submissions received. Setting correct fishing limits is fundamental to achieving the objectives of the Common Fisheries Policy (CFP), namely to end overfishing and to restore and maintain fish stocks above levels capable of producing the maximum sustainable yield (MSY). In addition, the Communication serves as annual report to the European Parliament and the Council on the progress on achieving MSY and on the situation of fish stocks in line with CFP Article 50.

Concentrating on the waters of North-Western Europe, where Pew's effort to end European Union overfishing is focused, we would like to highlight the following key points:

Setting of fishing limits:

- Fishing limits must be set according to Article 2.2 of the CFP, with the objective of progressively restoring and maintaining populations of all fish stocks above biomass levels capable of producing MSY.
- Multi-annual plans must adequately reflect the objectives and requirements of the CFP. In particular, fishing limits for all stocks must be set below F_{MSY} in order to restore and maintain all stocks above B_{MSY} levels.
- Pew welcomes the Commission's intention to propose total allowable catches (TACs) for 2016 not exceeding advice on MSY exploitation rates. In the past two years, progress towards ending overfishing has slowed down and was on average even reversed. With the 2015 deadline having passed, additional efforts are needed to set TACs not exceeding F_{MSY} .
- Any request to delay the 2015 deadline further should include clear indication of how fishing mortality will be progressively and incrementally reduced in line with Article 2.2 so that it does not exceed MSY advice as soon as possible but not later than 2020 – and this must be made public.
- In order to apply the precautionary approach in a systematic, predefined, and transparent manner for stocks where full scientific advice is not available, the Commission must provide further information on how it defines such an application. When applying the precautionary approach, it is important to reduce fishing mortality and not only fishing opportunities.
- Pew is concerned about the Commission's intention to follow the 2013 agreement between Commission and Council to maintain TACs unchanged for 26 stocks for four

¹ European Commission, "Communication From the Commission to the European Parliament and the Council Concerning a Consultation on Fishing Opportunities for 2016 Under the Common Fisheries Policy" COM(2015) 239 final.
http://ec.europa.eu/dgs/maritimeaffairs_fisheries/consultations/fishing-opportunities-2016/doc/com_2015_239_en.pdf

years unless perception of the stock changes significantly, as the agreement is not in line with the precautionary approach and the CFP.

- Pew agrees that International Council for the Exploration of the Sea (ICES) advice on catch limits must be a precondition for any uplift in quota to reflect the introduction of landing obligations. Uplifts should be limited in scope to ensure that the total takeout will not increase fishing mortality beyond the level scientists advise. TAC adjustments should be limited in scope only to those stocks subject in their entirety to the landing obligation.

Reporting on the state of stocks:

- The Commission's Communication lacks information about the state of fish populations in relation to biomass levels capable of producing MSY. Such information is a precondition to evaluating progress towards the CFP objective to restore and maintain populations of fish stocks above B_{MSY} levels.
- Pew strongly objects to the Commission's decision only to present information for the most recent year for a number of indicators, while STECF provided information on time series which allow evaluation of progress achieved towards the CFP's objectives. Similarly, Pew is concerned that several essential indicators on which STECF provided information, including the arithmetic mean value of F / F_{MSY} , are not included in the communication.
- The Commission's communication is lacking clarity in its language, which might result in unintended confusion and discussions. In particular, the Commission should be specific if it alludes to mortality rates, biomass levels or yield when referring to "MSY".
- Pew is concerned that the Commission includes information, e.g. on TACs not exceeding F_{MSY} , that seems contradictory.

1. Introduction

The Pew Charitable Trusts welcomes the Commission's Communication initiating a consultation on fishing opportunities for 2016.² In the Communication, the Commission sets out the principles for total allowable catches (TACs) for 2015 and proposes a number of steps for adjusting the setting of fishing opportunities in line with the reformed Common Fisheries Policy (CFP).³ Setting correct fishing limits is fundamental to achieving the objectives of the CFP, namely to end overfishing and to restore and maintain fish stocks above levels capable of producing the maximum sustainable yield (MSY). In addition, the Communication serves as an annual report to the European Parliament and the Council on the progress on achieving MSY and on the situation of fish stocks in line with CFP Article 50.

Pew will respond to the Communication in terms of setting sustainable fishing limits and progress on achieving MSY. In this submission, we focused on the waters of North-Western Europe, where Pew's effort to end European Union overfishing is currently centred.

In order to effectively analyse and use the input from stakeholders in the upcoming process of setting fishing opportunities for 2016, we ask the Commission to produce and share a written analysis of the submissions received. Pew contracted Ecologic Institute to produce such an analysis of last year's consultation on the Communication and this is appended to this submission for your perusal.

2. Setting sustainable fishing limits

Clear targets and timelines for setting sustainable fishing limits, and the recovery of fish stocks, were the cornerstones of the reform of the CFP. The annual setting of total allowable catches (TACs) as an expression of fishing mortality is closely related to the CFP objective of progressively restoring and maintaining populations of fish stocks above biomass levels capable of producing MSY. Setting fishing limits below MSY (F_{MSY}) rates will with great probability allow fish stocks to eventually recover to biomass levels above those capable of producing MSY (B_{MSY}), notwithstanding other biological factors.

During the time the CFP reform was negotiated some progress has been achieved to set TACs not exceeding F_{MSY} . Yet, despite the CFP requirement to achieve MSY exploitation rates by 2015 where possible, and on a progressive, incremental basis at the latest by 2020 for all stocks, this progress has first slowed down in recent years and subsequently on average even been reversed. This is in contrast to the CFP's legal requirement and additional efforts are needed to end overfishing in line with the reformed CFP.

² European Commission, "Communication From the Commission to the European Parliament and the Council Concerning a Consultation on Fishing Opportunities for 2016 Under the Common Fisheries Policy" COM(2015) 239 final.

http://ec.europa.eu/dgs/maritimeaffairs_fisheries/consultations/fishing-opportunities-2016/doc/com_2015_239_en.pdf

³ Regulation (EU) 1380/2013 of the European Parliament and of the Council, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:354:0022:0061:EN:PDF>.

2.1 Stocks under multiannual plans

The CFP requires, as a priority, the adoption of multiannual plans (MAPs) that shall provide robust and lasting frameworks for fisheries management to achieve the CFP objectives. Therefore Pew expects the Commission to propose fishing limits for all stocks covered under MAPs that do not exceed scientific advice on MSY exploitation rates by 2015 where possible, and on a progressive, incremental basis at the latest by 2020 for all stocks.

For stocks under existing management plans, agreed under the previous CFP, the requirements of article 2.2 of the CFP take precedence over any other objectives set out in those plans, whether or not the plan is assessed as 'precautionary' by ICES. The Commission should therefore propose TACs in line with the CFP's objectives.

2.2 Stocks with MSY assessment

Pew welcomes the Commission's intention to propose TACs for 2016 not exceeding advice on MSY exploitation rates. With the 2015 deadline passed, the Commission needs to be extra diligent to enable Council to set TACs not exceeding F_{MSY} . We agree that only if this would imply very large annual reductions of fishing opportunities that seriously jeopardise the social and economic sustainability of the fleets involved, would a delay in reaching the objective beyond 2016 (and not later than 2020) be acceptable, through a progressive, more gradual reduction of fishing opportunities.

Yet, as highlighted in Pew's submission to last year's consultation on the fishing limits for 2015⁴, it is essential that the Commission clarifies who must provide what evidence in such requests, by when, and by whom it is validated. In addition, any request to delay the 2015 MSY deadline should include clear indication of how fishing mortality will be progressively and incrementally reduced in line with Article 2.2 to achieve the MSY objective as soon as possible but not later than 2020 – and this must be made public. Pew welcomes in this respect the Council Statement from October 2014⁵, laying out the commitment of relevant member states to reach the MSY fishing rate target in 2016 for Western Baltic Cod.

Pew would like to draw your attention to the analysis of the previous year's consultation highlighted that most stakeholders support that the 2015 deadline should only be delayed in exceptional cases, that reasons for the delay must be provided, and that roadmaps how to reach F_{MSY} fishing levels should be provided and made public.⁶

2.3 Other stocks

Pew agrees that proxies are a helpful tool for setting TACs when a full MSY assessment is unavailable. Yet, it must be made clear that the use of such proxies should not only avoid

⁴ http://ec.europa.eu/dgs/maritimeaffairs_fisheries/consultations/fishing-opportunities-2015/contributions/doc/pew_en.pdf.

⁵ Council of the European Union: 14275/14 from 13th October 2014.

⁶ Ecologic (2015): Evaluation of EU Commission consultation on fishing opportunities for 2015 under the Common Fisheries Policy http://www.ecologic.eu/sites/files/project/2015/documents/evaluation_of_cfp_fo_consultation_for_2015_0.pdf

jeopardising the conservation objectives for the stock as laid out in the Communication page 3, but must also restore and maintain populations of harvested species above levels which can produce the MSY in line with Article 2.2. CFP.

Pew welcomes the Commission's clear intention to take the precautionary approach into account for stocks without reliable data to determine MSY proxies. It would be helpful if the Commission could make clearer that such an approach will result in more precautionary fishing opportunities than F_{MSY} , as opposed to so-called "precautionary fishing mortality rates" under the ICES framework for advice which are geared towards avoiding stock collapse, but not towards recovery of fish stocks in line with the CFP. This underlines the need to explain in more detail how the Commission intends to follow the precautionary approach in a "*systematic, predefined, and transparent way*". Earlier Communications – for example, the Consultation on Fishing Opportunities for 2011⁷ – included in its Annex III and IV an overview on how the Commission intended to propose TACs, which could serve as an example for communicating how the Commission intends to apply the precautionary approach.

Pew is also concerned that the Commission intention to follow the 2013 agreement between Commission and Council, to maintain 26 TACs unchanged for four years unless perception of the stock changes significantly, is not in line with the precautionary approach and the CFP. In case of limited information, the burden of proof is with decision-makers to demonstrate that TACs are precautionary. Insufficient scientific information should result in more precautionary TACs and in lower fishing mortality. Yet, it seems that the Commission has failed to propose a reduction of fishing limits even if scientifically advised. For instance, in the Commission's proposal for 2015, TACs for three stocks [whiting in VIIa (Irish Sea) and blue ling in III (Kattegat & Skagerrak), II and IV (Barents and North Sea)] were maintained, despite scientific advice for no fishing because the corresponding biomass was assessed as depleted below B_{lim} .

2.4 TACs and the obligation to land all catches

Pew agrees that International Council for the Exploration of the Sea (ICES) advice on catch limits must be a precondition for any uplift in quota to reflect the introduction of landing obligations. Uplifts should be limited in scope to ensure that the total takeout will not prejudice the MSY objectives of the CFP. We applaud the Commission's statement that TAC adjustments must not increase fishing mortality, and must be compatible with the overriding objectives in article 2.2 of the CFP. This is a crucial consideration.

Bearing in mind the gradual, piecemeal introduction of the demersal landing obligation in 2016, and the continuing uncertainty around full documentation and monitoring of all catches, clarity on total fishing mortality will be difficult to achieve. In some cases, the transition from a landings-based TAC to a catch-based TAC is not expected until 2019.

Pew is therefore concerned about the proposal to adjust TACs to a catch basis in 2016, even before stocks are entirely covered by a landing obligation. Even if this is limited to stocks

⁷ European Commission, "Communication From the Commission to the European Parliament and the Council Concerning a Consultation on Fishing Opportunities for 2015 Under the Common Fisheries Policy" (2014), 388 final, http://ec.europa.eu/dgs/maritimeaffairs_fisheries/consultations/fishing-opportunities-2015/doc/com-2014-388_en.pdf.

‘predominantly under the landing obligation’, it presents a clear risk that fishing mortality will be increased beyond the level scientists advise. TAC adjustments should therefore be limited in scope only to those stocks subject in their entirety to the landing obligation.

This concern is exacerbated by the potential for exemptions from the landing obligation. The member states’ draft recommendations for discard plans include numerous proposals for exemptions from the landing obligation, either through de minimis provisions, or on the basis of high survival. It remains unclear how the mortality associated with both of these categories of catch will be reflected in TAC-setting in order to comply with the CFP’s article 2.2 objectives. This mortality should be accounted for through more precautionary TACs for the relevant species.

3. Reporting on the state of stocks

Pew welcomes the Commission efforts to comply with Article 50 of the CFP to report annually to the European Parliament and the Council on the progress on achieving MSY and on the situation of fish stocks. We would like to comment on several aspects of this reporting.

3.1 Clarity of Language

The Commission's communication is lacking clarity in its language, which might result in unintended confusion and discussions within the consultation as well as the decision process for fishing opportunities 2016.

For instance, the Communication spells out that the objective of the CFP is to allow stocks to rebuild to biomass levels that can produce the maximum sustainable yield (p. 1). The biomass objective of the CFP was one of the contested issues in the negotiations and Council and European Parliament agreed that the CFP "shall aim to ensure that exploitation of living marine biological resources restores and maintains populations of harvested species above levels which can produce the maximum sustainable yield." (Emphasis added).

The consultation refers close to 100 times to the notion of "MSY". Yet, in the majority of cases it does not clarify further if the MSY refers to fishing mortality, biomass levels, or yield. For instance, the Communication refers on a number of occasions to "the MSY objective" without specifying if it refers to the objective of Article 2.2. to restores and maintains populations of harvested species above levels which can produce the MSY, or achieving MSY exploitation rates by 2015 where possible and, on a progressive, incremental basis at the latest by 2020 for all stocks.⁸ Similarly, the Communication states that the multi-annual plans may introduce ranges of exploitation rates considered to be in accordance with MSY. It is unclear if the Commission refers to mortality rates (the Commission requested and subsequently proposed ranges around F_{MSY} , i.e. including levels above F_{MSY}) or MSY yield, the concept on which ICES advice was given even if it is not even referred to in the CFP or in the inter-institutional task force agreement.

Using clear language will help decision makers to better understand the CFP and to support more precise feedback and facilitate implementation.

3.2 Updating of time series

The Commission asked the Scientific, Technical and Economic Committee for Fisheries (STECF) to develop a new methodology to report on the progress in achieving MSY:

- It remains unclear what exactly the new methodology is as STECF continued to report on indicators used in previous communications, e.g. number of stocks with MSY assessment, overfished stocks, stocks outside / inside safe biological limits etc.
- STECF provides time-series for many of the information provided in its report. Yet, the Commission chose to only present information for the most recent year for a number of

⁸ See for instance EC communication page 2 paragraph 3, page 3 paragraphs 3, page 10 paragraph 4.

indicators, such as “stocks outside/inside safe biological limits”. There is no reason provided why this information was not included in the Commission Communication. Yet, it is needed to assess impact of the reformed CFP.

3.3 Information not presented in Communication

Pew welcomes the Commission’s request to STECF to report on the performance of the Common Fisheries Policy, which builds the information base for the Commission’s Communication on fishing opportunities 2016.

Unfortunately, in the terms of reference the Commission did not request STECF to provide information on where stocks are in relation to biomass levels that produce MSY. Yet, such information is essential to evaluating progress towards the CFP core objective to restore and maintain populations of fish stocks above biomass levels capable of producing the MSY and to inform the Commission when to propose measures to enable further rebuilding. The lack of information on stock status in relation to the CFP’s rebuilding objective was already highlighted by the majority of submissions in the Commission’s consultation on Fishing Opportunities for 2015.⁹

The STECF report contains a broad range of clearly presented information. Yet, several pieces of data essential to evaluate progress of the CFP are unfortunately not reproduced in the Commission Communication on fishing opportunities for 2016. In particular:

- STECF was asked to produce an indicator on the arithmetic mean value of F/F_{MSY} . This request is mentioned in the Commission consultation, but not its results which point to the fact that progress to ending overfishing has recently first slowed down and in the last year even reversed. That means that the degree of overfishing actually increased, while the CFP requirement was being agreed to achieve F_{MSY} exploitation rates by 2015 where possible, and on an incremental and progressive basis latest by 2020 for all stocks.
- The STECF report assesses a higher number of stocks in relation to safe biological limits and provides that information by ecosystem, which allows more detailed analysis. The STECF report points to the fact that 38 stocks are outside safe biological limits and only 24 within such levels. This is a significant headline conclusion that should be mentioned in the Communication.

3.4 Information presented in the Communication

The Commission presents a range of information on fishing mortality and state of fish stocks biomass. Yet on several occasions the Communication has scope to communicate even clearer to avoid confusion and contribute to a more shared view on the progress achieved by the CFP:

- The Commission states that Council achieved significant progress in the setting TACs in line with MSY (from 5 in 2009 to 36 for 2015), has contributed to increasing the number

⁹ Ecologic (2015). See above.

of stocks that are fished at levels corresponding to MSY (26 stocks in 2015). In Annex 1 it refers to 32 out of 62 stocks that are fished at or below F_{MSY} . Answering how many of the assessed stocks are fished at or below MSY remains a challenge.

- The difference between totals for TACs or for stocks is relatively clear, but the reasons for different numbers in the same region are not immediately obvious. In addition, at least one of the TACs on the Commission's list of 36 'fished below F_{MSY} ' (Irish Sea sole) appears in the annex to the Communication on the list of those 'fished above F_{MSY} '.
- The Commission states that 20 stocks are inside safe biological limits and 16 within such levels. No corresponding figures are found in the STEFC report, which recorded for the most recent year (2013) 38 out of 62 stocks outside safe biological limits (61%).
- The Commission chose to present several data in graphs. Using tables with exact data per year would allow stakeholders to do more detailed analysis of data.