



**Submission to Defra's consultation on establishing a Multi-Annual Plan
for demersal stocks and Nephrops in the North Sea and the fisheries
exploiting those stocks
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Introduction

The Pew Trusts welcomes Defra's consultation on the proposed North Sea Multi-Annual Plan¹.

The Common Fisheries Policy (CFP)² requires, as a priority, the adoption of multi-annual plans that should provide robust and lasting frameworks for fisheries management to restore and maintain fish stocks above levels capable of producing maximum sustainable yield (MSY) (CFP Article 9.1).

The CFP further requires an end to overfishing for all stocks, with legally binding targets and deadlines. Specifically, Article 2.2 requires that:

"In order to achieve the objective of progressively restoring and maintaining populations of fish stocks above biomass levels capable of producing the maximum sustainable yield, the maximum sustainable yield exploitation rate shall be achieved by 2015 where possible and, on a progressive, incremental basis at the latest by 2020 for all stocks".

The CFP allows for postponing the 2015 deadline only in exceptional cases, when meeting it *"would seriously jeopardise the social and economic sustainability of particular fleets"* (Recital 7).

If properly designed and implemented, the North Sea Multi-Annual Plan could make a significant contribution to ending overfishing and restoring fish stocks in line with the CFP. However, the proposal raises a number of concerns which need to be addressed to ensure that the plan actually delivers on the CFP's objectives to end overfishing and to restore stocks to healthy levels. Pew previously set out these concerns in its formal response to the European Commission's consultation³.

In this submission we provide some overall considerations in relation to the plan and comment on the seven questions posed in Defra's consultation document.

Overall considerations

The Commission's proposal requires a number of changes in order to deliver the CFP's objectives. A summary of the key changes required are set out below, while more detail is provided in the subsequent responses to the questions posed by Defra:

- The CFP recovery objective, to restore and maintain fish populations above B_{MSY} levels (Art.2.2), must apply to all harvested species, regardless of any grouping made for management purposes.
- Fishing mortality ranges exceeding the F_{MSY} point value (proposed in the case of groups 1 and 2) should not be included. Fishing mortality higher than the F_{MSY} point value will not

¹ [Defra, "Establishing a multi-annual plan for demersal stocks and Nephrops in the North Sea and the fisheries exploiting those stocks"](#).

² Regulation (EU) No 1380/2013

³ [The Pew Charitable Trusts Response to the Commission's proposal for a multi-annual plan for the North Sea \(2016\)](#).

allow fish populations to be restored and maintained above B_{MSY} levels in line with Article 2.2 of the CFP.

- If such ranges are kept in the plan, clear provisions reflecting the ICES “advice rule” (an important element of the relevant scientific advice) need to be introduced, or the values used in Annex I of the plan need to be amended to ensure that the ranges are in line with the options ICES developed. In addition, exceptions allowing for their use must be clear and scientific evidence supporting such exceptions must be provided publicly, in a timely manner, and reviewed by the Scientific, Technical and Economic Committee for Fisheries (STECF).
- Additional management measures need to be triggered for groups 3-7 in cases where stocks fall below the biomass levels capable of producing MSY.
- The plan should explicitly commit to establish measures in accordance with the best available scientific advice.
- The evaluation of the plan should assess, among other things, whether the stock recovery objectives have been attained.

The UK will remain subject to the CFP until it is no longer an EU member state. Given the expected timing of withdrawal, and the potential of transition arrangements, much of the work to implement the CFP’s key objectives, through annual decisions on fishing limits and the adoption of multi-annual plans, must be completed over the coming years.

As the UK prepares to leave the EU, the UK government will need to ensure new laws fulfil the commitments in international law⁴ to manage shared stocks effectively and restore stock biomass above MSY.

Answers to consultation questions

1. Do you agree with the stock group definitions set out in Article 2?

The targets and requirements for setting fishing limits for North Sea stocks are essential elements of the plan in order to achieve the objectives of the CFP. The Commission proposes grouping stocks in seven categories, each with its own targets and considerations regarding fishing limits. Pew recommends that the plan should be clearer that the CFP recovery objective to restore and maintain fish populations above B_{MSY} levels (Art.2.2) applies to all harvested species, whether listed in the plan or not, and regardless of any grouping made for management purposes.

If F_{MSY} ranges are kept in the plan, Pew recommends that an additional definition be added to Article 2. For instance, the reference to “ F_{MSY} range” should not only be made in Recital 12, but also added as a definition in the operative text:

“ F_{MSY} range” means a range of values calculated by the International Council for the Exploration of the Sea (ICES) and derived to deliver no more than a 5% reduction in long-

⁴ Including Article 61(2) and 61(3) of the United National Convention on the Law of the Sea, Article 5 of the United Nations Fish Stocks Agreement, and Sustainable Development Goal #14

term yield compared to MSY. The upper limit of the range is capped, so that the probability of the stock falling below B_{lim} or $Abundance_{limit}$ is no more than 5%. That upper limit also conforms to the ICES "advice rule".

The definition of the ICES MSY advice rule should also be added:

The ICES "advice rule" indicates that when the spawning biomass or abundance is below the minimum spawning stock biomass reference point ($MSY B_{trigger}$ or $Abundance_{buffer}$), F be reduced to a value that does not exceed an upper limit equal to the F_{MSY} point value multiplied by the spawning biomass or abundance in the TAC year divided by $MSY B_{trigger}$ or $Abundance_{buffer}$."

Furthermore, Article 2 (10) should be amended to reflect that " $MSY B_{trigger}$ " means the spawning stock biomass reference point below which **additional** specific and appropriate management action is to be taken to ensure that exploitation rates allow rebuilding of stocks above levels capable of producing MSY in the long term".

2. Have you any views on the targets for fishing mortality set out at Articles 4 to 6?

Article 4: Targets for Groups 1 & 2

Pew remains strongly concerned about the Commission's proposal to set targets for fishing mortality in accordance with a range of values *around* F_{MSY} . Fishing above the F_{MSY} point value will not allow fish populations to be restored and maintained above B_{MSY} levels in line with CFP Article 2.2. As internationally agreed, the F_{MSY} mortality rate should be regarded as a limit, rather than a target.⁵ In its advice to the Commission⁶ ICES stated:

"In a single-species context fishing above F_{MSY} implies reduced stock biomass and this may be substantial where F_{upper} is much higher than F_{MSY} . So in utilizing F_{MSY} ranges there are more advantages to fishing between F_{MSY} and F_{lower} than between F_{MSY} and F_{upper} . [...] For some mixed fisheries it may be difficult to reconcile the F s on different stocks. An approach for maximizing long-term yield could be to attempt to reconcile F on a mixed fishery using F s between F_{lower} and F_{MSY} ."

Furthermore the proposed plan includes values for broader ranges around F_{MSY} without specifying in the articles that the ICES MSY "advice rule" needs to be followed when fishing limits are set. When the Commission asked ICES to advise on ranges *around* F_{MSY} , ICES did so on the basis of two different approaches:

- Broader ranges for plans following the ICES MSY advice rule, i.e. requiring reducing F linearly towards zero when SSB is below $MSY B_{trigger}$.
- Narrower ranges for plans that would not have such a requirement.

ICES stated: "Although the first often provides a wider F_{MSY} range, it requires the ICES MSY advice rule to be used." Yet, the North Sea plan mentions this requirement only in Recital

⁵ FAO Fish stocks agreement Annex II point 7: "The fishing mortality rate which generates maximum sustainable yield should be regarded as a minimum standard for limit reference points."

⁶ [ICES Special Request Advice 2015: EU request to ICES to provide \$F_{MSY}\$ ranges for selected North Sea and Baltic Sea stocks.](#)

12. Clear provisions reflecting the ICES advice rule need to be introduced into the plan, or the values used in Annex I need to be amended to ensure that the ranges used in the plan are in line with the options ICES developed.

Article 4: Exceptions for Groups 1 & 2

While the objective of the proposed plan is to restore and maintain harvested species above B_{MSY} levels, fishing mortality rates that would allow that aim to be achieved ($F < F_{MSY}$) are only unambiguously required if the stock biomass is below the minimum spawning biomass reference point ($MSY B_{trigger}$) level, which is lower than B_{MSY} . In the Commission's proposal (Art. 4.), stocks above $MSY B_{trigger}$ can, under vague conditions, be fished above the F_{MSY} point value fishing rates. This would however directly impede reaching the plan and CFP objectives of progressively restoring and maintaining populations of fish stocks above B_{MSY} levels.

Two of the exceptions allowing fishing opportunities to be fixed based on the upper F range, and thus to overfish, are only vaguely defined and provide ample room for interpretation. The proposal Art. 4.4 a) and b), states:

- a) *"If, on the basis of scientific advice or evidence, it is necessary for the achievement of the objectives laid down in Article 3 in the case of mixed fisheries"*.

It is not clear why overfishing would be needed to achieve the objectives as defined in Article 3. For example, the elimination of discards shall be achieved through the landing obligation and discard plans. Tools to facilitate the elimination of discards are for instance quota flexibility, swaps and increased selectivity.

- b) *"If, on the basis of scientific advice or evidence it is necessary to avoid serious harm to a stock caused by intra- or inter-species stock dynamics"*

The proposal does not define "serious harm to a stock". In an ecosystem most stocks have inter-species dynamics, and all stocks have intra-species dynamics.

It is imperative that the vagueness from these provisions is removed. In addition, the application of these exceptions must be explained by a reference to one or more of the conditions similar to the requirements in the Baltic Multi-Annual Plan. The scientific advice and evidence mentioned in Article 4.4(a) and 4.4(b) needs to be peer reviewed by ICES or the Scientific, Technical and Economic Committee for Fisheries (STECF) and made publicly available in advance of decisions, to ensure minimum scientific standards, timely delivery, and public scrutiny. Fishing opportunities should in any circumstance be fixed in such a way as to ensure that there is a very low probability of the spawning stock biomass falling below limit reference points.

Article 5: Targets for Groups 3 & 4

Pew welcomes the proposed Article 5.1, which states that fishing opportunities for stocks in categories 3 and 4 shall be consistent with scientifically advised F_{MSY} rates.

However, Pew is concerned about the proposed Article 5.2, which states that "in the absence of scientific advice on fishing mortality rate consistent with maximum sustainable yield, fishing opportunities shall be consistent with scientific advice to ensure the

sustainability of the stocks in line with the precautionary approach”. Lack of scientific certainty due to insufficient scientific information must not lead to less ambitious restoration targets for fish stocks, but instead additional safeguards need to be added. This will also provide an incentive to fully comply with the data collection requirements and to further enhance knowledge about the stock.

Article 9.2 of the CFP requires that “where targets relating to the maximum sustainable yield [...] cannot be determined, owing to insufficient data, the multiannual plans shall provide for measures based on the precautionary approach, *ensuring at least a comparable degree of conservation of the relevant stocks*” (emphasis added). Precautionary reference points should not be treated as management targets when setting fishing opportunities. In the absence of MSY-based advice, good management should strive to keep fishing mortality well below F_{PA} , and SSB well above B_{PA} , until information to allow the assessment of MSY is possible. Further management actions to ensure stocks are on a trajectory to recover to levels above those capable of producing MSY should be considered when setting fishing opportunities.

Article 6: Targets for Group 5

For stocks in group 5, defined as having no catch limits in the North Sea, it is unclear what the Commission means by management “based on the precautionary approach in line with scientific advice”. Management measures for such stocks, ensuring a comparable degree of conservation as for all other harvested species, should be further enunciated, ensuring a degree of conservation at least comparable to exploitation rates consistent with the maximum sustainable yield as required by Article 9.2 of the CFP.

Additional provisions required for Group 6 and 7

Group 6 is mentioned in the definitions, but no further provisions for the management of prohibited species are made in the proposed plan. The plan should outline on which basis these species will be managed, such as establishing recovery plans, area closures and bycatch mitigation measures.

Likewise, group 7 is mentioned in the definitions as “demersal stocks for which targets as F_{MSY} ranges and safeguards linked to biomass are established in Union legislation other than this Regulation” [sic]. It is however unclear which stocks this grouping includes and under which other Union legislation they are managed. Providing more clarification on this grouping would be helpful. In addition, it might be useful to make provisions for widely ranging stocks for which no such ranges are established in legislation as well.

3. Have you a view on the conservation reference points and safeguards including the UK’s view that the allowance has to be made to incorporate the latest scientific advice in proposal for fishing opportunities? (Articles 7 to 9)

Similar to the concerns about different targets in Articles 4 – 6, Pew has strong concerns regarding the differentiation of recovery objectives for the different groupings. The CFP applies the same recovery objective to all harvested species. This key requirement is breached in the proposed plan, which introduces lower recovery objectives for certain categories of stocks.

Article 8: Safeguards Groups 1 & 2

Pew welcomes the inclusion of a provision determining that, if biomass falls below minimum reference points, all appropriate remedial measures shall be taken to ensure that the stock recovers to levels above those capable of producing MSY. However, concrete actions within a specific timeframe for recovery should be included in the plan, including a clear requirement to linearly reduce mortality in proportion to the decrease in biomass in line with the ICES MSY advice rule.

Article 8.2 requires that the targeted fishery be suspended if a stock falls below B_{lim} levels, but similarly does not require any concrete action within a specific timeframe, which we recommend is added.

The safeguards proposed by the Commission only apply to Groups 1 and 2. For groups 3 - 7 there are only technical measures (Art 9) in cases where they fall below B_{lim} . Currently there are no references to suspending the fishery or taking other remedial measures in terms of reducing fishing limits, which needs to be addressed.

Article 9: Lack of safeguards for groups 3-7 and specific conservation measures

The proposed plan does not include any specific safeguards in terms of ensuring that stocks in groups 3-7 are recovered and maintained above biomass levels capable of producing MSY – a serious inconsistency with the objectives of the CFP. The proposal only includes an article making reference to “remedial action [...] required for the *conservation*” of stocks in groups 3-7 (Article 9; emphasis added). This can be interpreted as management on the basis of precautionary reference points, which is far less ambitious than the CFP. No timeframe is suggested for the adoption of delegated acts or other measures for the recovery and management of stocks in these groups.

It is essential that all stock groupings be managed so as to allow stocks to rebuild and thereafter maintain biomass levels above those capable of producing MSY. Moreover, in line with CFP Article 9.2., for stocks without MSY reference points, the plan shall provide for measures based on the precautionary approach as defined in Art. 4.8 of the CFP, ensuring at least a comparable degree of conservation of the relevant stocks. The plan should ensure that management measures must be taken if stocks fall below the biomass levels capable of producing MSY. This must include the requirement to reduce fishing mortality when biomass is below MSY $B_{trigger}$ proportional to the reduction of biomass, as set out in ICES advice for wider F-ranges.

4. The current text at Article 10(2) proposes that the TAC for North Sea Nephrops should be the sum of the catch limits advised for Nephrops in each functional unit. Given our experience of the depletion of Nephrops in FU6 (Farn Deeps), do you agree with this?

Should additional text be added about controlling removals from a vulnerable functional unit?

Setting one TAC for two distinct functional units cannot guarantee that one of them will not be overexploited. Pew recommends that additional text is added to enable each unit to be managed separately to mitigate the risks of overfishing either of them.

5. With regard to Article 14, is an administrative burden created by reducing the prior notification threshold to one tonne for demersal stocks and 500kgs of Nephrops?

The control and enforcement measures set out in Regulation (EC) No 1224/2009 and the requirement of Article 25 of the reformed CFP to collect data are essential to ensure the proper implementation of the CFP. Detailed data collection in order to inform scientific advice is required to achieve Article 2.2 to restore and maintain populations of fish stocks above biomass levels capable of producing the MSY. In addition, the European Maritime and Fisheries Fund provides financial support for data collection.⁷

6. What is your view on requiring vessels of 10 metres and under to complete logbooks? (See Article 15).

In addition to the provisions of Regulation (EC) No 1224/2009 and the requirement of Article 25 of the reformed CFP to collect data, the implementation of the landing obligation requires increased monitoring of activities at sea. Full catch documentation is essential to such monitoring and to the control of the landing obligation, allowing operators to demonstrate that they are complying with the rules.

7. The proposal at Article 16 will require vessels with more than 2t of any combination of cod, haddock, plaice, pollack, sole whiting or other stock subject to catch limits to land at a designated port. No allowance for force majeure appears to have been made.

Appropriate arrangements should be enforced to ensure that stocks subject to catch limits are recorded in line with Article 43 of Regulation (EC) No 1224/2009. In cases where landing at a non-designated port is unavoidable, for example due to extreme weather, the control system should take account of this, both in ensuring catches are controlled and that fishers' safety is assured.

⁷ Regulation (EU) No 508/2014 of the European Parliament and of the Council of 15 May 2014 on the European Maritime and Fisheries Fund.