

THE
PEW
CHARITABLE TRUSTS

Submission to the European Commission's Consultation on Fishing Opportunities for 2018

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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 2018¹. Concentrating on the waters of North-Western Europe, where Pew's effort to end European Union overfishing is currently focused, Pew would like to highlight the following:

Progress in ending overfishing and recovering fish stocks

- The Commission's report paints an overly positive picture by emphasising the progress made on a small set of stocks, over a long time period. Closer inspection of the key findings in the report reveals that overfishing persists, with 41% of analysed North-East Atlantic stocks subject to overfishing in 2015.
- Most progress in reducing overfishing has been achieved in the period preceding the reform of the Common Fisheries Policy (CFP), with progress slowing down in more recent years.
- The report omits any analysis of progress towards the CFP's objective to restore and maintain stocks above levels which can produce Maximum Sustainable Yield (MSY).
- When reporting on biomass trends, the Commission uses inadequate reference points, which are insufficient to assess progress towards the CFP's objective. Many stocks do not meet even those lower benchmarks.
- The report acknowledges that a rapid end to overfishing would bring significant economic benefits for the fishing industry as well as being good for fish stocks.
- While the percentage of Total Allowable Catches (TACs) subject to the landing obligation is high for most regions, the volume of catches covered is still rather low.

The Commission and member states must significantly step up their efforts to end overfishing by 2020 at the latest, and to ensure full coverage of the landing obligation by January 1st 2019.

Setting fishing opportunities for 2018

- Pew urges the Commission to fulfil its commitments to follow scientific advice and the precautionary approach when proposing fishing opportunities. In the past, proposals made by the Commission following similar commitments have, on the contrary, still exceeded scientific advice or have not followed the precautionary approach.
- The Commission should resist pressures to weaken, postpone or ignore CFP requirements, for instance by removing TACs or postponing setting fishing opportunities not exceeding F_{MSY} .
- Pew is particularly concerned that after removing TACs for a couple of stocks, the Commission is "ready to discuss scrapping" of other catch limits. It is hard to see how removing limits on fishing will help safeguard stocks or achieve the CFP's objectives.
- The Commission has the opportunity to achieve greater transparency throughout the TAC setting process by making public the rationale for its proposals and the decisions made. This would benefit all stakeholders involved in the process.

¹ [European Commission, "Communication from the Commission on the State of Play of the Common Fisheries Policy and Consultation on the Fishing Opportunities for 2018" \(COM \(2017\) 368 final\).](#)

1. Progress in ending overfishing and recovering fish stocks

Pew welcomes the Commission's 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.

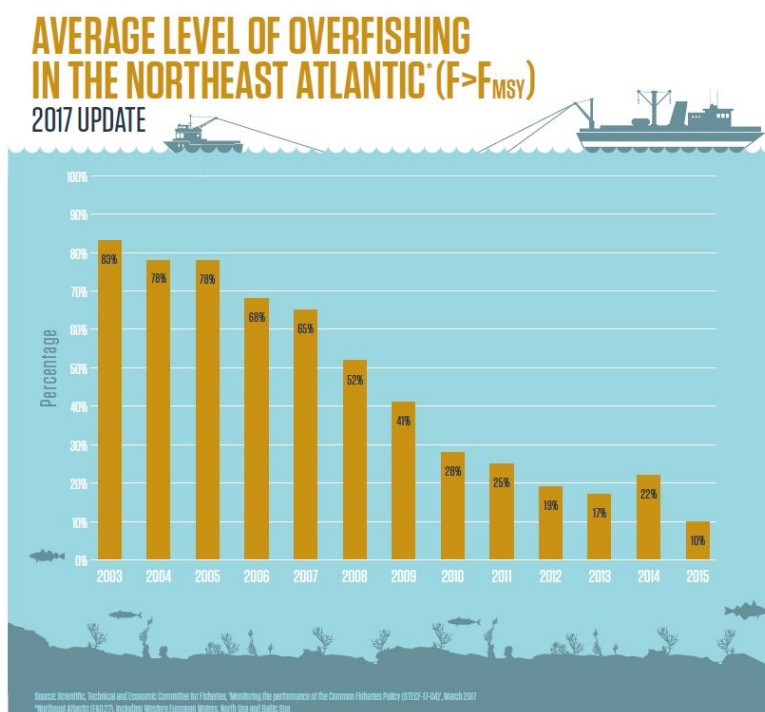
1.1 Ending overfishing

Scope of the assessment: Article 50 of the CFP requires that the Commission report on progress on achieving MSY and the situation of fish stocks. The CFP's objectives, detailed in its Article 2, apply to all stocks.

In the North-East Atlantic alone, over 150 stocks are managed through the setting of Total Allowable Catches (TACs). However, when reporting on the progress in meeting the CFP's objective to end overfishing by achieving the MSY exploitation rate for all stocks, the European Commission limits the information it provides to only 66 North-East Atlantic stocks, for which MSY reference points are available. Although the Scientific, Technical and Economic Committee for Fisheries (STECF) only provided information on those 66 stocks in its latest report², the Commission should take the opportunity to request more extensive reporting from STECF in order to meet its reporting responsibilities.

Overfishing persists: Despite being based on a subset of relatively well understood stocks, the report nevertheless concludes that overfishing persists: according to the Commission's report, 41% of those 66 stocks remained overfished in 2015.

Moreover, the pace of change is currently too slow to meet the CFP's deadlines. While significant progress in reducing overfishing has been made from a long-term perspective (from 2003 to 2012), the pace has significantly slowed down. The Commission highlights that median fishing mortality has stabilised around 1.0 but does not clarify that this means that only half of the stocks (median) have reached F_{MSY} . The STECF report notes that "progress until 2015



² [Scientific, Technical and Economic Committee for Fisheries \(STECF\), "Monitoring the performance of the Common Fisheries Policy" \(STECF-17-04\)](#)

has been too slow to allow all stocks to be maintained or restored at the precautionary B_{pa} level or above, and managed according to F_{MSY} by 2020.” This significant finding is not reflected in the Commission’s Communication.

Analysis conducted by Ecologistas en Acción and others³ furthermore tempers the Commission’s statement that “in 2017, the number of TACs set in line with MSY advice increased to 44”, by highlighting the slow and inconsistent progress towards setting fishing limits not exceeding F_{MSY} . According to this analysis, 12 TACs that were reported as being “in line with MSY” in one year were no longer in that category in subsequent years.

Clarity of language: As in previous years’ Communications⁴, the report lacks clarity in its language, which might result in unintended confusion within the consultation or during the decision-making process for fishing opportunities for 2018. CFP requirements continue to be misquoted: for instance, in section 2.4 of the Communication (regarding decentralization), the text states that MAPs “shall include the target of fishing at maximum sustainable yield”. No such requirement exists in Article 9 of the CFP, which rather states that MAPs must contain measures to restore and maintain fish stocks above levels capable of producing maximum sustainable yield.

When reporting on the progress in aligning fishing mortality with the requirements of the CFP, the Commission uses a variety of inconsistent or undefined terms, such as “managed sustainably”, “the TAC follows MSY”, “achieving MSY”, or “MSY targets”. In several instances, while mentioning that a stock continues to be overfished (i.e. exploited above F_{MSY} rates), the Commission mentions the biomass status of that stock. This risks an implication that, as long as stock biomass is within “precautionary” levels, an end to overfishing can be postponed. A lot of information is provided regarding volumes of fish caught, as a means to highlight positive trends, whereas the CFP’s objectives apply to all stocks – whether the tonnage caught is large or small. Using clear language will help decision makers to better understand the CFP and to support more precise feedback and facilitate implementation.

CFP requirements and MAPs: the Commission Communication states that Baltic Sea TACs for 2017 have followed the multiannual plan, and that the herring TACs are “in line with F_{MSY} ”. The data made publicly available does not support these statements. More than nine months after the adoption of Baltic TACs for 2017, the Commission has not made public the information necessary to understand how the western Baltic cod TAC was calculated, or communicated these details to the European Parliament and other stakeholders. The TAC clearly did not follow the ICES MSY advice rule as mentioned in the Baltic MAP (Recital 13). As for the TAC for Gulf of Riga herring, fishing limits were set above the level advised by ICES and above the F_{MSY} reference point by using the upper F ranges listed in Annex I column B of the Baltic MAP. Yet, the scientific evidence provided to support the use of the upper range (above F_{MSY}) was not peer reviewed by an international scientific body (such as ICES or STECF). The evidence was also not

³ [Ecologistas en Acción, Fundació ENT and Sciaena, “European Commission Communications on EU fisheries in line with Maximum Sustainable Yield: Comparison 2015 to 2017”](#)

⁴ [The Pew Charitable Trusts, “Submission to Commission’s Consultation on Fishing Opportunities for 2015”, “Submission to Commission’s Consultation on Fishing Opportunities for 2016”, and “Submission to the European Commission’s Consultation on Fishing Opportunities for 2017”](#)

made publically available in advance of the Council’s decision on Baltic TACs, raising concerns about the transparency of the process.

Ending overfishing results in higher catches and profitability: the slow progress in ending overfishing is delaying the significant socio-economic benefits that stem from good fisheries management. Pew welcomes the emphasis placed by the Commission on recent studies which suggest that the EU fleet could substantially improve its economic performance if the biomass of all exploited stocks recovered to MSY levels; and that the sooner fishing mortality rates are reduced to F_{MSY} , the sooner the EU fleet will see the benefits.

Landing Obligation: the Commission highlights that, while the percentage of TACs covered by the landing obligation is high for most regions, the volume of catches covered is still rather low. With only one more year of phasing-in remaining, it is essential that member states and the Commission significantly step up their efforts to ensure full coverage by January 1st 2019.

1.2 Recovering fish stocks

Omission of any reporting on the key objective of the CFP: one of the major paradigm shifts introduced by the reform of the CFP was the requirement to rebuild stocks above healthy levels. This new requirement contrasts significantly with previous policy, which merely aimed to ensure that stocks had a low probability of collapsing.

The Commission’s Communication dedicates a small section (section 2.2 on biomass trends) to this key element of the CFP, which contains very little detail. Crucially, the Commission does not report at all on the objective to restore and maintain populations of harvested species above levels which can produce MSY.

Use of inadequate reference points: when reporting on biomass trends, the Commission mentions increases in biomass, and the percentage of stocks within safe biological limits. Neither measure is sufficient or adequate to assess progress towards the CFP’s objectives, as required by Article 50.

While previous policy aimed to maintain stocks “within safe biological limits” (i.e. provide a lower risk of collapse), the current CFP only refers to safe biological limits in the definitions and in Article 15(8) (regarding its use as a safeguard on exemptions to the landing obligation⁵). The STECF report used as a

⁵ Article 15(8): *By way of derogation from the obligation to count catches against the relevant quotas in accordance with paragraph 1, catches of species that are subject to the landing obligation and that are caught in excess of quotas of the stocks in question, or catches of species in respect of which the Member State has no quota, may be deducted from the quota of the target species provided that they do not exceed 9 % of the quota of the target species. This provision shall only apply where the stock of the non-target species is within safe biological limits.*

basis for the Commission's Communication does not use the CFP definition of safe biological limits⁶, and again uses a very small sample of stocks to assess biomass trends.

Therefore, reporting on the status of stocks in relation to this reference point does not deliver information on the progress in achieving the CFP's objectives. The fact that a third of the smaller subset of stocks analysed do not even meet those reference points suggests that progress toward the CFP's objectives may be very limited.

Much more progress is needed: while the long-term biomass trends look positive, reflecting a reduction in overfishing, the STECF report clearly shows that the proportion of stocks with biomass levels above those capable of producing MSY is likely to be much lower than 40% (for the sample analysed).

It is the Commission's responsibility to request scientific advice from the International Council on the Exploration of the Seas (ICES) regarding B_{MSY} levels, and to propose fishing limits below F_{MSY} or comparable reference points in order to rebuild stock biomass and achieve the CFP's objectives.

2. Proposals for fishing opportunities for 2018

Clear targets and timelines for setting sustainable fishing limits, and aiming for the recovery of fish stocks, are the cornerstones of the CFP. The annual setting of TACs as a limit on 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 rates (F_{MSY}) aims to allow fish stocks to recover to biomass levels above those capable of producing MSY (B_{MSY}), notwithstanding other biological factors. The Communication raises a number of important issues regarding 2018 fishing opportunities:

Not exceeding scientific advice: Pew welcomes the Commission's statement that "fishing opportunities for 2018 will follow the CFP objectives and be based on the best available scientific advice". Similar statements of intent have been made in previous years. Pew's analysis of the Commission's proposals for fishing opportunities for 2017⁷ showed, however, that the Commission had followed the scientific advice for only around half of the proposed TACs. Pew urges the Commission to indeed base its proposals for 2018 fishing opportunities on the scientific advice provided by ICES (or by STECF) and to resist pressure to further slow down or delay progress towards the CFP's requirements.

Pew welcomes the Commission's 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 clear that such an approach will result in more precautionary fishing opportunities than F_{MSY} , as opposed to the less ambitious "precautionary fishing mortality rates" that are defined in the ICES framework for

⁶ Article 4(1)(18): 'stock within safe biological limits' means a stock with a high probability that its estimated spawning biomass at the end of the previous year is higher than the limit biomass reference point (B_{lim}) and its estimated fishing mortality rate for the previous year is less than the limit fishing mortality rate reference point (F_{lim}).

⁷ [The Pew Charitable Trusts, "Pew recommendations for certain fishing opportunities in the North-East Atlantic for 2017"](#)

advice⁸, 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 2011⁹ – included such information in annexes.

Timeline for achieving F_{MSY} : The Commission's intention to propose fishing opportunities for 2018 not exceeding F_{MSY} is a welcome development in recognition of the closing window of opportunity to meet the CFP's 2020 deadline. While the CFP required an end to overfishing by 2015, in past years the Commission indicated that it would consider postponing the attainment of F_{MSY} for certain stocks if provided with compelling socio-economic evidence. Very little such evidence was ever made publically available, raising questions about the quality of the socio-economic evidence provided by member states to justify such delays. With the 2020 deadline fast approaching, it is hard to see how any such delays could be justified now.

Multiannual Plans: the Commission indicates that it may not propose fishing opportunities in line with advice on F_{MSY} point values if multiannual plans with F_{MSY} ranges have been adopted. Fishing in the upper range above the F_{MSY} point value will not restore and maintain stocks above B_{MSY} levels, as required by the CFP. Pew therefore urges the Commission to:

- Follow the scientific advice based on the ICES MSY advice rule and only propose fishing opportunities not exceeding scientifically advised F_{MSY} point estimates;
- If an exemption provided for in a MAP for stocks above the MSY $B_{trigger}$ reference point is requested, to seek scientific advice from STECF to clarify if the criteria for such exemptions are met. For example, in the context of the Baltic multi-annual plan, STECF should be asked to consider whether fishing above F_{MSY} levels is necessary to for the achievement of the objectives in the case of mixed fisheries or to avoid serious harm to a stock caused by intra- or inter-species stock dynamics.

Pew welcomes the Commission's intention to also propose fishing limits on the basis of F_{MSY} for stocks under existing multiannual plans that are no longer compatible with the MSY objective.

Stocks with a presumption of stability: as in previous years, the Commission intends to keep the TACs for 26 stocks unchanged, "unless the biological advice called for adjustments". Pew would like to highlight that the scientific advice for 2017 was for a reduction in catches for 16 out of the 26 TACs concerned. Despite this advice, the Commission only proposed reductions for 2 of those TACs, and even those proposed reductions were smaller than those advised by ICES. The Council then proceeded to maintain 15 of these TACs at the same levels and only one TAC (plaice in areas 7hjk) was reduced, by 5 per cent instead of the 36 per cent advised by ICES.

⁸ [ICES Advice basis](#)

⁹ [European Commission, "Communication From the Commission to the European Parliament and the Council Concerning a Consultation on Fishing Opportunities for 2011 Under the Common Fisheries Policy" \(COM\(2010\)241 final\)](#)

The agreement continues to act as a significant barrier to ending overfishing, allowing TACs to be continually set higher than the scientific advice. In order to make continued progress towards ending overfishing, all TACs covered by the statement must be set not exceeding the levels advised by ICES for 2018.

Landing obligation: the Commission intends to propose TAC adjustments for stocks subject to the landing obligation in 2018, and to extrapolate data to calculate TAC adjustments for stocks for which only incomplete discard data is available. Pew considers that no TAC adjustments should be provided in the absence of adequate data, due to the risk of increasing fishing mortality beyond MSY reference levels and to avoid the perverse incentive to delay providing the necessary data. Moreover, the calculation of TAC adjustments should be transparent, taking into consideration whether a stock is fully or partially under the landing obligation (i.e. if the obligation applies only to some areas, some fishing gears, and/or if exemptions are applied). The agreed TAC including any potential adjustment should under no circumstances exceed the scientifically advised catches and should provide an incentive to fish more selectively.

Removal of TACs: Pew is concerned about attempts to use the challenges in implementation of the landing obligation as arguments to weaken, postpone or ignore the requirements of the CFP. The Commission's stated openness to "scrapping" TACs is a clear example of such attempts. Removing a TAC obviously removes a limit on fishing mortality, taking catches from a situation where they are controlled to a situation where catches are effectively unlimited, whatever the status of the stock at a particular point in time. This puts in jeopardy the achievement of the CFP's requirement to limit exploitation rates in order to restore and maintain stocks above B_{MSY} levels. Taking such a step is therefore unlikely to be justified under the CFP as it would only make the achievement of CFP objectives less likely. Removal of TACs for non-target or less commercially valuable fish stocks, and of the associated obligation to land catches of these species, will not solve the discard problem, reduce the waste in fisheries, nor foster further improvements in selectivity intended by the introduction of the landing obligation.

In cases where it is decided to remove a TAC, a scientifically validated, monitored and enforced management strategy must be in place to ensure the CFP's objectives with regard to fishing mortality and biomass will still be met. This strategy must ensure that the precautionary approach is applied, MSY exploitation rates are not exceeded, that biomass of the stock is restored and maintained above MSY levels, and that appropriate safeguards are triggered in response to stock biology and catching patterns. In such circumstances, decision-makers bear the same responsibility to manage the stock and report on stock status each year to ensure CFP objectives are met.

Bycatch provision footnotes: In their decision on fishing opportunities for 2017, fisheries ministers introduced several changes to the 'bycatch provisions' footnotes applying to several TACs. These footnotes allow a specified quantity (in percentage) of non-target species to be caught in pursuit of the target TACs, but those catches are not deducted from the target or non-target species TACs. Unlike in previous years, the link to the inter-species flexibility provision of the landing obligation (Article 15(8) of Regulation (EU) No 1380/2013) was removed by Council. This means that the use of these provisions does not require the associated non-target stocks to be within safe biological limits (i.e. $F < F_{lim}$ and

$B > B_{lim}$, as defined in the CFP), circumventing a basic CFP requirement. Additionally, the number of non-target species included within the scope of these provisions has gradually increased since 2015.

Pew is highly concerned that there is no provision to deduct these catches from the TACs set for the non-target species, as this entails considerable potential to increase fishing mortality on those non-target stocks above scientifically advised levels, potentially breaching the MSY exploitation rate, whilst pursuing the target fisheries. This presents a particular risk for some demersal non-target species (e.g. *whiting*) where the TAC for the target species (e.g. *horse mackerel*) is much larger than the non-target species TAC. This risk is exacerbated for non-target stocks which are already outside safe biological limits. The absence of a requirement to deduct non-target catches from the quota of the target species would circumvent the provisions made in Article 15(8) of the CFP.

Pew recommends that the European Commission make clear in its TAC proposals that footnotes must be compatible with the requirements of the CFP, seek a scientific assessment of the impacts of the 'bycatch provisions' on the sustainability of catches of non-target stocks and reject the inclusion of footnotes that risk increasing fishing mortality above the MSY exploitation rate.

Transparency: the entire process of setting annual fishing opportunities could greatly benefit from enhanced transparency, and the Commission has a responsibility to secure improvements in this regard.

At a minimum, each Commission proposal on fishing opportunities should be made immediately available to the public. Last year, several proposals on fishing opportunities for 2017 were put forward as Commission "non-papers", which were not published on the Commission's website. The Council eventually made these proposals available on its website after NGOs submitted access to information requests. The Commission should publish all its proposals on its own website, or at the very least instruct the Council secretariat that such documents can be accessed by the public, so that they are published without restrictions in the Council's document centre.

For numerous reasons, such as area mismatches¹⁰ or unknown shares of third countries, it is often challenging to compare proposed TACs and the best available scientific advice. To facilitate the decision making process and increase transparency and accountability, Pew encourages the Commission to include in its proposals for fishing limits not only the proposed TAC in tonnes, but next to it also the corresponding available scientific advice in tonnage for that TAC, or to make that information easily available elsewhere.

¹⁰ See for instance: [Client Earth \(2015\) Comparing TAC and ICES advice areas](#).

3. Conclusions and recommendations

The Commission's Communication and the STECF monitoring report¹¹ clearly show that overfishing persists, and that the EU is far from achieving the CFP's objectives in terms of stock recovery. With only a few TAC cycles left before the 2020 deadline, it is urgent that the Commission and member states step up efforts to end overfishing and realise the environmental, economic and social benefits associated with sound fisheries management. Pew would like to issue the following summary recommendations to the Commission:

- The Commission must propose fishing opportunities not exceeding the scientific advice provided by ICES (or STECF) and ensuring that the precautionary approach is applied, as defined in the CFP.
- The Commission must resist pressures to weaken, postpone or ignore CFP requirements, for instance by removing TACs or postponing setting fishing opportunities not exceeding F_{MSY} .
- As the Commission correctly made the economic case for ending overfishing sooner rather than later, it should do its best to persuade the Council that postponing the achievement of the CFP's MSY objectives is contrary to the interests of European fleets and coastal communities.
- Enhanced clarity of language on the part of the Commission would contribute to communicating to ministers the urgency and benefits of ending overfishing.

¹¹ [Scientific, Technical and Economic Committee for Fisheries \(STECF\), "Monitoring the performance of the Common Fisheries Policy" \(STECF-17-04\)](#)