



Pew recommendations for certain fishing opportunities in the north-east Atlantic for 2018

30th November 2017

Summary

At their meeting in Brussels on 11th and 12th December 2017, fisheries ministers must match the ambition they demonstrated in the reform of the Common Fisheries Policy (CFP) and set fishing limits that will end overfishing as required by the law. Specifically, ministers must:

- Support Total Allowable Catches (TACs) that do not exceed scientific advice;
- Repeal the joint statement by the Council and the Commission "*Ad Specific Data Limited Stocks*"¹ (fixing TACs at the same levels until the end of 2018) and support necessary TAC reductions to end overfishing;
- Set certain individual TACs lower than the scientifically advised maximum levels to account for mixed fishery interactions;
- Reduce TACs and/or introduce other precautionary management measures for stocks with no scientific advice to reduce the risk of over-exploitation;
- Make public the methodology used to calculate the TAC adjustments to account for the landing obligation, confirming they do not increase fishing mortality or jeopardise the achievement of the CFP's objectives to end overfishing;
- Make public any socio-economic information used to justify delays in ending overfishing in 2018.

Background

The CFP, which entered into force on 1st January 2014, includes a requirement to end overfishing, with legally binding targets and deadlines. The CFP establishes in Article 2(2) 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*".

At the December Council, EU fisheries ministers will decide upon TACs for most fish stocks in the north-east Atlantic and adjacent waters for 2018. The legislation stipulates that a deferral of the 2015 deadline is allowed only in exceptional cases when meeting it "*would seriously jeopardise the social and economic sustainability of the fishing fleets involved*" (CFP Recital 7), and requires all overfishing to end in 2020 without exception. With the 2020 deadline only two years away, ministers need to make substantial progress towards ending overfishing by setting TACs not exceeding scientific advice.

¹ Council of the European Union document [5232/14](#).

European Commission proposals on north-east Atlantic TACs for 2018

The European Commission has proposed seventy-four TACs for fish stocks in northern waters² and southern waters³ of the north-east Atlantic, which are not subject to negotiation with third countries or awaiting further scientific advice⁴. Due to missing information on how the Commission is matching the proposed TACs with the scientific advice it is often difficult to assess the extent to which the advice has been followed and to ascertain whether the Commission's proposals are adequate to fully meet the objectives of the CFP⁵.

The Commission has followed the scientific advice for fifty-eight percent (43 out of 74) of the proposed TACs, a small improvement on last year's proposal (35 out of 69). For twenty-seven TACs the Commission has proposed fishing limits that exceed the scientific advice, without providing any evidence that ending overfishing in 2018 would seriously jeopardise the social and economic sustainability of the fleets involved (CFP Recital 7). Thirteen of these TACs are subject to a joint political statement by the Council and the Commission "*Ad Specific Data Limited Stocks*"⁶, which fixes TACs at the same levels until the end of 2018, unless the perception of the status of these stocks changes significantly. Four TACs are proposed without any scientific advice available. These TACs are also subject to the joint statement "*Ad Specific Data Limited Stocks*".

For the vast majority of TACs with scientific advice on maximum sustainable yield (MSY) exploitation rates, the Commission has proposed fishing limits in line with the scientific advice provided by the International Council for the Exploration of the Sea (ICES)⁷. However, there are five instances where the Commission has proposed TACs exceeding scientific advice for stocks where MSY fishing limits are recommended, namely *herring* in areas 6a(South), 7b and 7c⁸; *herring* in areas 5b, 6b and 6a(North); *megrims* in area 7; *megrims* in areas 8abde; and *common sole* in area 7a.

There are forty-five TACs where no proposal has been published. These are described as "*pm*" (*pro memoria*) because they are shared with third countries and consultations are yet to conclude, or because the scientific advice was not received at the time the proposal was created, or because the Commission's evaluation of that advice is still ongoing. For some of these the Commission has since made proposals to Council through "non-papers"⁹ without making them publically available. This lack of transparency prevents stakeholders from conducting analyses of the Commission's proposals in a comprehensive manner. Pew therefore urges the Commission to improve transparency by publishing such documents.

Other issues in the Commission proposal relevant to setting sustainable catches for 2018

Pew notes a number of issues in the Commission proposal relevant to the setting of sustainable catch limits.

² 58 in Northern waters: Atlantic Ocean west of Scotland and Ireland, and adjacent waters including the Irish, Celtic and North seas.

³ 16 in Southern waters: Bay of Biscay, Iberian waters, Azores grounds and Union waters of CECAF.

⁴ COM(2017) 645, Proposal for a Council Regulation fixing for 2018 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters. [Articles](#), [Annex I](#), [Annex II-VIII](#).

⁵ For many stocks there are mismatches between the geographic areas used by ICES in its assessment of a fish stock and the areas covered by a TAC. In these cases Pew assesses whether TACs are set exceeding or not exceeding the scientific advice based on assumptions about how the Commission has arrived at the proposed TAC from the scientific advice, for example how scientific advice on catches for stocks are apportioned to TAC areas and whether overall the proposed TACs exceed the total maximum catch advice for the stock. As such, sometimes it is not clear how the Commission have calculated their proposed TAC but it would appear based on our assumptions that the proposed TAC exceeds the scientific advice.

⁶ Council of the European Union document [5232/14](#).

⁷ 35 of the 74 proposed catch limits were based on ICES MSY approach. This excludes catch limits based on ICES Precautionary Approach.

⁸ ICES advice for 2018 is for a zero TAC and for a discontinuation of the scientific monitoring TAC advised upon by ICES in 2016.

⁹ Council document [14317/17](#): Regulation on Atlantic and North Sea TACs and Quotas for 2018 Non-paper with updates.

i. TAC adjustments to account for the landing obligation

The Commission has confirmed in its proposal on fishing opportunities that it will propose TAC adjustments (top-ups) for stocks which are subject to the landing obligation in 2018. It highlights that these adjustments will be calculated on the basis of the data submitted by member states. Pending the submission of such data a decision was taken by the Commission to include in the proposal TACs without adjustments. The adjustments will be added once the data enabling their calculation is provided.

Pew is concerned about the lack of peer review and scientific scrutiny when calculating the TAC adjustments late in the process. The Commission have not made clear the deadlines for submission of member state data, data evaluation, and the corresponding scientific advice on the level of TAC adjustments that are justified to stay within the scientifically advised catch levels.

Moreover, it should be transparent how TAC adjustments are calculated, 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). We urge the Commission to make the methodology and proposed TAC adjustments for each applicable TAC publically available before the December Council. Following the Council meeting, it should be made clear how TAC adjustments were finally calculated and applied for each TAC. The agreed TAC including any potential adjustment should under no circumstances exceed the scientifically advised maximum catches and should provide an incentive to fish more selectively.

ii. TACs subject to the joint statement on data-limited stocks

In 2013 the Council and Commission agreed to fix 26 TACs at the same levels until the end of 2018 unless the perception of the status of any of these stocks changed significantly according to scientific advice (joint statement by the Council and the Commission "*Ad Specific Data Limited Stocks*"¹⁰).

We note that the Commission has responded to new scientific advice on the status of some of these stocks by adjusting their TAC proposals for 2018. However, it is not clear from the proposal how the Commission has determined which TACs to revise and which ones to maintain. It is furthermore unclear how the Commission has calculated the TAC increases or decreases in the instances where it has proposed a change to the TAC.

The agreement serves as a 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 should be set not exceeding the maximum levels advised by ICES for 2018.

iii. Bycatch allowance footnotes

For several years, certain TACs have included footnotes allowing for bycatches of a specified quantity (in percentage, i.e. 2% or 5%) of non-target species (e.g. whiting, mackerel, haddock and boarfish) to be caught in pursuit of the target TAC.

The Commission has proposed 'bycatch allowance' footnotes for several TACs in 2018¹¹. The proposed 'bycatch allowance' footnotes now refer to the interspecies flexibility provision of the CFP (Article 15(8) of Regulation (EU) No 1380/2013). This specifies that bycatches of species counted against the quota pursuant to Article 15(8) shall, together, not exceed 9% of the quota. Article 15(8) also requires the associated non-target stocks to be within safe biological limits. This is an improvement on the Council agreed 'bycatch allowance' footnotes for 2017, which did not require stocks of non-target species to be inside safe biological limits, as the law requires.

¹⁰ Introduced in December 2012 for 21 TACs - Council of the European Union document [5315/13](#). Expanded in December 2013 to 26 TACs - Council of the European Union document [5232/14](#).

¹¹ *Sandeel* in areas 2a and 4; *sprat* in area 3a; *sprat* in areas 4 and 2a; *horse mackerel* in areas 4b, 4c and 7d; *horse mackerel* in areas 2a, 4a, 5b, 6, 7a-c, 7e-k, 8abde, 12 and 14; and, *Norway pout* in areas 3a, 4 and 2a.

However, the Commission proposal still does not make clear how the proposed ‘bycatch allowance’ provisions will work in practice and what safeguards are in place to prevent an increase in fishing mortality on the non-target stocks above scientifically advised levels. The proposal includes no requirement to deduct catches from the TACs set for the non-target species, and this potentially risks increasing fishing mortality on those non-target stocks above scientifically advised levels, whilst pursuing the target fisheries. This risks worsening the status of those non-target stocks and undermining the objective of achieving MSY fishing rates for these stocks. STECF highlighted these risks in their evaluation of the Council proposed ‘bycatch allowance’ provisions for 2017¹² and in their previous evaluation of the potential impact of the interspecies flexibility provisions in the CFP (Article 15(8))¹³.

We therefore urge the Council to remove bycatch allowances, and not add new ones, which could potentially allow the fishing mortality of the non-target stocks to exceed the maximum scientifically advised levels. Furthermore, if bycatch allowance provisions continue to be included in the regulation, the Council and the Commission should at the very least:

- Ensure as a precondition of use that the associated non-target stocks are within safe biological limits;
- Ensure suitable recording and monitoring of the bycatches in a way that allows the European Commission and ICES to fully account for catches in-year and make sure that the provisions do not lead to an increase in fishing mortality on the stocks of the non-target species;
- Require the counting of all bycatches of non-target species against their respective TACs, and/or define a maximum permitted bycatch (in tonnes) of the non-target species TAC (i.e. not as a percent basis of the target species TAC), in accordance with scientific advice on maximum catches.

iv. Adding species to the ‘prohibited species’ lists

The prohibited species list was developed as a tool to protect endangered and threatened species from targeted fisheries and to aid stock recovery. In past years this has changed with stocks being added that present a problem for TAC setting and distribution, rather than the provision being used solely for conservation reasons. Examples of this are *thornback ray* in area 3a, *undulate ray* in areas 6 & 10 and *picked dogfish* (spurdog) in all areas. As it is the prerogative of the Council to list species and there is no protocol for listing species, we call on ministers to improve the transparency of the listing methodology. Pew recommends that ICES or STECF be asked to develop independent verifiable criteria for the listing of species.

For *picked dogfish* in areas 1, 5-8, 12 and 14, a derogation for landing of bycatch was added for vessels engaged in ‘bycatch avoidance programmes’. However, the programmes are not well defined in the regulation. Without adequate monitoring and reporting, avoidance programmes could be exploited as a means to legitimise landings instead of actually minimising bycatch, allow for continued discards and risk increasing fishing mortality on the stock. Before granting derogations to member states for prohibited species, STECF should be asked by the Commission to evaluate proposals for national ‘bycatch avoidance programmes’, including suitable provisions for monitoring and control of catches. At the same time a suitable management plan for *picked dogfish* should be developed.

Pew supports the Commission’s proposal to add the critically endangered *European eel* stock to the prohibited species list in order to further protect it from commercial and recreational fishing activities. This would prohibit the targeting of adult eel in marine waters. According to ICES advice catches should be

¹² “there is potential to significantly increase the mortality on non-targeted bycatch species to levels inconsistent with achieving F_{MSY} and to the extent that stock biomass could be reduced below safe biological limits”

<https://stecf.jrc.ec.europa.eu/documents/43805/1780485/STECF+PLEN+17-02.pdf>

¹³ “the provision offers a way of transferring quota from low value/high volume species to low volume/high value species, this potentially provides helpful economic benefits but carries the risk of elevated mortality on the non-target species”

<https://stecf.jrc.ec.europa.eu/documents/43805/610582/STECF+13-23+-+Landing+obligation+in+EU+Fisheries+-+p1.pdf>

reduced to zero, or as close to zero as possible in order to restore the eel stock and achieve the CFP's objectives. Therefore Pew urges ministers to adopt the Commission's proposal by adding European eel to the prohibited species list and to introduce measures that encourage avoidance, to ensure reliable catch documentation, and to assess and improve survivability of released eel.

v. Commercial and recreational management measures for seabass

Pew notes that the Commission has deleted all previous commercial and recreational management measures for seabass with the stated intention of establishing new management measures for seabass following the publication of scientific advice from ICES on 24th October. For seabass in areas 4bc, 7a and 7d-h the ICES advice is that there should be zero catch (commercial and recreational) in 2018.

The Commission has produced a 'non-paper'¹⁴ with management proposals for seabass, but at the time of writing this document was not publically available. Pew urges the Commission to make its proposals publically available before the December Council and for ministers to take positive action to introduce more effective conservation measures that will recover stocks of seabass above levels that can produce MSY in line with the objectives of the CFP.

Pew recommendations to fisheries ministers on the proposed TACs for the north-east Atlantic

1. Fisheries ministers should adopt the forty-three¹⁵ proposed TACs which do not exceed the scientific advice on sustainable catches¹⁶.
2. Fisheries ministers should set fishing limits not exceeding the scientific advice for the twenty-seven TACs for which the Commission's proposal exceeds the advice, including those subject to the previous political joint agreement by the Council and the Commission "Ad Specific Data Limited Stocks". These can be summarised as follows:
 - Instances where the proposed TACs are higher than scientifically advised: This is the case for *greater silver smelt* in areas 5-7; *cod* in area 3a (the Kattegat); *megrims* in area 7*; *megrims* in areas 8abde*; *whiting* in area 8; *lemon sole & witch* in area 4 and 2a; *ling* in area 4; *ling* in areas 6-10, 12 and 14; *pollack* in area 7; and, *pollack* in areas 8abde. It is also the case for eleven TACs subject to the joint statement "Ad Specific Data Limited Stocks", including: *greater silver smelt* in areas 3 and 4; *cod* in areas 6b, 5b, 12 and 14; *plaice* in areas 7bc; *plaice* in 8, 9, 10 and CECAF 34.1.1; *pollack* in areas 6, 5b, 12 and 14; *pollack* in area 8c, *pollack* in area 9, 10, CECAF 34.1.1; *common sole* in areas 7bc; *common sole* in areas 7hjk; *sole* in areas 8cde, 9, 10, and CECAF 34.1.1; and, *sprat* in areas 7de.
 - Instances where the proposed TACs are greater than zero despite scientific advice for zero catch or no directed fisheries and minimisation of bycatch: This is the case for *herring* in areas 6a(South), 7b and 7c*;¹⁷ *herring* in areas 5b, 6b and 6a(North)*; *common sole* in area 7a (Irish Sea)*; *picked*

¹⁴ Council document [14316/17](#): Regulation on Atlantic and North Sea TACs and Quotas for 2018 Non-paper on European seabass.

¹⁵ These include: *Sandeel* in areas 2a and 4; *tusk* in area 3a and certain EU waters in the Baltic; *tusk* in area 4; *tusk* in areas 5, 6 and 7; *boarfish* in areas 6-8; *herring* in the Irish Sea (area 7a)*; *herring* in areas 7ghjk*; *cod* in areas 6a and 5b*; *cod* in area 7a*; *megrims* in areas 4 and 2a*; *megrims* in areas 5b, 6, 12 and 14*; *megrims* in areas 8c, 9, 10 and CECAF¹⁵ 34.1.1*; *anglerfish* in area 7; *anglerfish* in areas 8abde; *anglerfish* in area 8c, 9, 10 and CECAF 34.1.1*; *haddock* in areas 6b, 12 and 14*; *haddock* in area 7a*; *whiting* in areas 6, 5b, 12 and 14*; *hake* in area 3a and certain EU waters in the Baltic*; *hake* in areas 4 and 2a*; *hake* in areas 6, 7, 5b, 12 and 14*; *hake* in areas 8abde*; *hake* in areas 8c, 9, 10 and CECAF 34.1.1*; *ling* in areas 3a-d; *Norway lobster* in area 3a and certain EU waters in the Baltic*; *Norway lobster* in areas 4 and 2a; *Norway lobster* in area 8c; *plaice* in area 3a*; *plaice* in area 7a*; *plaice* in areas 7de*; *plaice* in areas 7fg; *plaice* in areas 7hjk; *common sole* in area 3a and certain EU waters in the Baltic*; *common sole* in areas 4 and 2a*; *common sole* in area 7d*; *common sole* area 7e*; *common sole* in areas 7fg*; *common sole* in areas 8ab*; *sprat* in areas 4 and 2a*; *horse mackerel* in areas 4b, 4c and VIII; *horse mackerel* in areas 2a, 4a, 5b, 6, 7a-c, 7e-k, 8abde, 12 and 14*; *horse mackerel* in area 8c*; *horse mackerel* in area 9*.

¹⁶ *Proposed catch limits based on ICES MSY approach are marked with an asterisk (*). This excludes catch limits based on ICES Precautionary Approach.

¹⁷ ICES advice for 2018 is for a zero TAC and for a discontinuation of the scientific monitoring TAC advised upon by ICES in 2016.

dogfish in areas 1, 5-8, 12 and 14; and, two TACs subject to the joint statement "*Ad Specific Data Limited Stocks*", including: *blue ling* in areas 2 and 4; *blue ling* in area 3.

3. Fisheries ministers should follow the precautionary approach to fisheries management for four TACs which have been proposed without scientific advice. These TACs are subject to the joint statement "*Ad Specific Data Limited Stocks*", including: *herring* in areas 7ef; *saithe* in areas 7, 8, 9, 10 and CECAF 34.1.1; *plaice* in areas 6, 5b, 12 and 14; *common sole* in areas 6, 5b, 12 and 14. Fisheries ministers should ensure that in absence of scientific advice on sustainable catch limits suitable conservation and management measures are taken to improve data collection and prevent over-exploitation, for instance by means of a TAC reduction. If or when scientific advice becomes available then the TACs should be set not exceeding that advice.

The CFP entered into force in 2014, with a clear timeframe to achieve the maximum sustainable yield exploitation rate by 2015 where possible and, on a progressive, incremental basis at the latest by 2020. In 2017, 54 percent of TACs set by Council for European stocks in the north-east Atlantic region (60 of 111) exceeded the scientific advice on catch limits¹⁸. With the 2020 deadline only two years away ministers need to make substantial progress towards ending overfishing by setting TACs not exceeding scientific advice.

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¹⁸ Pew analysis of Total Allowable Catches in the north-east Atlantic for 2017:
http://www.pewtrusts.org/~media/assets/2017/03/20170307_pew_analysis_tac_2017.pdf?la=en