NGO RECOMMENDATIONS FOR DEEP-SEA FISHING LIMITS 2019–2020

September 2018

Executive summary

In November 2018 EU fisheries ministers will decide on fishing limits for 2019 and 2020 for certain deep-sea fish stocks. This will be the final November Council meeting where fisheries ministers have the opportunity to end overfishing of deep-sea species by 2020, as is legally required by the Common Fisheries Policy (CFP)[1]. The vulnerable and sensitive nature of those species makes ending their over-exploitation of vital importance, as deep-sea fish stocks are quick to collapse and slow to reproduce and recover. For these reasons, no further delay in transitioning to sustainable fisheries can be justified.

Taking into account that there are no maximum sustainable yield (MSY) estimates for any of these stocks, we urge the European Commission to propose, and the Council to adopt, fishing opportunities that are consistent with a precautionary approach to fisheries management, as defined in Article 4(1)(8) of the CFP, and affording to these stocks at least a comparable degree of conservation as to those stocks with MSY assessments, as per Article 9(2) of the CFP. Fishing opportunities should not exceed the best available scientific advice on maximum catches provided by the International Council for the Exploration of the Sea (ICES). In the absence of full analytical MSY-based assessments for deep-sea stocks, the ICES precautionary advice should not be exceeded. The persistent and counterproductive gap between the scientific advice and political decisions must be closed in order to deliver the long-term environmental, economic and social benefits associated with sound fisheries management.

The Commission and Member States must significantly step up their efforts to comply with EU law and end overfishing of all harvested fish stocks as soon as possible and by 2020 at the latest, as well as to ensure full coverage of the landing obligation by 1 January 2019. This requires resisting pressure to weaken, postpone or ignore CFP requirements, for instance by removing Total Allowable Catches (TACs) or postponing the setting of fishing opportunities not exceeding the best available scientific advice. The Commission should furthermore ensure that its requests for scientific advice reflect the CFP's requirements so that it can adequately report against progress in achieving these, both in general and specifically for deep-sea stocks.

[1] Regulation (EU) 1380/2013 of the European Parliament and of the Council

We therefore urge the European Commission and the Council of the EU to:

- Set fishing opportunities not exceeding the best available scientific advice. At present, this means not exceeding the catch limits advised by ICES on the basis of their precautionary framework for advice.[2]
- Fix TACs at zero for the most vulnerable deep-sea species, such as orange roughy and deep-sea sharks, in line with ICES advice.
- Ensure robust at-sea catch monitoring is put in place for fisheries with a high risk of bycatches of vulnerable deep-sea species.
- Improve the collection and processing of data on deep-sea stocks, in order to underpin robust scientific advice on management measures that will deliver on the CFP's requirements for these stocks.
- Set fishing opportunities considering the ecosystem-based approach. Fishing opportunities should take into account the potential impact of fishing rates and practices on non-target species and marine ecosystems, with special focus on vulnerable species and vulnerable marine ecosystems.
- Improve the transparency of decisions on deep-sea TACs, for instance by publishing the methodology used to calculate TACs on the basis of scientific advice; in particular, clarify how mismatches between advice areas and management areas[3] are addressed, and make all proposals and related documents immediately available to the public.

Background: The CFP's 2020 deadline and the last chance for deep-sea TACs

The deep-sea is the area of the ocean lying below the outer edge of the continental shelf. Temperatures are low and little or no light penetrates this part of the ocean. Nonetheless, deep-sea ecosystems are high in biodiversity. Because deep-sea fish species live in rarely disturbed environments and tend to be slow-growing, late-maturing and long-lived[4], they are exceptionally vulnerable to over-exploitation and should be managed with the highest precaution. The extreme biological characteristics of most deep-sea species and the ecosystems they inhabit make them poorly adaptable to sustained fishing pressure, since their productivity and recovery capacity are very limited. As a result of knowledge gaps and of serious deficiencies in their management , the status of most managed deep-sea species is unknown or raises concerns about depletion, putting the viability of the fishery at serious risk.

In 2016, the Commission, the Council and the European Parliament agreed upon revised rules for deep-sea fisheries in EU waters and by EU fishing vessels in international waters of the Fishery Committee for the Eastern Central Atlantic (CECAF)[5]. Previous to that, the European Union had also made international commitments to manage deep-sea fisheries in a manner consistent with the global standard established

[2] ICES Advice basis

[3] In many cases, the areas for which TACs are set are not exactly the same as the area for which the stock-specific scientific advice is provided by ICES. Such mismatch makes it difficult to assess whether decision-makers set the relevant TACs in line with the underlying scientific advice and to hold them to account where they fail to do so. For more details, please refer to the following briefing: ClientEarth (2016). Mismatch between TACs and ICES advice – Why it is an issue and how to address it.

[4] Koslow JA et al. Continental slope and deep-sea fisheries: implications for a fragile ecosystem. ICES Journal of Marine Science 2000, 57: 548–57.

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

by the United Nations General Assembly (UNGA)[6]. This standard requires European Union regulations to contain, amongst other things, obligations to: end overfishing of deep-sea species; rebuild depleted stocks; prevent by-catch of vulnerable species; and protect vulnerable marine ecosystems from the adverse impacts of fishing for deep-sea species.

Only one and a half years remain until the 2020 final deadline to meet the requirement set in Article 2(2) of the CFP—namely, to end overfishing for all stocks. Since deep-sea fishing limits are set biannually, it is essential that the European Commission and member state ministers do not miss their chance in this year's decision to finally manage all deep-sea stocks in compliance with EU law.

Specific recommendations

Fishing opportunities established in accordance with the best available scientific advice

Despite the CFP's requirement to end overfishing "by 2015 where possible", several deep-sea fishing opportunities for 2015-2016 and for 2017-2018 were set at levels exceeding the best available scientific advice. In November 2016, the Council adopted 15 out of 20 deep-sea TACs exceeding scientific advice[7], despite the CFP's requirement for incremental progress towards ending overfishing in advance of the ultimate 2020 deadline for all stocks. No socio-economic evidence was made publicly available to justify the lack of progress towards the CFP's objectives. Given that this year's Council will set deep-sea TACs for 2019 and 2020, ministers must establish fishing limits that do not exceed the best available scientific advice. In practice, in the absence of MSY-based assessments for these stocks, this means not exceeding the precautionary approach catch limits advised by ICES. For stocks for which the advice for 2020 only comes out in 2019, the Council should commit to following that advice once it becomes available.

The European Commission has indicated that it considers the precautionary advice by ICES as a "directional indicator", and that since the degree of information underpinning ICES MSY-based advice is very different from the ICES precautionary advice, the latter warrants a different treatment.[8] However, in the absence of MSY-based assessments for deep-sea stocks, the ICES precautionary advice is the best available scientific advice for these stocks. Furthermore, the ICES precautionary framework for advice[9] is geared towards avoiding stock collapse, but not towards recovery of fish stocks in line with the CFP. Setting fishing opportunities in line with such advice is insufficient to meet the CFP's objectives, and exceeding even this advice will likely lead to depletion and prevent these stocks from recovering to healthy levels. The Commission and member states should therefore set fishing opportunities well below the maximum precautionary level advised by ICES, and under no circumstances should the advice be exceeded.

Given the vulnerability of most deep-sea species and ecosystems and the mixed nature of most deep- sea fisheries, fishing opportunities should be established in a way that ensures the long-term sustainability of all stocks in the mixed fishery. Catch limits should therefore not only guarantee the sustainability of the target species but also the sustainability of the by-catch species and of deep-sea ecosystems. This may require trade-offs involving lower exploitation of some stocks to ensure the sustainable exploitation of all stocks in the mixed fishery.

---

[6] Resolutions 61/105 and 64/72 adopted by the General Assembly of the United Nations

[7] The Pew Charitable Trusts (2016), Response to deep-sea fishing limits 2017–2018

[8] Letter from the European Commission (DG MARE) to The Pew Charitable Trusts (20 April 2018)

[9] ICES Advice basis

Deep-sea sharks

In light of the continuing concerns regarding the depleted status of deep-sea sharks, fishing opportunities for these vulnerable species should be set at zero. ICES has consistently advised that when the precautionary approach is applied, fishing mortality should be minimized, no targeted fisheries should be permitted and bycatch of deep-sea sharks should be minimized in the mixed species deep water fisheries. The list of managed deep-sea shark species should be updated and expanded to include all cartilaginous fish species (by)caught in deep sea fisheries. We recommend developing a management plan for these species consisting of enhanced monitoring (through fully documented fisheries), selectivity measures and improved data collection.

Zero TAC for orange roughy

The continued designation of orange roughy as a "prohibited species" alone will neither provide incentives for improved selectivity nor will it prevent bycatch and discarding (and associated mortality) of orange roughy. Ministers should therefore set zero TACs for this species and ensure that all potential mitigation measures are applied to minimize unwanted catches of orange roughy. Full documentation of catches must be used to demonstrate industry efforts to reduce unwanted catches in fisheries with a risk of orange roughy bycatches, to assess the effectiveness of mitigation measures and identify new ones, as well as to inform scientific assessments.

Separate TACs for roundnose and roughhead grenadier

In 2016 the Council set combined TACs for roundnose and roughhead grenadier. At the time, this decision was justified as an attempt to try and address the scientific advice of no directed fisheries for roughhead grenadier, as well as the danger of misreporting catches of roughhead grenadier as catches of roundnose grenadier. However, covering two species under one TAC is unlikely to avoid overexploitation, as the whole TAC can be caught for only one species, potentially exceeding sustainable fishing limits. Therefore, individual TACs for roundnose and roughhead grenadier are needed. If this requires more comprehensive catch and effort data, then an extended catch monitoring programme with confirmation of species landings should be implemented to ensure sustainable management of both stocks in the long-term.

Landing Obligation

The landing obligation (LO) provides an opportunity to improve fisheries sustainability and meet the public's demand for fishing to be discard free. Article 2(5)(a) of the CFP clearly defines the objective to gradually eliminate discards by avoiding and reducing, as far as possible, unwanted catches and by ensuring that catches are landed. CFP Article 15 provides Member States with a range of tools to successfully implement the LO. Decision-makers should resist pressure to use the challenges in implementation of the landing obligation as justification to weaken, postpone or ignore CFP requirements. We urge the Commission and the Council to take into account the lack of implementation of the LO when setting TACs, to increase monitoring and control and to use the LO as a means of promoting best practices in fishing.[10]

TAC removal

Removing a TAC obviously removes a limit on fishing mortality, taking catches from a situation where they are capped 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 end overfishing and restore fish stocks. Taking such a step is therefore unlikely to be justified under the CFP as it would

[10] Further considerations on the implementation of the LO while meeting the CFP's MSY objectives can be found in the joint NGO position paper (2018) "Recovering fish stocks and fully implementing the Landing Obligation: Managing fishing mortality to meet CFP objectives"

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.

The Commission's request to ICES to provide advice on removing TAC management for several deep-sea stocks[11] is a worrying indication that this option is actively being considered. This request specifically instructed ICES to evaluate management measures as a means to maintain stocks within safe biological limits (rather than restoring them above MSY levels), which is clearly lowering the ambition for these stocks in a way that conflicts with the legal requirements of the CFP.

We call attention to the fact that in response to the Commission request for advice on TAC removal, ICES considered that removing the TAC for several deep sea stocks would generate a high risk of unsustainable exploitation, in contradiction with the objectives of the CFP. This was the case for stocks of alfonsinos in subareas 1–10, 12 and 14; deep-water sharks in subareas 5 to 9; blackspot seabream in subareas 6, 7 and 8; roundnose grenadier in divisions 3.a, 10.b and 12.c, and in subdivisions 5.a.1, 12.a.1 and 14.b.1.

On the other hand, ICES considered that removing the TAC would pose low or no risk to the stocks of greater forkbeard in subareas 1–10, 12, and 14 and for roundnose grenadier in subareas 1, 2, and 4. However, ICES acknowledged that removing these TACs could lead to fleets increasing fishing effort on these species. NGOs also note that removing the TAC for roundnose grenadier could lead to increased misreporting, as catches of roundnose and roughead grenadier in other areas could be logged as being caught in subareas 1, 2 and 4 (where no fishing limit would apply). ICES does not offer alternative management measures for these specific stocks in their advice but highlights that *"a quantitative evaluation of the specific alternative management measures should be conducted previous to any implementation and the efficiency of such methods should be evaluated after a few years to ensure the stock is not over-exploited".*

If the Commission and Council do decide to remove a TAC, a scientifically validated, monitored and enforced management strategy must be in place to ensure that the CFP's objectives with regard to fishing mortality and biomass will still be met. This strategy must ensure that 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.

Transparency

It is often difficult to compare the Commission's proposal with the scientific advice due to the mismatch of the advice area and the management area[12]. This makes it very hard for both decision makers and stakeholders to ascertain to what extent scientific advice has been followed for many TACs. More transparency from the Commission on how it calculates its TAC proposals on the basis of scientific advice and making public the rationale of the decisions made would benefit all those involved in the process.

[11] ICES Special Request Advice (2018): EU request on the role of the Total Allowable Catch instrument for fisheries management and conservation of selected deep-water stocks. Published 2 July 2018.

[12] See explanation and reference to briefing about this topic in footnote 3.

All of the Commission's proposals regarding deep-sea fishing opportunities should be made immediately available to the public. As some of the scientific advice is only expected in early October, it is likely that the Commission will have to put forward some of its proposals as Commission "non-papers". These documents should be published on the Commission's website so that they can be accessed by all stakeholders.

For more information, please contact:

Agnes Lisik, Oceana	alisik@oceana.org	+32 2 513 2242
Andrew Clayton, The Pew Charitable Trusts	aclayton@pewtrusts.org	+44 20 75354000
Fintan Kelly, Birdwatch Ireland	fkelly@birdwatchireland.ie	+353 85 129 5849
Gonçalo Carvalho, Sciaena	gcarvalho@sciaena.org	+351 936257281
Heather Hamilton, ClientEarth	hhamilton@clientearth.org	+44 20 3030 5984
Irene Kingma, Dutch Elasmobranch Society	kingma@elasmobranch.nl	+31 6 4826 3524
Jan Isakson, Fisheries Secretariat	jan.isakson@fishsec.org	+46 70 608 74 83
Lydia Chaparro Elias, Fundació ENT	lchaparro@ent.cat	+34 657361673
Monica Verbeek, Seas At Risk	mverbeek@seas-at-risk.org	+32 2 893 0968
Rebecca Hubbard, OurFish	rebecca@our.fish	+34 657 669 425