

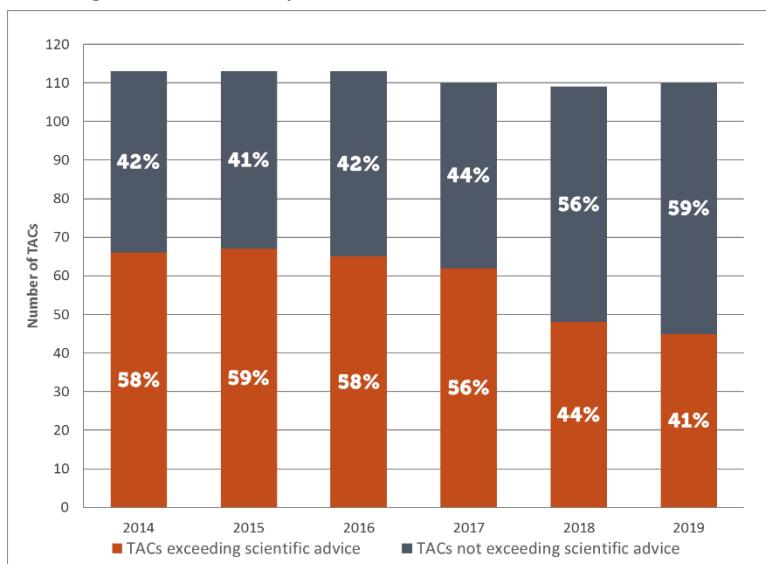
## Analysis of Fisheries Council agreement on fishing opportunities in the north-east Atlantic for 2019

14 March 2019

### Summary

On 19<sup>th</sup> December 2018, EU fisheries ministers agreed catch limits in the north-east Atlantic for 2019<sup>1</sup>. Many of these total allowable catch (TAC) limits continue to exceed scientific advice and permit overfishing.

- **32 percent (25 of 77) of the TACs proposed by the European Commission on 7<sup>th</sup> November 2018<sup>2</sup> exceeded scientific advice<sup>3</sup>.** We note that even if the Commission proposal had been adopted by the Council of ministers in full, it would have been insufficient to end overfishing in 2019.
- **Fisheries ministers set 41 percent (45 of 110) of the TACs analysed exceeding scientific advice.** This is only a small reduction from the 44 percent (48 of 109) set exceeding advice for 2018 (see Figure 1)<sup>4</sup>.
  - **Since 2014, fisheries ministers have decreased the overall number of TACs set exceeding scientific advice by 17 percentage points (21 TACs).** However, this rate of progress is likely an overestimate<sup>5</sup>, and in any event, is too slow to end overfishing by 2020, as per the objective of the Common Fisheries Policy (CFP).
  - **Since 2017, fisheries ministers have also removed 4 of the 114 December Council TACs with scientific advice on catch limits<sup>6</sup>.** Removing TACs does not address the potential for overfishing of these stocks, as targeted catches, bycatches and discards can continue.



**Figure 1 – Comparison of the proportion of December Council TACs set by fisheries ministers exceeding or not exceeding scientific advice on catch limits (2014-2019).**

<sup>1</sup> [Council Regulation \(EU\) 2019/124 of 30 January 2019 fixing for 2019 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.](#)

<sup>2</sup> [COM/2018/732 Proposal for a Council Regulation fixing for 2019 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.](#)

<sup>3</sup> Figures based on analysis of the original [Commission proposal](#), excluding any subsequent proposals made in Council Working Group ‘non-papers’.

<sup>4</sup> Based on an analysis of [FishFix](#) TAC table. Version: Feb 18<sup>th</sup>, 2019.

<sup>5</sup> The number of TACs set exceeding scientific advice are likely underestimated in 2019. For 2019 all TACs were assessed against ICES total catch advice. This assumes the landing obligation (LO) fully applies and all catches will be landed and effectively monitored and controlled in 2019. However, some TACs are subject to exemptions from the LO, and were set at the ICES advised level of total catch without any deductions for allowed discards.

<sup>6</sup> Since 2017 the analysis excludes the TAC for *porbeagle* in EU waters of the north-east Atlantic and two TACs for *picked dogfish* (in area 3a; and in areas 2a and 4) as these TACs were removed when these species were added to the prohibited species list. Since 2018 the analysis excludes *dab* and *flounder* in areas 2a and 4 because the TAC was removed in early 2017. In 2019 the analysis included *anchovy* in areas 9, 10 and CECAF 34.1.1 because ICES could provide catch advice for 2019.

- **Fisheries ministers reversed some of the progress made last year on the number of TACs set not exceeding scientific advice where estimates of maximum sustainable yield (MSY or MSY<sub>proxy</sub>) were available.** 32 percent (23 of 73) were set exceeding scientific advice for 2019, compared to 29 percent (21 of 72) for 2018<sup>7</sup>.
- **Five ‘bycatch TACs’ were agreed exceeding scientific advice for zero catches.** As per the Commission proposal, bycatch TACs greater than the zero catches advised by ICES were agreed on the condition that ‘*bycatch reduction plans*’ will be developed. Ministers also agreed clear timelines for the development of these plans, and that they should include measures to minimise bycatches and ensure that all catches are subject to full catch documentation.
- **Poor monitoring, control and enforcement of the landing obligation (LO) risks overfishing, particularly in 2019.** The LO applies to all species with catch limits from 2019 unless there are specific exemptions provided for in discard plans<sup>8</sup>. Our analysis assumes all catches, including ‘allowed’ discards, will be effectively monitored, recorded and controlled. However, if unreported discarding continues and LO exemptions are not monitored, fishing mortality and catches above scientifically advised levels will increase - thereby contributing to overfishing and a possible degradation of scientific advice.
- **A lack of transparency continues to make it difficult to comprehensively analyse the extent to which the Council set fishing limits in line with the scientific advice.** Examples of insufficient transparency include: incomplete public information on TAC adjustments ('top-downs') to account for exemptions from the LO and incomplete information on how the Commission transforms scientific advice on catch limits into TAC proposals when stock and TAC area mismatches occur<sup>9</sup>. Our analysis therefore makes assumptions to address these uncertainties.
- **Despite some positive progress in ending overfishing since 2014, the Commission and Council have implemented the CFP requirements far too slowly.** This leaves significant steps to be taken in 2019 to end overfishing by the 2020 deadline.
- **Setting TACs not exceeding scientific advice and effectively implementing the LO remain a top priority if the CFP’s legally binding objectives are to be successfully delivered.**

## Background

The CFP entered into force on 1<sup>st</sup> January 2014 and includes a requirement to end overfishing, with legally binding targets and deadlines. The CFP regulation<sup>10</sup> 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*”.

Setting appropriate fishing limits is fundamental to achieving the CFP objective of restoring and maintaining fish stocks above levels capable of producing the maximum sustainable yield (MSY). Under Article 43(3) of the Treaty on the functioning of the European Union, fishing opportunities are proposed by the European Commission and agreed by the Council of ministers by qualified majority voting.

At the Fisheries Council on 17-19<sup>th</sup> December 2018, EU fisheries ministers decided upon Total Allowable Catches (TACs) for most fish stocks in the north-east Atlantic for 2019. This should have resulted in Council agreeing to TACs that end overfishing, because the CFP allows for postponing the 2015 deadline 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.

Pew measures progress against Article 2(2) of the CFP by assessing if the best available scientific advice from the International Council for the Exploration of the Sea (ICES), whether based on ‘MSY’ or the ‘precautionary’ approach framework, has been followed when the Commission propose and Council decide on relevant TACs each year.

<sup>7</sup> Based on an analysis of [FishFix](#) TAC table. Version: Feb 18<sup>th</sup>, 2019.

<sup>8</sup> See Discard Plans published in the [Official Journal of the European Union, L 327, 21 December 2018](#).

<sup>9</sup> ClientEarth (2016). [Mismatch between TACs and ICES advice – Why it is an issue and how to address it](#).

<sup>10</sup> [Regulation \(EU\) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy \[...\]](#).

The following sections present an analysis of whether the Commission TAC proposals<sup>11</sup> and the Council agreement exceed, or not, the scientific advice on catch limits for 2019<sup>12</sup>. At the Fisheries Council on 17-19<sup>th</sup> December 2018, EU fisheries ministers set approximately 147 TACs in the north-east Atlantic for 2019<sup>13</sup>. 119 of the 147 TACs set by fisheries ministers are within the scope of this analysis<sup>14</sup>. However, scientific advice on catch limits for 2019 was available for only 110 out of these 119 TACs<sup>15</sup>.

## **European Commission proposal on north-east Atlantic TACs for 2019**

On 7<sup>th</sup> November 2018 the Commission proposed TACs for 77 of the 110 TACs for fish stocks in waters of the north-east Atlantic and subject to the scope of this analysis. Our analysis of those proposals shows that:

- **68 percent of the TACs proposed (52 of 77) did not exceed the scientific advice<sup>16</sup>.**
- **32 percent of the TACs proposed (25 of 77) exceeded the scientific advice.** The Commission proposal was an improvement on the previous year's proposal (7<sup>th</sup> November 2017), where 42 percent of the TACs proposed (31 of 74)<sup>17</sup> exceeded the scientific advice.
  - 8 of the TACs proposed exceeded scientific advice in relation to the maximum sustainable yield (MSY or MSY<sub>proxy</sub>). These included:
    - *common sole* in areas 7hjk; *ling* in areas 6-10, 12 and 14; and *ling* in area 4.
    - *herring* in areas 6a (south), 7bc and *herring* in areas 5b, 6b and 6a (north) – where a continuation of the '*scientific monitoring TACs*' exceeding scientific advice for zero catches was proposed<sup>18</sup>.
    - *cod* in area 6a; *whiting* in area 7a; and *plaice* in areas 7hjk – where '*bycatch TACs*' exceeding scientific advice for zero catches were proposed with the condition that '*bycatch reduction plans*' should be developed.
  - 17 of the TACs proposed exceeded scientific advice based on the ICES precautionary approach framework, these included:
    - *greater silver smelt* in areas 3 and 4; *cod* in areas 5b, 6b, 12 and 14; *whiting* in areas 5b, 6, 12 and 14; *whiting* in areas 8 and 9a; *blue ling* in area 3; *blue ling* in areas 2a and 4; *plaice* in areas 7bc; *plaice* in areas 8-10 and CECAF 34.1.1; *pollack* in areas 5b, 6, 12 and 14; *pollack* in area 7; *pollack* in areas 8abde; *pollack* in area 8c; *pollack* in areas 9, 10 and CECAF 34.1.1; *common sole* in areas 7bc; *sole* in areas 8cde, 9, 10 and CECAF 34.1.1; *sprat* in areas 7de; and *picked dogfish* in areas 1, 5-8, 12 and 14.
- **For a further 33 TACs, no proposal was published by the Commission on 7<sup>th</sup> November.** These were described as '*pm*' (*pro memoria*). Reasons provided by the Commission for not including proposals for those TACs included: they are for stocks shared with third countries and consultations were yet to conclude; the scientific advice had not been received at the time the proposal was produced; or the Commission evaluation of the scientific advice was still ongoing.

<sup>11</sup> [COM/2018/732 Proposal for a Council Regulation fixing for 2019 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.](#)

<sup>12</sup> The analysis assumes the LO fully applies and all catches will be landed and effectively monitored and controlled in 2019. In the absence of complete information on TAC adjustments for 2019 our analysis makes a liberal assumption that if the total catch advice associated with a TAC was not exceeded, then the TAC was counted as not exceeding scientific advice. As such, the number of TACs set exceeding scientific advice are likely underestimated in 2019.

<sup>13</sup> [Council Regulation \(EU\) 2019/124 of 30 January 2019 fixing for 2019 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.](#)

<sup>14</sup> Covering North-western European waters. This excludes some TACs from Annex IA of the TAC regulation which are not in EU waters (e.g. Barents Sea and Icelandic waters), are in Greenland and ultra-peripheral waters (e.g. Madeira waters), and/or are grouped TACs - 'others' or 'industrial'.

<sup>15</sup> Excludes TACs for *skates and rays* (x5) – where scientific advice was published by ICES but advice on the catch limits associated with the TAC was not determinable. Also excludes TACs for *herring* in area 7ef; *plaice* in areas 5b, 6, 12 and 14; *saithe* in areas 7, 8, 9, 10 and CECAF 34.1.1; and *common sole* in areas 5b and 6, where no scientific advice on catch limits is provided by ICES.

<sup>16</sup> Note: In many cases it can be difficult to assess the extent to which the Commission's TAC proposals follow the scientific advice. 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, we assess 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 exceeded the total maximum catch advice for the stock.

<sup>17</sup> Based on analysis of the original [Commission proposal \(2017\)](#), excluding any subsequent proposals made in Council Working party 'non-papers'.

<sup>18</sup> The EU established a monitoring TAC of 5800 t in 2016, which was maintained in 2017 and 2018. A rebuilding plan, which contains provisions for a monitoring TAC was evaluated by ICES in 2017. The plan, including a scientific monitoring TAC of 5800t, was found not to be precautionary by ICES in 2017 – ICES advised the monitoring TAC should be reduced. A revised version of the rebuilding plan was submitted to the European Commission in 2018 but has not been evaluated.

- Between the publication of the Commission proposal on 7<sup>th</sup> November and the Council meeting on 17-19<sup>th</sup> December, the Commission made additional and amended TAC proposals for discussion at relevant Council working parties. These proposals were presented to Council as ‘non-papers’, most of which were not made available on the Council website until after the decisions on fishing opportunities for 2019 had been made. This lack of accessibility and transparency prevents public stakeholders from conducting analyses of the Commission’s proposals in a comprehensive and timely manner.

In summary, the Commission proposal on fishing opportunities for 2019 proposed many TACs that exceeded scientific advice, including for several stocks with scientific advice in relation to the MSY exploitation rate. Even if the Commission proposal had been adopted in full by the Council, it would have been insufficient to end overfishing in 2019. Moreover, the Commission continues to provide insufficient public information on their full proposals, contributing to the overall lack of transparency in the TAC setting process.

More detailed joint environmental NGO recommendations in response to the Commission proposals on fishing opportunities for north-east Atlantic and North Sea stocks can be found [here](#).

## Fisheries Council TAC decisions for 2019

This section analyses whether the Council decisions on these 110 TACs exceed, or not, the scientific advice on catch limits for 2019<sup>19</sup>. Our analysis shows that:

- **59 percent (65 of 110) of the TACs were set not exceeding scientific advice.** This is a small improvement on the 56 percent (61 of 109) set not exceeding advice for 2018.
- **41 percent (45 of 110) of the TACs were set exceeding scientific advice.** This is only a small reduction from the 44 percent (48 of 109) set exceeding advice for 2018.
  - 22 of these 45 TACs were set above scientific advice based on the ICES precautionary approach framework. Several of these TACs were significantly higher than the scientific advice. These include:
    - *cod* in areas 6b and 5b (~5x advice); *whiting* in area 3a (~4x advice); *pollack* in areas 6, 5b, 12 and 14 (~4x advice); *pollack* in area 7 (~4x advice); *sprat* in area 3a (~3.5x advice); *plaice* in areas 7bc (~3x advice); *plaice* in areas 8-10 and CECAF 34.1.1 (~2x advice); and *sole* in areas 8cde, 9, 10 and CECAF 34.1.1 (~2x advice).

73 of the 110 TACs analysed had specific catch advice in relation to the MSY (or MSY<sub>proxy</sub>). The findings for TACs with MSY advice were as follows:

- **68 percent (50 of 73) of TACs were set not exceeding scientific advice.** This is a backwards step on the 71 percent of TACs with advice in relation to MSY that were set not exceeding scientific advice for 2018.
  - 9 of these 50 TACs were set exceeding advice in 2018, meaning a step forward in terms of their sustainable management and meeting the CFP’s objectives. These include:
    - *herring* in areas 7ghjk; *anglerfish* in area 7; *whiting* in areas 2a and 4; *whiting* in areas 7b-k, 8, 9 and 10; *lemon sole & witch* in areas 2a and 4; *Norway lobster* in areas 5b and 6; *plaice* in the Skagerrak; *plaice* in areas 2a and 4; and *common sole* in area 7a.
- **32 percent (23 of 73) of TACs were set exceeding scientific advice.** This is an increase on the 29 percent of TACs that were set exceeding scientific advice in relation to MSY for 2018 – a negative development.
  - 12 of the 23 TACs were also set exceeding advice in 2018. These include:
    - *herring* in areas 6a (south), 7b and 7c and *herring* in areas 5b, 6b and 6a (north) – where continuation of the ‘scientific monitoring TACs’ exceeding scientific advice for zero catches was agreed, despite scientific advice indicating that the scientific monitoring TAC should be reduced<sup>20</sup>.
    - *haddock* in areas 7b-k, 8, 9 and 10; *whiting* in area 7a<sup>21</sup>; *hake* in areas 8c, 9, 10 and CECAF 34.1.1; *ling* in area 4; *ling* in areas 6-10, 12 and 14; *plaice* in areas 7hjk<sup>21</sup> *mackerel* in areas 2a, 3a-c and 4; *mackerel* in areas 5b, 6, 7 and 8abde; *mackerel* in areas 8c, 9, 10 and CECAF 34.1.1; and *common sole* in areas 7hjk.

<sup>19</sup> Based on an analysis of [FishFix](#) TAC table. Version: Feb 18<sup>th</sup>, 2019.

<sup>20</sup> ICES (2017) - [EU - Evaluation of the recovery plan for herring in divisions 6.a and 7.b-c](#).

<sup>21</sup> A ‘bycatch TAC’ was agreed exceeding scientific advice for zero catches. See ‘Bycatch TACs’ and ‘bycatch reduction plans’ – p5.

- 11 of the 23 TACs were set not exceeding advice in 2018, a reduction and a step backward in terms of sustainable management and meeting the CFP's objectives. These include:
  - *herring* in area 3a and subdivisions 22-32; *herring* in area 3a (by-catches); *herring* in areas 4c and 7d; *herring* in areas 2, 4 and 7d; *herring* in areas 2, 4 and 7d (by-catches); *cod* in areas 2a, 3a and 4; *cod* in the Skagerrak; *cod* in area 7d; *cod* in area 6a<sup>21</sup>; *cod* in areas 7bc, e-k, 8, 9, 10 and CECAF 34.1.1<sup>21</sup> and *ling* in areas 3a-d.

In summary, ministers' decisions demonstrated:

**i) Very limited progress in following scientific advice and a lack of incremental progress in 2019 towards the Article 2(2) MSY objective of the CFP.**

Moreover, where the scientific advice on catch limits was not followed, neither the Commission nor any member states publicly presented socio-economic evidence to justify further delay in reaching MSY exploitation rates.

**ii) A failure to apply a 'precautionary approach' to TAC setting**

We observe that for half of the TACs set exceeding advice in 2019 fisheries ministers have chosen to exceed the scientific advice in relation to a precautionary approach. Uncertainty in relation to MSY exploitation rates for these stocks should require a precautionary approach to TAC setting. More needs to be done by the Commission and fisheries ministers to set TACs for 2020 in accordance with precautionary approach as a minimum benchmark where data is insufficient to manage these stocks in accordance with MSY advice. Further efforts are also needed to obtain MSY (or proxy) assessments for all these stocks, in line with the CFP's requirements.

**iii) A reluctance to follow scientific advice for both EU-managed stocks and shared stocks**

Although fisheries ministers made progress setting Union only (non-shared) TACs not exceeding scientific advice in relation to MSY, they chose to exceed the scientific advice for several non-shared TACs, including: *hake* in areas 8c, 9, 10 and CECAF 34.1.1; *haddock* in areas 7b-k, 8, 9 and 10; *common sole* in areas 7hjk; *ling* in areas 3a-d; and *ling* in area 4. Several TACs exceeding scientific advice in relation to MSY were agreed for stocks shared between the EU and Norway – including North Sea *herring* and North Sea *cod*, going against both parties' common legal obligation to maintain and restore shared fish stocks at levels which can produce the maximum sustainable yield ( $B_{MSY}$ )<sup>22</sup>. Moreover, the continued setting of the north-east Atlantic *mackerel* TACs exceeding scientific advice by the EU and other Coastal States is also a barrier to meeting the objectives of the EU's CFP. The EU and Coastal States should take due account of their international commitments under the Law of the Sea and UN Sustainable Development Goals (SDG 14.4) when agreeing on fishing limits for shared stocks such as mackerel.

## Sustainable exploitation in the context of the landing obligation (LO)

**Poor monitoring, control and enforcement of the LO risks overfishing, particularly in 2019.** The LO applies to all species with catch limits from 2019 unless there are specific exemptions provided for in discard plans<sup>23</sup>. Basing TACs for 2019 on total catch advice assumes there will be full compliance with the LO and effective monitoring of catches along with the permitted exemptions. As recognised by the Commission, there are serious concerns about widespread non-compliance with the LO<sup>24,25</sup>. Where unreported discarding continues and LO exemptions are not monitored, fishing mortality and catches above scientifically advised levels will increase - thereby contributing to overfishing and a possible degradation of scientific advice.

### Introduction of bycatch TACs and associated bycatch reduction plans

The Commission proposal contained a new policy with an aim to address the issue of '*choke species*' in the context of the LO and TACs where scientific advice is for zero catches. In advance of the December Council

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<sup>22</sup> Article. 61.3, 63.1 of [UNCLOS](#).

<sup>23</sup> See Discard Plans published in the [Official Journal of the European Union, L 327, 21 December 2018](#).

<sup>24</sup> European Commission (2018), DG MARE, Towards new SCIPs, Advisory Council Consultation.

<sup>25</sup> [Commission staff working document accompanying COM\(2018\)452 final - Communication from the Commission on the state of play of the common fisheries policy and consultation on the fishing opportunities for 2019](#).

NGOs made joint recommendations on implementing the landing obligation<sup>26</sup> and in response to the Commission's specific proposal for bycatch TACs and bycatch reduction plans<sup>27</sup>.

At the December Council five '*bycatch TACs*' were set exceeding scientific advice for zero catches<sup>28</sup>. These include: *cod* in area 6a; *cod* in areas 7bc, 7e-k, 8-10 and CECAF 34.1.1; *whiting* in areas 6, 5b, 12 and 14; *whiting* in area 7a; and *plaice* in areas 7hjk. As per the Commission proposal, bycatch TACs greater than the zero catches advised by ICES were agreed on the condition that '*bycatch reduction plans*' will be developed. Ministers also agreed clear timelines for the development of these plans, that they should include measures to minimise bycatches and ensure that all catches are subject to full catch documentation<sup>29</sup>.

NGOs recommended that where setting bycatch TACs, Council should take a two-step reduction in catches in 2019 and 2020, in order to reduce fishing mortality and not exceed the MSY or MSY<sub>proxy</sub> fishing mortality rates by 2020. We remain concerned that the *bycatch TACs* set for *cod* in area 6a; *cod* in areas 7bc, 7e-k, 8-10 and CECAF 34.1.1; *plaice* in areas 7hjk in 2019 are too high if catches were to be reduced in two equal steps. However, we welcome the intent by the Council to reduce catches for these stocks and remind the Commission and member states that the bycatch reduction plans being developed should above all aim to reduce fishing mortality, be compatible with the CFP's MSY objective and encourage stock recovery in the shortest possible timeframes.

Member states agreed to submit to the Commission by 30<sup>th</sup> April 2019 bycatch reduction plans, which should contain specific bycatch reduction measures e.g. more selective gears, area closures, real time closures, avoidance measures and move-on rules. We welcome that these plans will be scientifically evaluated by the scientific, technical and economic committee for fisheries (STECF) and that member states will report every year to the Commission on the progress achieved with these plans and full catch documentation.

However, because bycatch reduction measures were not agreed before fishing commenced under these TACs, this timeline leaves a significant risk of potential additional fishing mortality between 1<sup>st</sup> January and the date of implementation of the plans and full catch documentation.

## **Transparency issues hindering full accountability on TAC setting**

Some important transparency issues continue to impede our assessment of the extent to which Council sets catch limits in line with the scientific advice:

### **TAC adjustments ('top-downs') to account for the landing obligation (LO)**

The LO applies to all species with catch limits from 2019 unless there are specific exemptions provided for in discard plans. In 2019 it appears TACs were set based on ICES total catch advice where available, with deductions made for exemptions where applicable (i.e. a 'top-down' calculation). However, the publicly available information on final top-down TAC adjustments were insufficient at the time of writing to analyse comprehensively whether TACs were set not exceeding scientific advice. This was true in particular for TACs partially subject to the LO due to exemptions. In these cases, further information is required to assess if the TACs set (including adjustment) will lead to fishing mortalities above scientifically advised levels. In the absence of complete information on TAC adjustments our analysis therefore made a liberal assumption and compared TACs against total catch advice, even where LO exemptions or control issues introduce a risk of additional fishing mortality.

Nevertheless, we observe from our analysis that several TACs were set at levels consistent with maximum advised catches (total catch advice) but some fisheries targeting the associated stocks also appear to have exemptions from the LO which were not accounted for in the setting of the TACs<sup>30</sup>. In these cases, the exemptions from the LO are likely to lead to catches and fishing mortality above scientifically advised levels and overfishing of the stocks concerned.

<sup>26</sup> [Recovering fish stocks and fully implementing the Landing Obligation, 2018](#) (see pages 5-6 and Annex).

<sup>27</sup> [Joint NGO recommendations on fishing opportunities for 2019 - Northeast Atlantic and North Sea stocks - Annex I](#)

<sup>28</sup> However, TACs agreed were less than ICES estimates of the likely catches in 2019 of these specific bycatch/non-targeted stocks. See [EU - Technical Service - Estimates of the likely catches in 2019 of specific bycatch/non-targeted stocks with zero or low catch advice](#).

<sup>29</sup> [Statements](#), Council Regulation (EU) 2019/124 of 30 January 2019 fixing for 2019 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.

<sup>30</sup> *Haddock* in areas 3a and subdivisions 22-32; *haddock* in areas 4 and 2a; *haddock* in areas 5b and 6a; *plaice* in area 3a; *plaice* in areas 4, 2a and 3a; *saithe* in areas 3a, 4, 2a-c and subdivisions 22-32; and, *saithe* in areas 6, 5b, 12 and 14.

## **Stock and TAC area mismatch**

For many stocks there are mismatches between the geographic areas used by ICES in its stock assessments and the areas covered by a TAC<sup>31</sup>. This means that for some TACs it is not possible for stakeholders to ascertain to what extent scientific advice has been followed. We would welcome improved transparency on how the Commission arrives at the proposed TAC from the scientific advice, for example, how scientific advice on catches for stocks are apportioned to TAC areas, and how total catch advice is respected in relation to the LO and the adjustments made. Our analysis makes assumptions to address these uncertainties. Further recommendations to improve the transparency and accountability of setting fishing limits can be found in the joint NGO recommendations on fishing opportunities for 2019<sup>32</sup>.

## **Conclusions**

Pew draws the following conclusions on the setting of north-east Atlantic fishing limits for 2019:

- There are transparency issues that continue to make it difficult to analyse comprehensively the extent to which the Council set TACs in line with the scientific advice.
- The Commission proposal on fishing opportunities for 2019 was a continued improvement on previous proposals but the Commission still proposed many TACs exceeding scientific advice, including for several stocks with advice in relation to the MSY exploitation rate. Even if the Commission proposal had been adopted in full by the Council, it would have been insufficient to end overfishing in 2019.
- Fisheries ministers continued to agree a significant number (41 percent) of TACs for 2019 that exceeded the scientific advice. This was only a small reduction compared to last year (44 percent).
- Since 2014, fisheries ministers have decreased the overall number of TACs set exceeding scientific advice by 17 percentage points.
- Since 2017, fisheries ministers have also removed 4 of the 114 December Council TACs with scientific advice on catch limits<sup>33</sup>. Removing TACs does not address the potential for overfishing of these stocks, as targeted catches, bycatches and discards can continue.
- Fisheries ministers reversed some of the progress made last year on the number of TACs set not exceeding scientific advice where estimates of maximum sustainable yield (MSY or MSY<sub>proxy</sub>) were available.
- For the TACs set exceeding scientific advice in 2019 neither the Commission, nor any member states, publicly presented evidence of socio-economic impacts to justify postponing the 2015 deadline to achieve MSY exploitation rates.
- Poor monitoring, control and enforcement of the landing obligation (LO) poses a high risk of overfishing in 2019. If discarding continues unreported and LO exemptions are not monitored, unaccounted fishing mortality and catches above scientifically advised levels will continue - thereby contributing to overfishing and a possible degradation of scientific advice.
- ‘Bycatch TACs’ were agreed for five TACs exceeding scientific advice for zero catches on the condition that ‘bycatch reduction plans’ will be developed. The effectiveness of this policy depends on fast implementation, measures that will effectively reduce fishing mortality and effective control measures.
- Despite some positive progress in ending overfishing since 2014, the Commission and Council have implemented the CFP requirements far too slowly. This leaves significant steps to be taken in 2019 to end overfishing by the 2020 deadline. Setting TACs not exceeding scientific advice and effectively implementing the LO remain a top priority if the CFP’s legally binding objectives are to be successfully delivered.

## **Recommendations**

Pew makes the following recommendations on the setting of north-east Atlantic fishing limits for 2020:

- The Commission should propose all TACs for 2020 not exceeding scientific advice (whether it is provided by ICES on the basis of MSY or the precautionary approach) and fully in line with the requirements of the CFP.

<sup>31</sup> See for instance ClientEarth (2016). [Mismatch between TACs and ICES advice – Why it is an issue and how to address it](#).

<sup>32</sup> [Joint NGO recommendations on fishing opportunities for 2019 - Northeast Atlantic and North Sea stocks - Annex I](#)

<sup>33</sup> *Idem*. Footnote 6.

- The Commission should improve transparency of TAC setting. This includes publishing details on the methodologies for TAC adjustments and for matching scientific advice with TAC areas, and publishing all ‘non-papers’ with additional TAC proposals.
- If there is no significant improvement of the monitoring and control of the LO the Commission should account for the risk of continued discarding by proposing more precautionary TACs.
- For shared (jointly managed) stocks the EU should call on Coastal States to follow their common international commitments to end overfishing, particularly if the objectives of the CFP are to be achieved by 2020.
- With fishing opportunities for 2020 to be decided in December 2019, the Council must end overfishing by setting all TACs not exceeding scientific advice.

Pew also issues the following recommendations in relation to the implementation of the LO and new bycatch TAC/bycatch reduction plan policies in 2019:

- To ensure fishing mortality is not increased above scientifically advised levels and to ensure exemptions and ‘bycatch TACs’ are effectively monitored, it is essential that fleets and vessels are fully subject to robust and reliable monitoring and control measures, (e.g. 100% observers coverage or remote electronic monitoring); in particular, CCTV monitoring should be implemented on vessels identified as being at medium, high or very high risk of non-compliance with the LO, and especially where ‘bycatch TACs’ and exemptions from the LO are applied.
- The ‘bycatch reduction plans’ should be evaluated by STECF as soon as possible in 2019.
- The Commission and member states should ensure that effective bycatch reduction plans are implemented in the first half of 2019.
- The ‘bycatch TACs’ should only be made available once the evaluated plans are implemented.
- Ultimately, these bycatch TACs and bycatch reduction plans should ensure bycatch and fishing mortality is reduced and stocks can rebuild as soon as possible.
- If the STECF review indicates that the requirements of the CFP are not being met, then measures must be adjusted accordingly, and access to bycatch TACs should be withdrawn until this is done.

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