

## Joint NGO recommendations on the setting of Northeast Atlantic fishing opportunities for 2020

22 October 2019

On behalf of The Pew Charitable Trusts, Oceana, ClientEarth, Seas At Risk, FishSec and Our Fish, we present our recommendations on the setting of Northeast Atlantic fishing opportunities for 2020.

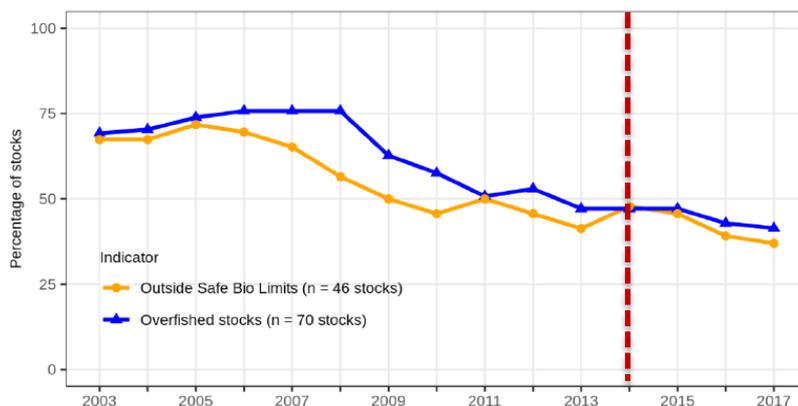
Overall, we urge EU fisheries ministers and the Commissioner to take our recommendations into account during the upcoming Council meetings and to ensure that total allowable catches (TACs) set for 2020 meet the objectives and legal requirements of the Common Fisheries Policy (CFP), that the Landing Obligation (LO) is effectively implemented, and that the process of setting annual fishing opportunities is transparent to citizens and stakeholders.

### Progress in implementing the CFP

The transition period foreseen in Article 2(2) of the CFP, with the maximum sustainable yield (MSY) exploitation rate to be achieved by 2015 where possible, and at the latest by 2020 for all stocks, is all but over.

For the last five years NGOs have contributed detailed policy recommendations to resolve the challenges facing the management of various European fish stocks. However, it remains all too clear that insufficient progress is being made to deliver the CFP's objectives due to a lack of political will. The Scientific, Technical and Economic Committee on Fisheries (STECF) emphasized in its latest CFP monitoring report that *“many stocks remain overfished and/or outside safe biological limits, and that progress achieved until 2017 seems too slow to ensure that all stocks will be rebuilt and managed according to  $F_{MSY}$  by 2020”*<sup>1</sup>.

According to the STECF official reporting, around 41 percent of analysed stocks (29 of 70) remain overfished in relation to the MSY exploitation rate. This is down from 47 percent (33 of 70) in 2014 (Figure 1), a net reduction of just 4 overfished stocks since the entry into force of the CFP in 2014.



**Figure 1:** Trends in stock status in the Northeast Atlantic 2003-2017. Two indicators are presented: **blue line:** the proportion of overexploited stocks ( $F > F_{MSY}$ ) within the sampling frame (64 to 70 stocks fully assessed, depending on year) and **orange line:** the proportion of stocks outside safe biological limits ( $F > F_{pa}$  or  $B < B_{pa}$ ) (out of a total of 46 stocks). **Source:** Modified from [STECF \(2019\)](#). Added **red line:** CFP entry into force: 1 January 2014.

<sup>1</sup> [STECF \(2019\) - Monitoring the Performance of the Common Fisheries Policy](#).

In addition, for a majority of commercial fish stocks, official reporting on the MSY exploitation rate is still lacking, so progress in the implementation of the CFP for these stocks is uncertain. However, other peer reviewed scientific information, covering 397 stocks, also indicates excessive exploitation rates in European waters<sup>2</sup>.

### **The European Council's role in protracted implementation of the CFP**

The AGRIFISH Council has an obligation when setting fishing opportunities to follow the legal requirements of the CFP and a responsibility to follow the best available science on long-term sustainable and precautionary catches. However, although the gap between the catch limits set by ministers and scientific advice has been narrowed during recent years<sup>3</sup>, in 2019 over **40 percent** of TACs for the Northeast Atlantic were still set higher than scientific advice provided by the International Council for the Exploration of the Sea (ICES)<sup>4</sup>.

Until now, ministers have actively chosen fishing pressures for many stocks higher than scientific advice, and many stocks remain overfished in relation to the MSY objective and/or outside safe biological limits (Figure 1). Moreover, stocks which are primarily taken as bycatch and/or subject to data-limited precautionary approach advice are being treated with a lower ambition than those that are targeted and/or subject to MSY-based advice. The CFP's Article 2(2) MSY objective applies to all harvested species and in the absence of MSY advice, a precautionary approach - as defined by the United Nations Fish Stock Agreement (UNFSA) - should be followed. Failing to follow ICES data-limited precautionary approach catch advice goes against a key principle of good governance stated in the CFP's Article 3, namely the establishment of measures, including the setting of catch limits, in accordance with the best available scientific advice.

We are very concerned about this continued failure to follow scientific advice. This lack of progress against the CFP objectives risks the collapse of certain fish populations and damages marine ecosystems. It also undermines the potential long-term social and economic benefits that could be achieved from sustainably managed fisheries<sup>5</sup> and reduces the supply of sustainable European sourced fish for consumers. Risking such sustained high fishing pressures has serious real-world consequences, as this year's scientific advice for iconic stocks like North Sea cod demonstrates. Fisheries management should aim higher than this short-termism, and indeed EU law in the shape of the CFP requires this.

Moreover, the situation is exacerbated by the continued failure of EU member states to effectively implement the landing obligation (LO). We are concerned about the impact of member states' continued use of various flexibilities to address the challenges of the LO (such as TAC adjustments, LO exemptions and bycatch TACs) without adequate monitoring, control and enforcement, and despite the clear recognition, including by the European Commission, that compliance with the LO remains poor<sup>6</sup>. The absence of adequate monitoring and control of the LO, combined with setting TACs based on catch rather than landings advice, risks increasing fishing mortality above scientifically advised sustainable levels. In addition, the very basis of future scientific advice is undermined if discarding continues unreported.

At the same time, we are concerned that very few improvements in bycatch avoidance and selectivity to reduce unwanted catches have been demonstrated in the five years during which the LO has been in force<sup>7</sup>. Furthermore, a greater consideration should be made by member states to adjust the capacity of their fleets to better match available fishing opportunities (Article 22 of the CFP) and better allocate available fishing opportunities in a way that incentivises fishing activities that are highly selective and have reduced environmental impacts (Article 17 of the CFP).

In addition, we are alarmed that ministers have not honoured the commitments made during the 2018 December Council, linking the adoption of "bycatch TACs" to the adoption of robust "bycatch reduction

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<sup>2</sup> [Froese et al. 2018. Status and rebuilding of European fisheries. Marine Policy, 93: 159-170](#)

<sup>3</sup> [NEF \(2019\) – Landing the blame: Overfishing in the Northeast Atlantic 2019.](#)

<sup>4</sup> [Pew Charitable Trusts \(2019\) - Analysis of Fisheries Council agreement on fishing opportunities in the north-east Atlantic for 2019.](#)

<sup>5</sup> [Oceana \(2017\) - Healthy Fisheries are good for business.](#)

<sup>6</sup> [COM\(2019\) 274 Final. Communication from the Commission to the European Parliament and the Council on the state of play of the Common Fisheries Policy and consultation on the fishing opportunities for 2020.](#)

<sup>7</sup> [Fitzpatrick & Nielsen \(2019\) - DISCARDLESS: Fourth policy brief on guidelines for the implementation of the discard policy in European regions.](#)

plans” for stocks subject to zero-catch advice,<sup>8</sup> and to the implementation of control measures and fully documented fisheries for these stocks<sup>9</sup>. The bycatch TACs were granted before any plans had been developed, and the measures ultimately proposed simply enabled business as usual without a clear, ambitious route towards bycatch minimisation and stock recovery. The STECF’s evaluation<sup>10</sup> of the North Western Waters bycatch reduction plan<sup>11</sup> clearly confirms our concerns that the proposed plan was not fit for purpose<sup>12</sup>. We are now most of the way through 2019 with no bycatch reduction plans implemented, no further progress on bycatch reduction and no means to monitor or account for any discards, confirming that the basis for these TACs was scientifically and legally unsound.

In conclusion, the use of all these approaches to ease in the LO, while robust and effective monitoring, control and enforcement are lacking, has only increased the risks for stocks and jeopardises the achievement of the CFP’s objectives.

## Recommendations

We call on the Commission and Council to work together to prevent past policy failings being repeated in the critical deadline year of 2020, to take the long-term view and to show political will in implementing the CFP. This can be done by taking coordinated action to set fishing opportunities in line with scientific advice and by making renewed efforts to effectively implement the LO. Many important catch limits for 2020 will be agreed with third countries such as Norway, or through the North East Atlantic Fisheries Commission Coastal States process, before their inclusion in the Council’s TAC regulation for 2020. This commitment to sustainability is necessary in the context of both the Council’s decisions on EU TACs, and also in the EU’s international negotiations on shared stocks.

In accordance with the [Joint NGO response to the Commission consultation on the setting of fishing opportunities for 2020](#) we have the following recommendations for fisheries Ministers and the Commissioner.

### 1. On setting TACs for 2020 in line with the CFP requirements

- Set TACs not exceeding scientifically advised levels. This means not exceeding ICES advice under the MSY approach or the  $F_{MSY}$  point value catch limits for stocks where MSY-based reference points are available; and not exceeding ICES advised precautionary approach catch limits where MSY-based reference points are not available.

Where MSY-based advice is available, ministers must not set TACs based on precautionary approach reference points (e.g.  $F_{pa}$ ) to allow for higher fishing pressure, since this would undermine the CFP’s objectives.

- For some stocks, set TACs lower than the ICES single species catch advice when considering mixed fishery interactions, to ensure that no stocks in a mixed fishery are fished above  $F_{MSY}$ .
- Establish strong remedial measures for stocks that are below  $B_{lim}$  and/or have zero-catch advice.
- Take a precautionary approach - as defined by the UNFSA - when setting TACs for stocks where there is no scientific advice on maximum catches. This should include the setting of precautionary fishing limits and additional measures to mitigate the risk of overfishing, as well as enhanced monitoring and data collection for the stocks concerned.
- Introduce scientifically assessed measures for all non-TAC stocks to ensure sustainable exploitation in line with the CFP objectives.

### 2. On implementation of the Landing Obligation (LO)

- Set TACs lower than the catch advice, to avoid the serious risk of increasing fishing mortality above sustainable levels in light of the general lack of compliance with the LO.<sup>13</sup>

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<sup>8</sup> [Statement of the North Western Waters regional group made at December Council 2018](#).

<sup>9</sup> Recital 8 of Council Regulation (EU) 2019/124, stating that “all vessels benefitting from these specific TACs should implement full catch documentation as from 2019”.

<sup>10</sup> [STECF \(2019\) - 61st Plenary Meeting Report \(PLEN-19-02\)](#), p.102 onwards.

<sup>11</sup> By-catch reduction plan (BCReP) in the North Western Waters. 2019-06-04 version. Draft received on 12 June 2019.

<sup>12</sup> [Joint NGO letter to the Commission on bycatch reduction plans. 24 May 2019](#).

<sup>13</sup> [COM\(2019\) 274 Final. Communication from the Commission to the European Parliament and the Council on the state of play of the Common Fisheries Policy and consultation on the fishing opportunities for 2020](#).

- Make any quota from TAC adjustments which are nevertheless adopted accessible only to vessels which demonstrate full compliance with the LO, through the use of reliable and robust methods of full catch documentation (e.g. observers or remote electronic monitoring, and in particular, CCTV on vessels identified as being at medium, high or very high risk of non-compliance with the LO), and especially where exemptions from the LO are applied.
- Refrain from removing TACs or adding species to the prohibited species list in order to avoid the full implementation of the LO. Regardless of whether a stock is subject to the LO, ministers should put in place appropriate measures and safeguards to fulfil the MSY objective of the CFP, as well as robust methods of full catch documentation for fleets catching vulnerable stocks or prohibited species.
- Ensure no further use of “bycatch TACs” unless and until bycatch reduction plans that can effectively reduce bycatches and set the relevant stocks on a pathway to recovery above levels capable of producing MSY are developed and established, and robust monitoring and control are in place.

### 3. Improve the transparency and accountability of the TAC setting process

- Make publicly available the information and considerations used when setting TACs for stocks subject to a mismatch between TAC management units and scientific advice.
- Make publicly available the proposed TAC adjustments in relation to the LO (e.g. deductions for exemptions from the LO), including the proposed figures before and after these adjustments have been applied, as well as any underlying calculations and data.
- Make publicly available any studies or data used in the argumentation for exceeding scientific advice.
- Make all of the decisions regarding the points above publicly available shortly after the meetings are completed.

The recent publication of the Intergovernmental Panel on Climate Change (IPCC) Special Report on the Ocean and Cryosphere in a Changing Climate (SROCC)<sup>14</sup> predicts severe declines in European fisheries production and highlights the need to alleviate all other stressors on ocean ecosystems, specifically, ending overfishing to help restore fish populations and increase ocean resilience. In light of this clear call to climate action, all fishing limits should at the very least not exceed the best available scientific advice and preferably be even more precautionary in light of diverse threats and uncertainty.

In this critical period leading up to the 2020 deadline in EU law, we count on your leadership to ensure that the commitments made during the reform of the CFP are upheld, and to ensure that the environmental, economic and social benefits of ending overfishing are realised as soon as possible.

We remain available to assist you in this task.

Yours sincerely,

**Andrew Clayton**  
Project director  
The Pew Charitable Trusts

**Doug Ruley**  
Chief Counsel  
ClientEarth

**Jan Isakson**  
Executive Director  
FishSec

**Pascale Morhle**  
Executive Director  
Oceana in Europe

**Monica Verbeek**  
Executive Director  
Seas At Risk

**Rebecca Hubbard**  
Program Director  
Our Fish

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<sup>14</sup> [http://report.ipcc.ch/srocc/pdf/SROCC\\_FinalDraft\\_FullReport.pdf](http://report.ipcc.ch/srocc/pdf/SROCC_FinalDraft_FullReport.pdf)