

## Analysis of Fisheries Council agreement on fishing opportunities in the Baltic Sea for 2020

15 April 2020

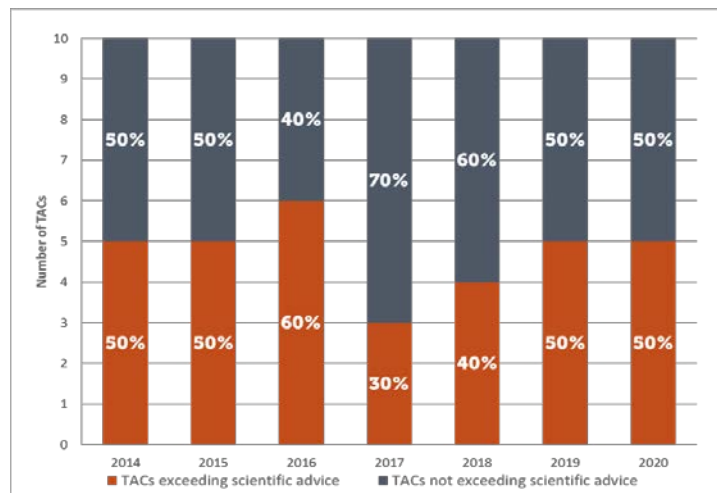
### Summary

Fisheries ministers of the EU AGRIFISH Council failed to achieve the objective of ending overfishing for the Baltic Sea region, as per the deadline outlined in Article 2(2) of the EU Common Fisheries Policy (CFP - 2013)<sup>1</sup>.

In May 2019, the International Council for the Exploration of the Sea (ICES) advised reductions in catches for most (9 of 10) Baltic Sea stocks managed by Total Allowable Catches (TACs). In 2019, fishing rates for only two Baltic Sea stocks with TACs were assessed by ICES as at or below  $F_{MSY}$ <sup>2</sup>.

On 30<sup>th</sup> August 2019, the Commission proposed 4 of 10 Baltic Sea TACs for 2020 exceeding ICES catch advice<sup>3</sup>. Limits in excess of the science and CFP requirements were therefore already proposed<sup>4</sup> before October Council.

On 15<sup>th</sup> October 2019, fisheries ministers decided to further water down the Commission's proposals. Ministers set half of the Baltic Sea TACs (5 of 10)<sup>5</sup> exceeding the best available scientific advice on long-term sustainable catches for 2020 (**Figure 1**), increasing some catch limits beyond levels proposed by the Commission (e.g. Baltic sprat, western Baltic cod and herring), and removing some positive proposals for improved at-sea monitoring of Baltic cod bycatches. Overall, in 2020 the same number of Baltic Sea TACs were set in accordance with scientific advice as in 2014, when the CFP entered into force.



**Figure 1** – Comparison of Baltic Sea TACs set by fisheries ministers (2013-19) exceeding or not exceeding the scientific advice on catch limits for 2014-20.

<sup>1</sup> [REGULATION \(EU\) No 1380/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations \(EC\) No 1954/2003 and \(EC\) No 1224/2009 and repealing Council Regulations \(EC\) No 2371/2002....](#)

<sup>2</sup> [ICES. 2019. Baltic Sea Ecosystem – Fisheries Overview](#). Report of the ICES Advisory Committee, 2019. ICES Advice 2019, section 4.2. 28 pp.

<sup>3</sup> Western Baltic herring (SDs 22-24), eastern Baltic cod (SDs 25-32), main Baltic (SDs 22-31) and Gulf of Finland (SD 32) salmon.

<sup>4</sup> [COM/2019/380 - Proposal for a COUNCIL REGULATION fixing for 2020 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea and amending Regulation \(EU\) 2019/124, as regards certain fishing opportunities in other waters.](#)

<sup>5</sup> Western Baltic herring (SDs 22-24), eastern Baltic cod (SDs 25-32), Baltic sprat (SDs 22-32), main Baltic (SDs 22-31) and Gulf of Finland (SD 32) salmon.

## ICES advice on catch limits for 2020

On 29<sup>th</sup> May 2019, ICES published its scientific advice on catch limits for Baltic Sea stocks in 2020. ICES advised reductions in catches for nine out of the ten Baltic Sea TACs.

Previously, fisheries ministers set five of the ten Baltic Sea TACs for 2019 exceeding the ICES advice, and in one other case (western Baltic cod), set a TAC not exceeding advice but with a high likelihood of more rapidly depleting the single year-class that the future health of the stock relies upon<sup>6</sup>. **The reductions advised by ICES for 2020 were therefore, in the majority of cases, foreseeable and could have been mitigated by better decision-making by the Commission and the EU AGRIFISH Council in previous years.**

In June 2019, several NGOs made [joint recommendations to the Commission and Council on the setting of Baltic Sea fishing opportunities for 2020](#) based on ICES advice.

## European Commission proposals on catch limits for 2020

Every year the Commission is responsible for proposing Baltic Sea TACs based on the best available scientific advice from ICES and within the bounds of the legal requirements of the CFP and Baltic Sea Multi-annual Plan (BSMAP - 2016)<sup>7</sup>.

Since the CFP was reformed in 2013, the Commission has proposed at least some Baltic Sea TACs each year in excess of ICES scientific advice on maximum total catch limits. Proposals above scientific advice mean that the political process of setting catch limits can only fail to deliver the minimum biological conservation requirements to achieve MSY, as defined in the CFP and advised upon under ICES advice framework.

On 30<sup>th</sup> August 2019, the Commission proposed fishing opportunities for certain fish stocks in the Baltic Sea for 2020<sup>8</sup>. **The Commission proposed four of the ten TACs exceeding ICES scientific advice**<sup>9</sup>. This was worse than its proposal in 2017 but a minor improvement compared to 2018, where five of the ten TACs proposed were exceeding scientific advice<sup>10</sup>.

### i. TAC proposals exceeding scientific advice for 2020 and covered by the Baltic Sea MAP

Eight of the ten Baltic Sea TACs fall within scope of the BSMAP. **The Commission proposed two of the eight TACs exceeding ICES scientific advice for 2020.** These were for **western Baltic herring** and **eastern Baltic cod**.

For both stocks ICES advised zero catches in 2020 based on their poor and deteriorating status. According to ICES, both stocks are lower than the limit spawning biomass reference point ( $B_{lim}$ ) below which there may be reduced reproductive capacity, and a risk of stock collapse. The deterioration of these stocks over the past few years means they are now many years away from a size capable of producing MSY, as required by the CFP and the BSMAP.

For **western Baltic herring**, the Commission proposed a TAC of 2,651 tonnes for 2020. This is less than the  $F_{MSY}$  lower and according to ICES 'catch scenarios' should allow the spawning stock to be just above  $B_{lim}$  by 2022<sup>11</sup>. Zero catches in 2020, as advised by ICES would have been necessary to ensure the most rapid recovery of the western Baltic herring stock.

For **eastern Baltic cod** the Commission proposed a 'bycatch TAC' of 2,000 tonnes for 2020<sup>12</sup>. It should be noted that no information was provided by the Commission on the scientific basis for the level of bycatch TAC

<sup>6</sup> [Pew Analysis of Fisheries Council agreement on fishing opportunities in the Baltic Sea for 2019.](#)

<sup>7</sup> [REGULATION \(EU\) 2016/1139 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 6 July 2016 establishing a multiannual plan for the stocks of cod, herring and sprat in the Baltic Sea and the fisheries exploiting those stocks...](#)

<sup>8</sup> [COM/2019/380 - Proposal for a COUNCIL REGULATION fixing for 2020 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea and amending Regulation \(EU\) 2019/124, as regards certain fishing opportunities in other waters.](#)

<sup>9</sup> Central Baltic herring (subdivisions 25-27, 28.2, 29 & 32), Gulf of Riga herring (subdivision 28.1), Gulf of Bothnia herring (subdivisions 30-31), western Baltic cod (subdivisions 22-24), Baltic plaice (subdivisions 22-32) and Baltic sprat (subdivisions 22-32).

<sup>10</sup> [Pew Analysis of Fisheries Council agreement on fishing opportunities in the Baltic Sea for 2019.](#)

<sup>11</sup> [ICES. 2019. Herring \(\*Clupea harengus\*\) in subdivisions 20-24, spring spawners \(Skagerrak, Kattegat, and western Baltic\).](#)

<sup>12</sup> [ST 12348 2019 REV 3 - Proposal for a Council Regulation fixing for 2020 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea and amending Regulation \(EU\) 2019/124, as regards certain fishing opportunities in other waters.](#)

proposed. This bycatch TAC is a significant concern because ICES states in its advice that “...fishing at any level will target the remaining few commercial sized ( $\geq 35$  cm) cod; this will deteriorate the stock structure further, and reduce its reproductive potential.”<sup>13</sup>

In addition, the Commission proposed to extend the summer closure, covering the entire spawning period of the stock, for cod in subdivisions (SDs) 25-26, with derogations for certain fishing activities<sup>14</sup>. Finally, it proposed to prohibit recreational fishing of cod in SDs 25-26. The Commission also proposed that in order to ensure compliance with the no directed fisheries on eastern Baltic cod and the ‘bycatch TAC’, that vessels 12 meters or more in length deploy control observers or use Remote Electronic Monitoring (REM) systems, incorporating Closed Circuit Television (CCTV) systems and sensors<sup>15</sup>. Pew welcomed the Commission's intent to make its proposal for an eastern cod bycatch TAC conditional on improved monitoring and control.

Overall, while the Commission proposal for 2020 did propose significantly reduced fishing opportunities, suspending certain ‘targeted’ fishing activities, and an extension of existing technical measures for eastern Baltic cod, we remain concerned these proposed measures do not achieve the CFP’s Article 2(2) objective or fully address warnings from ICES that fishing at any level will deteriorate the stock further.

## ii. Proposals for TACs exceeding scientific advice not covered by the Baltic Sea MAP

For the two **Baltic Sea Main Basin and Gulf of Finland salmon** TACs, it remains unclear if the Commission TAC proposals are in line with ICES scientific advice. The joint NGO recommendations for these two TACs were to follow ICES advice for “*reported wanted catch*”, minus an assumed Russian share<sup>16</sup>. This assumes unreported, misreported and third country catches be deducted from the scientifically advised maximum catch, to safeguard the stocks from these additional sources of fishing mortality. It appears that in both cases the TACs proposed by the Commission are higher than would be the case if these deductions were taken into account.

## Council failure to end overfishing in the Baltic Sea by 2020

On 15<sup>th</sup> October 2019, the EU AGRIFISH Council set fishing limits in the Baltic Sea for 2020<sup>17</sup>. The Council chose to set half (5 of 10) of the Baltic Sea TACs exceeding the best available scientific advice on long-term sustainable catches for 2020 (**Figure 1**). This includes the TACs for **Baltic sprat, eastern Baltic cod, western Baltic herring, main Baltic salmon** and **Gulf of Finland salmon**.

The five TACs set not exceeding scientific advice and in accordance with the CFP requirement include Gulf of Riga herring, central Baltic herring, Gulf of Bothnia herring, Baltic plaice and western Baltic cod.

The Council agreed to three of the Commission TAC proposals that already exceeded scientific advice, including **main Baltic salmon, Gulf of Finland salmon** and **eastern Baltic cod** (“bycatch TAC”). Furthermore, the Council removed the Commission’s proposal for improved at-sea monitoring (using observers or REM) of eastern Baltic cod bycatches by vessels 12 meters or more in length<sup>18</sup>.

In addition, the Council chose to increase the tonnages of three TACs beyond levels originally proposed by the Commission. One of these was for **western Baltic herring**, a catch limit already proposed exceeding scientific advice by the Commission. The other two were for **western Baltic cod** and **Baltic sprat** which were proposed by the Commission not exceeding scientific advice.

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<sup>13</sup> [ICES. 2019. Cod \(\*Gadus morhua\*\) in subdivisions 24-32, eastern Baltic stock \(eastern Baltic Sea\).](#)

<sup>14</sup> Union fishing vessels of less than 12 meters length overall fishing with gillnets, entangling nets or trammel nets, with bottom set lines, longlines (except drifting lines), handlines and jigging equipment or other passive gear in areas up to six nautical miles measured from the baselines where the water depth is less than 20 meters according to the coordinates on the official sea chart issued by the competent national authorities

<sup>15</sup> [ST 12348 2019 REV 3 - Proposal for a Council Regulation fixing for 2020 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea and amending Regulation \(EU\) 2019/124, as regards certain fishing opportunities in other waters.](#)

<sup>16</sup> [Joint NGO recommendations on Baltic Sea fishing opportunities for 2020.](#)

<sup>17</sup> [ST 13239 2019 INIT - Council Regulation \(EU\) 2019/1838 of 30 October 2019 fixing for 2020 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea and amending Regulation \(EU\) 2019/124 as regards certain fishing opportunities in other waters.](#)

<sup>18</sup> [ST 12348 2019 REV 3 - Proposal for a Council Regulation fixing for 2020 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea and amending Regulation \(EU\) 2019/124, as regards certain fishing opportunities in other waters.](#)

**i. Council TAC setting in relation to scientific advice.**

Pew is concerned that the Council used the provisions of the BSMAP to set a TAC for **Baltic sprat** using the  $F_{MSY}$  upper range, with the assumed 10.08%<sup>19</sup> Russian share deducted (i.e. a Union TAC of 210,147 tonnes).

The Council agreed to the Commission bycatch TAC proposal of 2,000 tonnes and the suspension of certain targeted fishing activities for **eastern Baltic cod**. The stock has deteriorated in recent years, in the context the persistent setting of the TAC by Council exceeding ICES scientific advice each year since 2013. ICES warns in its 2019 advice that fishing at any level may deteriorate stock structure further. Moreover, there was no scientific justification for the level of bycatch TAC proposed by the Commission.

The Baltic Sea TAC regulation states that ICES would issue further advice on the level of unavoidable bycatches of eastern Baltic cod. The regulation goes on to state that: *“If the level advised by ICES is different from the level set in this Regulation, the TAC for eastern Baltic cod should be amended to ensure that it is set in line with the ICES advice and covers only unavoidable by-catches from that stock in other fisheries.”*<sup>20</sup> ICES advice on unavoidable bycatches of eastern Baltic cod was subsequently published in November 2019<sup>21</sup>. ICES stated it was *“not in a position to quantify the amount of unavoidable bycatch of cod in non-targeted fisheries in 2020”*. However, depending on a range of definitions for a bycatch threshold (10-50% cod in the landings per fishing trip), *“total EU cod bycatch in 2018 was in the range of [...] 360-1306 tonnes in subdivisions 25-32 (eastern stock).”* It is clear based on ICES’ analysis of bycatches that the bycatch TAC of 2,000 tonnes is higher than any requirement by non-target fishing activities. Yet, there has been no action since November to revisit or amend the eastern Baltic cod bycatch TAC to a lower and more precautionary level.

Overall, it is clear the Council set the TAC for eastern Baltic cod too high in relation to ICES zero catch advice and in relation to unavoidable bycatches in non-target fisheries. The summer spawning closure for cod in SDs 25-26 (1<sup>st</sup> May to 31<sup>st</sup> August) and new recreational measures are a late but positive move. However, there are open questions as to how well these measures will be implemented in practice. The weak monitoring and control conditions and derogations for certain fishing activities<sup>22</sup> are a concern because catches of eastern Baltic cod will still occur in non-directed and the derogated mixed fisheries in SDs 25-32 with no adequate means of at-sea catch monitoring to ensure effective control, enforcement and compliance with the bycatch TAC. Additional actions to enhance at-sea monitoring and to rebuild and recover the eastern Baltic stock will be required in 2020 and beyond.

The TAC for **western Baltic cod** (SDs 22-24) was set at 3,806 tonnes. This was a disappointing increase above the Commission proposal and the joint NGO recommendation of a TAC of 3,065 tonnes, which was based on ICES suggestion in its advice *“to use the  $F_{MSY}$  lower value in the MAP when setting the TAC”*. The suggestion from ICES was due to very low levels of recruitment and the stock being largely dependent on one strong year class in 2016<sup>23</sup>. It was clear from the science that caution was needed when setting the TAC. Ultimately, the TAC set by Council was within the lower  $F_{MSY}$  range – meeting both Article 5(2) of the BSMAP and Article 2(2) of the CFP.

The Council agreed to no-directed cod fisheries in SD 24 based on the Commission proposals for additional measures to protect the eastern cod stock in SD 24. While this is welcome we are concerned that the Council removed the Commission-proposed conditionality for vessels 12 meters or more in length to have control observers or use REM. Catches of eastern Baltic cod and western Baltic cod will still occur in non-directed and the derogated<sup>24</sup> mixed fisheries in SD 24 with no adequate means of at-sea catch monitoring to ensure effective control, enforcement and compliance of the TAC.

<sup>19</sup> Based on the 2009 TACs sharing agreement between EU and Russia.

<sup>20</sup> [ST 13239 2019 INIT - Council Regulation \(EU\) 2019/1838 of 30 October 2019 fixing for 2020 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea and amending Regulation \(EU\) 2019/124 as regards certain fishing opportunities in other waters.](#)

<sup>21</sup> [ICES. 2019. EU request for further information on the distribution and unavoidable bycatches of eastern Baltic cod.](#)

<sup>22</sup> *Idem*. Footnote 14.

<sup>23</sup> [ICES. 2019. Cod \(\*Gadus morhua\*\) in subdivisions 22-24, western Baltic stock \(western Baltic Sea\).](#)

<sup>24</sup> *Idem*. Footnote 14.

The temporal fishery closure for western Baltic cod in SDs 22-23 during the spawning time (1st February to 31st March) and in SD 24 (1st June to 31st July) based on the Commission proposal is also welcome. We note there are derogations for certain fishing activities. Pew recommends that catches from derogated vessels during the closed periods should be adequately monitored at-sea. Finally, Pew welcomes the measures on recreational fisheries for cod in SDs 22-26 for 2020.

In March 2020, Council amended its regulation on fishing opportunities in the Baltic Sea for 2020<sup>25</sup> by introducing a further derogation from spawning closures established for the Baltic cod stocks by allowing for fishing operations conducted exclusively for scientific investigation. This provision will ensure that scientific assessment of those stocks will be complete without interruptions of time series of data on fish stocks.

The Council set the **western Baltic herring** TAC (SDs 22-24) at 3,150 tonnes, higher than ICES advice for zero catches and an increase on the TAC proposed by the Commission (2,651 tonnes). We note that this exploitation rate is likely below  $F_{MSY}$  and  $MSY F_{lower}$ . However, because the TAC is higher than the Commission proposal it is now likely the stock will remain below  $B_{lim}$  until after 2022.

We are concerned that Commission and Council have not proposed further remedial measures beyond reductions in fishing opportunities (i.e. Commission or member state emergency or technical measures based on the joint NGO recommendations), including suspending the targeted fishery. Further actions to recover and rebuild the western Baltic herring stock will be required in 2020 and beyond.

The Council followed the Commission proposal for **main Baltic Sea basin and Gulf of Finland salmon**. It appears the TACs were set higher than the scientific advice, taking into account deductions for unreported, misreported and third country (Russian) catches<sup>26</sup>. However, there remains continued ambiguity around the official calculation of those two TACs from the ICES scientific advice. It is highly likely that the main Baltic Sea salmon TAC (SDs 22-31) was set exceeding scientific advice. But, the picture is less clear for the Gulf of Finland salmon TAC (SD 32). Greater transparency is required on how the scientific advice for salmon stocks is used to calculate and set the respective TACs.

In summary, the failure of the Commission and EU AGRIFISH Council to respond to the best available scientific advice and with suitable conservation measures to help recover western Baltic herring and eastern Baltic cod until the deadline year of the CFP's Article 2(2) begs the question – Is the BSMAP and associated Council decision-making framework for setting Baltic Sea TACs [fit for purpose](#)<sup>27</sup>? In September 2019, Pew and other NGOs reviewed the effectiveness of the BSMAP and made recommendations to help improve management of the fisheries in the Baltic Sea from 2020 onwards. These lessons and recommendations remain relevant.

## **ii. Implementation of the Landing Obligation (LO)**

The 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. Article 15 of the CFP provides member states with a range of tools to successfully implement the LO.

Without adequate implementation of the LO, discarding will continue in 2020. Moreover, TACs have been increased to account for the otherwise discarded catches, likely increasing fishing mortality and reducing the growth potential of these stocks and exacerbating the socio-economic problems in the corresponding fisheries. Improved implementation of the LO must be a priority for managers as failure may result in inaccurate scientific assessments and will further undermine the CFP objective to end overfishing.

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<sup>25</sup> COUNCIL REGULATION (EU) 2020/455 of 26 March 2020 amending Regulation (EU) 2019/1838 as regards certain fishing opportunities for 2020 in the Baltic Sea and other waters, and Regulation (EU) 2020/123 as regards certain fishing opportunities for 2020 in Union and non-Union waters.

<sup>26</sup> [Joint NGO recommendations on Baltic Sea fishing opportunities for 2020](#).

<sup>27</sup> [Pew. 2019. Fit for purpose? An assessment of the effectiveness of the Baltic Sea multi-annual plan \(BSMAP\)](#).

## **Recommendations**

The institutions responsible for TAC-setting should ensure that they fulfil their roles to achieve the goals set by the law. The Commission should guide ministers by ensuring that all legal requirements are respected, by clarifying/justifying the basis of scientific advice used for TAC proposals. The EU AGRIFISH Council should thoroughly respect the limited power assigned to it for setting TACs in the framework of Article 43(3) of the Treaty on the Functioning of the European Union (TFEU), and only take decisions contributing to the CFP objective to restore and maintain fish stocks above levels capable of producing the maximum sustainable yield (MSY).

We therefore urge the Commission and Council to:

- Propose and set TACs not exceeding the best available scientific advice provided by ICES, both for stocks with advice based on ICES MSY approach and ICES precautionary approach;
- Propose and set TACs not exceeding the  $F_{MSY}$  point value specified by the Baltic Sea MAP;
- Propose and set TACs at more precautionary levels, taking into consideration stock-specific uncertainties (catch misreporting, discards, assessment bias etc.), interspecies stock dynamics (e.g. sprat-cod) and considering the pressures (pollution, eutrophication etc.) on the ecosystem;
- Provide transparent calculations for TACs based on the ICES stock advice;
- Improve the transparency of any proposals subsequent to the official Commission proposal, including the Council Working Party non-papers, and of the AGRIFISH Councils;
- Take into account the lack of implementation of the Landing Obligation when setting TACs. TACs should be set lower than ICES total catch advice if there is evidence of poor implementation;
- Ensure that TACs and the Landing Obligation are respected by fundamentally increasing at-sea monitoring, control and enforcement by either at sea observers or remote electronic monitoring.

Finally, the European Parliament, as a co-legislator of the CFP basic regulation and of the Baltic Sea MAP, should be vigilant that no infringements of the rules for which it is responsible occur, and that the overarching objective of ending overfishing in the EU is fully achieved. We therefore recommend that members of the European Parliament ensure effective scrutiny of the TACs set by the Council, as well as any technical measures adopted when agreeing annual fishing opportunities.

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