



Updated analysis of Fisheries Council agreement on fishing opportunities in 2017 for the Baltic Sea

27th October 2016

Summary

- Pew welcomes the decision of fisheries ministers to set several fishing limits in line with scientific advice, which will help to end overfishing and recover fish stocks in the Baltic Sea.
- Pew furthermore welcomes the introduction of daily catch limits to start managing recreational fisheries of western Baltic cod.
- Yet, Pew has serious concerns that the Fisheries Council has not implemented the recently agreed multi-annual plan for the Baltic Sea, which was intended to minimise decision-making based on short-term interests and deliver sustainable, high-yield fisheries.
- Fisheries ministers and EU Commission have so far failed to provide access to the additional scientific advice used in the negotiations, e.g. to justify overfishing of Herring in the Gulf of Riga or to demonstrate that the fishing limit for western Baltic cod is following the ICES “advice rule”, a key component of the scientific advice.
- This failure to comply with the Baltic MAP will undermine the recovery of stocks and will not benefit fishers and coastal communities who depend on the resource. It also raises important political questions about the co-decision powers of the European Parliament in EU fisheries management and the upcoming negotiations on a multi-annual plan for the North Sea.

1 Background

Under Article 43(3) of the Treaty on the Functioning of the European Union (TFEU), it is for the Council to adopt measures on the fixing and allocation of fishing opportunities within the framework of the Common Fisheries Policy (CFP).¹ Setting appropriate fishing limits is

¹ 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

fundamental to achieving the CFP's objectives, namely to end overfishing, and to restore and maintain fish stocks above levels capable of producing the maximum sustainable yield (MSY).

Therefore, the CFP basic regulation Article 2(2) requires that the MSY exploitation rates be achieved by 2015 where possible, and on a progressive, incremental basis at the latest by 2020 for all stocks. Achieving those exploitation rates by a later date than 2015 should only be allowed if achieving them by 2015 would seriously jeopardise the social and economic sustainability of the fishing fleets involved (CFP Recital 7).

On the 10th of October 2016, EU fisheries ministers for the first time agreed on Baltic fishing opportunities within the framework of the multi-annual plan for the Baltic Sea (Baltic MAP)², which was recently agreed with the European Parliament after lengthy negotiations, and entered into force on 6 July 2016. This plan includes specific requirements on the setting of fishing limits.

Stakeholders had called on Ministers to live-stream their first exchange of views on the Commission's proposal to enhance transparency, contribute to good governance and increase citizens' trust in EU decision making.³ Yet, the discussions were held exclusively behind closed doors⁴ and the Fisheries Council has not yet provided further explanation demonstrating how the agreed fishing limits are in line with the agreed Baltic MAP. Pew submitted access to information requests to the Council to ask for potential scientific evidence that is not currently available to the public, which might justify some of the agreed fishing limits that exceed the scientific advice from the International Council for the Exploration of the Sea (ICES).⁵ Three weeks after the fishing limits were agreed, access to the scientific advice has still not been provided.

2 Progress to ending overfishing in the Baltic Sea

Pew welcomes a number of important decisions made during the October Fisheries Council to help end overfishing and recover fish stocks in the Baltic:

- Pew welcomes the Council decisions to follow the Commission's proposal to set Total Allowable Catches (TACs) within scientifically advised levels for the majority of stocks in the Baltic Sea covered by the Baltic MAP. It should be noted that in the majority of cases scientific advice on catches represented an increase from the most recent TAC. This includes Bothnian, western and central herring for which Council was able to increase the

² 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.

³ See also joint NGO letters to [Dutch Ambassador to the EU](#) and the [Slovak Presidency](#).

⁴ See also [Transparency International \(2016\) Overfishing in the Darkness - A case study on transparency in Council decision-making](#).

⁵ Access to information request was submitted on October 12th 2016.

TACs. It also includes Baltic sprat where Council agreed to a lower increase in fishing limits than the maximum catches advised by ICES (29 per cent instead of 40 per cent).

- Council set fishing limits for two salmon stocks not covered by the Baltic MAP. The politically agreed fishing limit for salmon in subdivisions 22-31 is in line with scientific advice. For salmon in subdivision 32, the ministers agreed a TAC of 10,485 fish, i.e. higher than the Commission proposal of 9,403 fish. It is not currently possible for Pew to ascertain whether the Council decision could have been consistent with scientific advice due to ambiguity around the adjustments for recreational fishing, illegal, unreported or unregulated (IUU) catches, and the Russian share of catches. Pew estimates that the agreed TAC is likely to be marginally higher than the ICES advised catch, if taking into consideration a 9.3 per cent deduction of Russian shares⁶ and a 3 per cent deduction to account for unreported catches⁷.
- Pew applauds EU fisheries ministers for introducing, for the first time, measures to limit recreational fisheries for western Baltic cod. Recreational fishing is a major source of fishing mortality on that stock. If adequately monitored and controlled, the required bag limits have the potential to secure better data on recreational fisheries (the current ICES assessment was only able to include data from Germany⁸) and potentially also to reduce fishing mortality.
- Pew furthermore welcomes the Council's decision to extend the currently applicable six-week closure period by an additional two weeks to increase protection of spawning aggregations of cod. However, we note that STECF advice to split the closure time into two distinct periods in the year for subdivisions 22 and 24 was not followed.⁹ We also welcome Germany's intention to close the commercial fishery for an additional 30 days.

3 Serious concerns about lack of implementation of Baltic MAP

The Baltic MAP, recently agreed in ordinary procedure and in force since 6 July 2016, sets out a number of specific requirements to achieve the CFP's objectives for stocks in the Baltic Sea.

However, a number of these legislative requirements were ignored by the fisheries ministers:

Herring in the Gulf of Riga (subdivision 28.1):

- Fishing limit were set above the level advised by ICES and above the F_{MSY} reference point by using the F ranges listed in Annex I column B (F_{MSY} point value – F_{MSY} upper) of the agreed Baltic MAP despite the well understood negative economic, social and environmental consequences. Only fishing below F_{MSY} point value will allow the achievement of the

⁶ Based on 2009 TACs sharing agreement between EU and Russia.

⁷ In accordance with ICES information on IUU fisheries.

⁸ [ICES \(2016\) Advice on fishing opportunities, catch, and effort for Cod in subdivisions 22–24, western Baltic stock \(western Baltic Sea\).](#)

⁹ [STECF \(2011\) Impact Assessment of Baltic cod multi-annual plans \(STECF 11-05\)](#), p. 27.

objectives of both the CFP and the Baltic MAP – to restore and maintain fish stocks above levels capable of producing MSY.

- Council reasoned that such fishing mortality above F_{MSY} is necessary to avoid serious harm to the stock caused by intra species dynamics within the meaning of Article 4(4)(b) of the Baltic MAP. Yet, Council did not provide evidence to demonstrate that such criteria are met. Neither was scientific information provided on the intra species dynamics of herring in the Gulf of Riga and its effects. In addition, ICES did not identify a very strong 2015 year class in its scientific advice¹⁰, whereas this was the argument used in the Council’s political agreement to justify the use of the exception. “Significant harm” to the stock was not defined or assessed. Scientific evidence supporting the use of exceptions provided for in the Baltic MAP should be reviewed by the Scientific, Technical and Economic Committee for Fisheries (STECF) and be made publicly available in a timely manner.

Eastern Baltic cod:

- The TAC set for Eastern Baltic cod is significantly higher (24 per cent) than the maximum level advised by ICES. ICES already includes in its advice the precautionary approach in case of data limited stocks. Therefore it is not appropriate to set fishing limits higher than the scientifically advised levels.

Western Baltic cod:

- The fishing limits set for the western Baltic cod are not in line with the agreed Baltic MAP. The Baltic MAP clearly requires action to be taken in those instances when biomass falls below certain limit reference points. Article 5(2) provides measures to be taken if spawning stock biomass falls below the MSY $B_{trigger}$ point:

When scientific advice indicates that the spawning stock biomass of any of the stocks concerned is below the minimum spawning stock biomass reference point as set out in Annex II, column A, to this Regulation, all appropriate remedial measures shall be adopted to ensure rapid return of the stock concerned to levels above the level capable of producing MSY. In particular, by way of derogation from Article 4(2) and (4) of this Regulation and in accordance with Article 16(4) of Regulation (EU) No 1380/2013, to achieve such levels, fishing opportunities for the stock concerned shall be fixed at a level consistent with a fishing mortality that is reduced below the range set out in Annex I, column B, to this Regulation, taking into account the decrease in biomass of that stock.

- Article 5(3) spells out that additional measures shall be taken if the stock falls below B_{lim} as is the case with western Baltic cod. These measures include the potential closure of the targeted fishery.

¹⁰ ICES predicts spawning stock biomass in 2016 will not be above 2015 levels when following their advised catches. Furthermore, recruitment in 2016 is predicted to be only slightly higher (~10%) than the long-term average, and below the larger year classes of 2012 and 2013.

- EU Fisheries ministers decided on a TAC for commercial catches of Baltic cod in subdivisions 22-24 of 5,597 tonnes. While this figure assumes a certain proportion of catch will come from the Eastern stock, and additional safeguards were agreed, namely an extension of the temporary closure and an introduction of daily catch limits for recreational fisheries, no scientific evidence was made available that shows to what extent this is expected to reduce fishing mortality of Western Baltic cod.
- Council failed to effectively implement Article 5(3), risking the recovery of the stock, since:
 - Council invoked socio-economic arguments to further delay an end to overfishing of this vulnerable stock (Recital 6 of Council compromise). Yet, safeguard measures in Article 5 of the Baltic MAP are required as soon as stocks fall below the relevant reference points. There is no provision to delay the necessary action to recover stocks above biomass levels capable of producing MSY.
 - The agreed Baltic MAP requires that “fishing mortality is reduced below the range set out in Annex I, column B, taking into account the decrease in biomass of that stock”. This is reflected in the ICES advice for total commercial catches of not more than 917 tonnes in 2017, which follows the ICES “advice rule” as mentioned in the Baltic MAP (Recital 13). In contrast, Council set a TAC that is not in line with the ICES advice rule and might not allow stock biomass to recover to its limit level (B_{lim}) by 2018, let alone to biomass levels above those capable of producing MSY as required by the Baltic MAP and the CFP. Scientific advice on the impact of the agreed measures for recreational catches has not yet been made public. Yet, even if recreational catches were reduced by fifty per cent, the TAC agreed by fisheries ministers would allow commercial landings significantly higher than the fishing limits advised by ICES using the advice rule.

The unwillingness of fisheries ministers to fully implement the Baltic MAP, as agreed with the EU Parliament, raises serious questions about co-decision in EU fisheries policy. This could have severe repercussions just as negotiations get underway on MAPs for other regions, starting with the North Sea. It is therefore essential that Council and Commission explain in a detailed manner how the politically agreed fishing limits are in line with the Baltic MAP.

For more information, please contact:

Andrew Clayton

Project Director, Ending Overfishing in North-western Europe, The Pew Charitable Trusts

Email: AClayton@pewtrusts.org