



Our Fish

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Submission to The European Commission Consultation Regarding Fishing Opportunities For 2019

Our Fish appreciates the opportunity to comment on the European Commission's communication regarding fishing opportunities for 2019. Our Fish collaborates with organisations and individuals throughout the European Union to achieve sustainable fisheries in its waters.

This is only the second year that Our Fish is commenting on the Commissions consultation regarding fishing opportunities, so we are surprised and disappointed to find that the Commission is playing down continued overfishing, while diluting ambition to rebuild all fish stocks by 2020, as per requirements of the Common Fisheries Policy (CFP).

EU citizens depend on the Commission to uphold the spirit and the letter of the CFP law, in order to rebuild valuable natural resources and secure a sustainable future. However, more effective governance and resolute enforcement of the CFP is urgently needed if we are to realise the benefits it can deliver to our fish stocks, environment, economy and communities.

We urge the Commission to advocate, unequivocally, for the full and in time implementation of the CFP. The Communication states, "Nevertheless, the FMSY objective 2020 and the full application of the landing obligation are a challenge" - they are a challenge, made greater by failure by Member States and the Commission to embrace ambitious implementation early (and meet the 2015 target). The Communication also states though, that there is no time for, "complacency" – indeed there is not, and Our Fish is ready to support and encourage tackling the challenge without complacency, delay or obfuscation over the coming months.

In tackling this challenge, Our Fish is concerned with three areas:

1. Behind schedule to end overfishing and attain the Maximum Sustainable Yield (MSY) target;
2. Non-implementation of the landing obligation; and
3. Proposals for flexibility in 2019 TAC setting.

Comments on the Commissions reporting of progress towards achieving sustainable fisheries

The goal to restore and maintain fish stocks to above levels that can produce the maximum

sustainable yield is one of the central pillars of the reformed CFP. Article 2.2 clearly states “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”. It is therefore critical that the Commission monitors, enforces and represents true progress towards achieving this.

We are concerned by the Commission’s willingness to misrepresent this progress by specifically highlighting the percentage of fish by volume that is in line with MSY in the ICES areas, instead of measuring progress against the ‘number of stocks’. This purposefully suggests that an inflated amount of fish stocks are in-line with the CFP, and simultaneously undermines the ecological and economic value and importance of the many fish stocks that are not high-volume, more profitable, fisheries.

For example it is mentioned that for North Sea, Skaggeiak and Kattegat a total of 99.7% of landings from the assessed stocks managed by the EU alone is in line with F_{MSY} . This analysis does not properly reflect vulnerable (bycatch) stocks that are small in volume but important to the ecosystem as a whole.

The Commission has also omitted one of the main findings of the 2018 STECF progress report - that the EU will not meet the CFP deadline of ending overfishing by 2020 at the current rate of action.

... STECF notes that many stocks remain overfished and/or outside safe biological limits, and that progress achieved until 2016 seems too slow to ensure that all stocks will be rebuilt and managed according to F_{MSY} by 2020.¹

The Commission reports on progress to meeting the MSY target for stocks subject to consultations with coastal states as ‘being a challenge’. The negotiations of fishing opportunities with third countries are opaque, subject to considerable influence by industry, and undermine the EU’s reputation for transparency. Norway is similarly bound by its own commitments to manage stocks in-line with maximum economic yield, and yet these shared stocks are consistently subject to unnecessarily high TACs. Our Fish calls for a greater degree of transparency in the Norway negotiations, including civil society participation, and for the EU’s position to be equally restricted by the CFP’s targets e.g. F_{MSY} by 2020.

Comments regarding progress towards implementation of the Landing Obligation

The landing obligation is designed to eliminate unwanted catches in order to reduce the waste of biological resources and improve marine ecosystem health. It is a critical pillar of the CFP and enjoys broad support from the European public, who are the beneficial owners of the fisheries resource, with almost 900,000 people actively supporting its introduction into law. An important element of this is fully documented fisheries - ensuring that actual fishing mortality is equivalent to what is approved through TAC setting (or other fisheries management tools).

Whilst the Commission clearly lists how many fisheries have come under the landing obligation, and what percentage of the fisheries this represents, it does not measure the effectiveness of that implementation. There is a lot of talk about encouraging the uptake of options for mitigating the

¹ Scientific, Technical and Economic Committee for Fisheries (STECF) – Monitoring the performance of the Common Fisheries Policy (STECF-Adhoc-18-01). Publications Office of the European Union, Luxembourg, 2018, p.12

rumoured choke threat, and no reporting of the STECF assessment that the landing obligation appears to have had little impact in the majority of sea basins and little change to discarding behaviour.²

Not only is discarding continuing at similar rates as before the landing obligation, but there are increasing refusals of at-sea observers which undermines the scientific data quality, and unknown levels of fish mortality³. Meanwhile, the Commission continues to propose quota 'top-ups' for shared stocks to facilitate the implementation of the landing obligation, despite warnings that presumption of full compliance without significantly increased enforcement risks overfishing.⁴

We note and support the Commission's acknowledgement that remote electronic monitoring is needed to effectively and efficiently control the landing obligation, however we are concerned by the low level of commitment to ensuring enforcement of fishing laws across all member states. As, the EU seeks to impose basic standards of good governance of third countries through the Illegal Unreported and Unregulated, IUU, regulation, the EU must take real steps, at both the Commission and Member State level, to ensure the letter and spirit of the CFP and supporting measures are enforced at port and at sea.

There are a number of tools available to the Commission and Member States to ensure that discarding is eliminated, data collection on discards is improved, and effective control and enforcement measures are implemented. Namely, the burden of proof must be reversed i.e. the obligation to demonstrate fishing in compliance with the CFP must rest with those who are awarded access to the resource, not those charged with its management. Obliging authorities to monitor fisheries is perverse and has contributed to engendering a culture of entitlement and non-compliance. Therefore, we suggest:

- TAC proposals at the lower end of any ICES advice to account for ongoing discards and indeterminate mortality ($F < F_{MSY}$);
- Creating separate pools of quota (below F_{MSY}) that only member states who can prove they are effectively documenting and monitoring catches can access (such as through Remote Electronic Monitoring);
- Ensuring national allocation of quota preferences those fishers with increased selectivity and decreased bycatch and environmental impacts (as per Article 17 of the reformed CFP); and
- Limiting or withdrawing access to EMFF funds for Member State fisheries.

The EU is currently failing to implement the landing obligation and further efforts to explicitly avoid, weaken, ignore, or confuse the intention of it, should be rejected.

Comments on proposals for 2019 TACs

Whilst the Commission states an intention to 'achieve significant further progress towards reaching F_{MSY} ', it is shocking to read that it interprets MSY as a target for fish stocks, not a limit. It is this interpretation that has led to the current situation, where despite the CFP requiring TACs to

² Scientific, Technical and Economic Committee for Fisheries (STECF) – 57th Plenary Meeting Report (PLEN-18-01); Publications Office of the European Union, Luxembourg.

³ Ibid.

⁴ Agreed record of fisheries consultations between Norway and the European Union for 2018, Bergen 1 December 2017.

be set at F_{MSY} by 2015, or 2020 at the latest, STECF rates EU progress as too slow to meet the deadline. We agree with the STECF's assessment that with this trajectory the 2020 target will most probably be missed. That is why Our Fish is advocating for greater ambition, which is entirely possible.

The Commission's report that 'ensuring all TACs at F_{MSY} at all times is a challenge' is unsurprising, yet the proposed solution is misguided and inconsistent with the CFP. Of course, F_{MSY} is a limit, and due to ecosystem dynamics, for some places and times, TACs in line with F_{MSY} for some stocks would therefore be *below* MSY.

The Commission must break free from the filibustering of EU Member States' excuses that they can't do more to end overfishing in EU waters, and stick to the letter and spirit of the law, by following scientific advice on TAC setting in order to accelerate the much-needed improvements in environmental, social and economic outputs for our fisheries and achieve BMSY for all stocks by 2020. This includes strong measures for the bycatch species where the ambition is currently lower than the CFP prescribes.

Conclusion

In 2013, the reformed CFP committed to rebuilding fish stocks and dependent communities. However, since that historic decision, there has been a marked lack of ambition for its implementation. The benefits are clear, the incentives well known, and while it might be expected that certain interests and some decision-makers would be slow to embrace those benefits after decades of addiction to overfishing, the Commission should be playing the role of rehabilitation doctor in chief. And while some progress has been made, this Communication reads too much like an apology for anticipated failure. This is not acceptable - there is still 16 months to go.

Less vocal and resourced fishers, such as low-impact small-scale operators, are negatively impacted by the failure to implement the CFP, as the resource upon which they depend is being increasingly depleted. Most importantly, the beneficial owners of Europe's fisheries, EU citizens, are losing a resource and an environment that is key to their broader wellbeing.

It is critical that the ambition of the reformed CFP is not lost as a result of the short-term challenges, or complacency, of implementation. We urge the Commission to uphold its crucial role in ensuring the CFP is fully implemented, and overfishing is ended, restoring the health of the ocean.

Yours sincerely,



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