Rebecca Hubbard
Our Fish, Program Director
Rebecca@our.fish
+34657669425
www.ourfish.eu
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Submission To The European Commission Consultation Regarding Fishing Opportunities For 2018

Our Fish appreciates the opportunity to comment on the European Commission's communication regarding fishing opportunities for 2018. Our Fish is a new campaign, working with organisations and individuals across Europe, to achieve sustainable fisheries in European waters.

Whilst the reform of the CFP was a bold commitment by EU nations to officially turn the tide on our declining fish stocks and marine environment health, 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.

The European Commission has an important role in upholding both the spirit and the letter of the CFP law, and we urge you to maintain a position which best reflects this. Specifically, we urge you to resist any actions that result in the weakening, greenwashing, filibustering, or evasion of CFP implementation.

Our Fish is concerned with three areas where this appears to be happening:
1. Behind schedule to attain the MSY target;
2. Non-implementation of the discards ban;
3. Concurrence.

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 therefor critical that the Commission monitors, enforces and represents the true progress of the EU towards achieving this.

We are concerned that the Commission misrepresents this progress, and focuses too much on the minority of cases where the law has been applied, and too little on the majority of cases where there is no progress towards, or worse still a move away, from restoring fish stocks to the

legislated sustainable levels. Specifically, the Commission's omission of one of the main findings of the 2017 STECF progress report - that the EU will not meet the CFP deadline of ending overfishing by 2020 at the current rate of action – is irresponsible.

> *… STECF notes that many stocks remain overfished and/or outside safe biological limits, and that progress achieved until 2015 seems too slow to ensure that all stocks will be rebuilt and managed according to FMSY by 2020.*[1]

Ignoring scientific evidence from the STECF and other ICES was the byword of the old CFP. The Commission and Member States forget about the evidence they did not want to hear. The failed CFP was the result. There is every indication that these old habits are returning.

As a case in point, reasons listed for the failure of the EU to end the chronic, ecologically dangerous levels of overfishing in the Mediterranean and Black Sea are excuses and cannot continue to be rolled out to justify this embarrassing state of play. There are a number of key measures that have been recommended by scientists, NGOs and fishers for many years that would make large inroads to ending overfishing in the very short term such as serious cuts in trawl fleet capacity, establishing protected areas, setting TACs for key species, and heavily boosting monitoring and control. Yet the Commission blames other players such as non-EU member states and an unwieldy small-scale fishing fleet.

We urge the Commission to begin focusing its efforts and influence on penalising the EU nations who refuse to stop their fleets from relentlessly overfishing key stocks and areas in the Mediterranean. It is within the Commissions power to do more, and it is indefensible not to.

We welcome the Commission's reporting that economics can no longer be used as rationale for continuing to overfish, and that the sooner fishing rates are reduced to FMSY (or below), the sooner EU profits will rise. Combined with the fact that costs of the EU fleet have fallen and overall profits are relatively high, there is now also an opportunity for relatively pain-free fish stock recovery[2].

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 reformed CFP and enjoys broad support from the European public, who are the beneficial owners of our fisheries resources, with almost 900,000 people actively supporting it's 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 we appreciate the landing obligation represents a big change for the fishing industry and managers, and requires some time to implement, it has been phasing in for four years.

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[1] Scientific, Technical and Economic Committee for Fisheries (STECF) - Monitoring the performance of the Common Fisheries Policy (STECF-17-04). Publications Office of the European Union, Luxembourg. p.12

[2] New Economics Foundation (2016). Low fuel prices and pain-free fish stock recovery.

The implementation of the discards ban is significantly behind schedule in the Baltic Sea:

> *Landings of fish below the minimum conservation reference size (MCRS, 35 cm) are very low and discarding still takes place despite the fact that the landing obligation has been in place since 2015*[3].

Furthermore, discards have increased and not decreased under the watch of the new so-called reformed CFP:

> *The discard rate in 2016, with the present MCRS, was estimated at approximately 10% based on observer data; however, there have been problems gaining observer access in some countries and the 10% figure is considered to be an underestimate. The available information from the fisheries and observers suggests that modification of the selectivity properties of the gear takes place, leading to a higher proportion of smaller fish being caught*[4].

Concurrence

There is every indication that new CFP is not being enforced. Denmark was regarded by most as having the best Control and Enforcement regime in the EU. Recent events, including last-haul inspections and Danish Agrifish Agency reporting, report that at-sea investigations are decreasing despite reports of non-compliance with the Landing Obligation, suggesting control and enforcement is at best questionable in Denmark[5]. A similar, or worse state of affairs, is likely in other countries.

No country, or their fisheries, is above the rule of law. As, the EU seeks to impose basic standards of good governance of third countries through the 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. Such measures include:

- TAC proposals at the lower end of any ICES advice to account for ongoing discards and indeterminate mortality (F<FMSY);
- Creating separate pools of quota (below FMSY) 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

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[3] ICES (2017). ICES Advice on fishing opportunities, catch, and effort, Baltic Sea Ecoregion. Published 31 May 2017. cod.27.25-32

[4] Ibid.

[5] The Danish AgriFish Agency (2017). Annual report on inspection of commercial and recreational fisheries 2016. Ministry of Environment and Food of Denmark.

- Limiting or withdrawing access to EMFF funds for Member State fisheries.

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

Comments on proposals for 2018 TACs

Whilst the Commission states an intention to advise TACs at or below FMSY, it is perplexing that they also state that setting stocks corresponding with FMSY will "help bring compliance with the legal obligation in the CFP gradually closer". The CFP requires TACs to have been set at FMSY by 2015, or by 2020 at the latest, in order to restore fish stocks above levels capable of supporting fishing at MSY. The deadline has passed, and as the STECF 2017 report states, progress is now too slow to meet the fallback option.

The Commission must not perpetuate the filibustering of EU member states and contribute to a further unnecessary delay towards ending overfishing in EU waters. We urge the Commission to play a leadership role in holding EU nations to the CFP, and follow 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.

Specifically, if the Commission were to follow the CFP and the recommendations of the STECF in their report, for fish stocks where there is an F range and biomass is below B trigger, such as the chronically depleted western Baltic cod, the Commission would advise F rates in accordance with F_{lower} not F_{upper}, as has been done in 2018[6]. Particularly given that ICES has noted that their estimates for fishing mortality have been consistently revised upwards, and estimates for spawning stock biomass have been consistently revised downwards[7].

We propose that the Commission withhold the top-up to TACs, as long as member states refuse to increase monitoring and enforcement of the landing obligation, as it could increase mortality and therefore exacerbate overfishing, as well as undermine data quality and therefore scientific understanding and management, of the fish stocks.

The Commission's proposal to scrap TACs for more species after already doing so for dab and flounder in the North Sea, as an appropriate way to "facilitate(s) the implementation of the landing obligation" provides an exemption in the Basic Regulation for administrative inertia and foot dragging.

TACs are a key, effective tool for monitoring and managing fishing mortality at ecologically sustainable levels, and the landing obligation is designed to decrease discards and the environmental impact of Europe's fishing industry. Scrapping more TACs will certainly not drive a decrease in discards and damaging fishing methods, and may significantly worsen ecosystem based fisheries management, working against the reformed CFP.

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[6] Proposal for a COUNCIL REGULATION fixing for 2018 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea. COM/2017/0461 final - 2017/0212 (NLE)

[7] ICES (2017). ICES Advice on fishing opportunities, catch, and effort Baltic Sea Ecoregion cod.27.22-24. Version 2: 8 June 2017

Conclusion

The CFP was reformed in 2013 after decades of overfishing of European waters in order to stop the decline in fish stocks, jobs, and earnings. It is not surprising that parts of the fishing industry are pushing back against implementation of the reformed CFP because the status quo is beneficial for them – some are profiting greatly from continuing to use destructive fishing methods that are degrading our fish stocks and marine ecosystem. However less vocal and resourced fishers, such as low-impact small-scale operators, are negatively impacted by a failure to implement the CFP, as the resource is depleted and they have to work harder to earn a living. Most importantly, the beneficial owners of Europe's fisheries, the European people, on whose behalf the Commission works, are losing a resource and an environment that is key to their well-being.

It is critical that the ambition of the reformed CFP is not lost as a result of the short-term challenges to its implementation. We urge the Commission to uphold its crucial role in ensuring European fisheries law is followed, and end overfishing and restore the health of our oceans.