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## Joint NGO recommendations for the European Union and Norway agreement on fishing opportunities in the North Sea and the Atlantic for 2019

The European Union (EU) shares with Norway the responsibility to manage several fish stocks mainly in the North Sea, including the Skagerrak and Kattegat. The fishing opportunities for these stocks, among other measures, are decided in an annual bilateral agreement between the EU and Norway. The European Commission negotiates the management for the shared stocks on behalf of the EU, based on a mandate from the Council of Ministers. The following text outlines the joint NGO recommendations for 2019 fishing opportunities for these EU-Norway shared stocks.

### 1. The maximum sustainable yield (MSY) objective

The objective to manage fish stocks sustainably is clearly enshrined in international agreements, as well as in the EU's Common Fisheries Policy (CFP) and Norwegian legislation, and must therefore also be met for all EU-Norway shared stocks.

Through the 2002 United Nations (UN) Johannesburg Declaration on Sustainable Development, and in line with the requirements from the UN Convention on the Law of the Sea (UNCLOS) and the UN Fish Stocks Agreement (UNFSA)<sup>1</sup>, the EU, its Member States and Norway have an international commitment to ensure fisheries management *"measures are based on the best scientific evidence available and are designed to maintain or restore stocks at levels capable of producing maximum sustainable yield"* (MSY).

For EU Member States and the European Commission (EC), an MSY objective is contained in Article 2(2) of the CFP: *"In order to achieve the objective of progressively restoring and maintaining populations of fish stocks above biomass levels capable of producing the maximum sustainable yield, 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"*. Moreover, Article 16(4) of the CFP stipulates that *"Fishing opportunities shall be fixed in accordance with the objectives set out in Article 2(2)"*. For stocks for which MSY-based reference points are not available, a precautionary approach (PA) to fisheries management must be adopted, as defined in Article 4(1)(8) of the CFP, and at least a comparable degree of conservation must be afforded as to those stocks with MSY assessments, as per Article 9(2).

The Norway 2010 Marine Resources Act<sup>2</sup> includes the objectives of *"[...] a precautionary approach, in accordance with international agreements and guidelines; an ecosystem approach that takes into account habitats and biodiversity; effective control of harvesting and other forms of utilisation of resources; appropriate allocation of resources [...]"*.

Stocks of common interest that are either exploited or swapped by the EU and Norway must be managed in a way that meets the requirements and objectives of the CFP and the Norwegian legislation, as well as

<sup>1</sup> <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N95/274/67/PDF/N9527467.pdf?OpenElement>

<sup>2</sup> <https://www.regjeringen.no/globalassets/upload/fkd/vedlegg/diverse/2010/marineresourcesact.pdf>

international obligations. This means that those stocks must be sustainably managed to restore and maintain populations above biomass levels capable of producing the MSY.

**We therefore urge the European Commission, representing the EU, and Norway:**

- **To set Total Allowable Catches (TACs) according to scientifically advised levels provided by the International Council for the Exploration of the Sea (ICES) based on the MSY approach for all stocks for which MSY-based reference points are available;**
- **To set TACs for stocks for which MSY-based reference points are not available, in line with the precautionary approach for catch limits advised by ICES.**

## **2. Management Plans**

Article 3 of the North Sea Multiannual Plan (MAP) reiterates the CFP objective, set out in Article 2(2) of the basic regulation, to end overfishing and to restore and maintain fish stocks above levels capable of producing MSY. In contradiction to this, under certain conditions, the MAP allows for fishing above sustainable levels i.e. any fishing mortalities values in the range of  $F_{MSY}$  and  $F_{MSY\ upper}$  – however only fishing mortality rates below the  $F_{MSY}$  point value can contribute to the restoration of stocks above levels capable of producing MSY, in accordance with the requirements of both the CFP and the MAP. We therefore strongly recommend avoiding the use of fishing mortality values above  $F_{MSY}$ .  $F_{MSY}$  should be regarded as a limit for all stocks and not as a target.

A number of jointly managed stocks between EU and Norway have existing management plans that are outdated, and which both parties have agreed to review in 2018<sup>3</sup>. These management plans should be reviewed and updated to align objectives, harvest control rules and management measures, and in the meantime, ICES advice should not be exceeded when setting fishing opportunities.

**We therefore urge the European Commission, representing the EU, and Norway:**

- **To agree on TACs in accordance with the best available scientific advice provided by ICES;**
- **To agree on TACs not exceeding the  $F_{MSY}$  point value;**
- **To agree on TACs in accordance with the MSY approach, following the ICES MSY Advice Rule when spawning stock biomass (SBB) is below the MSY  $B_{trigger}$  reference point.**

## **3. EU Landing Obligation and the Norwegian discard ban**

The EU landing obligation (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 gradually ensuring that catches are landed. Article 15 of the basic regulation provides member states with a range of tools to successfully implement the LO.

While in theory the LO will have been phased in by January 2019 serious concerns remain about widespread non-compliance.<sup>4</sup> This means that without significantly increased monitoring and control of the LO, unreported discarding is highly likely to continue in 2019, likely reducing the growth potential of these stocks and exacerbating the socio-economic problems in the corresponding fisheries. The implementation of the LO must be a priority for managers as the status quo undermines the MSY objective and results in inaccurate scientific assessments.

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<sup>3</sup> Agreed record of fisheries consultations between Norway and the European Union for 2018, Bergen 1 December 2017.

<sup>4</sup> European Commission, DG Mare, Towards new SCIPs, Advisory Council Consultation. 2018.

For compliance with the Norwegian discard ban, adequate at-sea fisheries monitoring should also be a requirement, since there is no systematic at-sea monitoring by observers or with electronic monitoring systems, while discarding is still known to happen<sup>5</sup>.

**With the knowledge of non-compliance with the EU Landing Obligation and the Norwegian discard ban, we therefore urge the European Commission, representing the EU, and Norway:**

- **To set TACs in accordance with the ICES advice for wanted catch, with quota top-ups only granted to fleets that demonstrate full compliance, for example through the use of on-board observers or remote electronic monitoring systems<sup>6</sup>;**
- **To increase monitoring and control to ensure that TACs are not exceeded.**

#### **4. Transparency**

The appropriate involvement of stakeholders at all stages from conception to implementation of fisheries management measures is one of the principles of good governance listed in Article 3 of the basic regulation. The EU and Norway should provide access to those parts of their consultations, which are of a more informative nature, to all fisheries policy stakeholders on an equal basis, including to environmental organisations who are considered as interest groups affected by the CFP in the basic regulation (Art. 45). The accessibility of relevant documents and openness to all stakeholders would increase the legitimacy of the results of the EU-Norway consultations and thus the credibility of decision-makers.

**We therefore urge the European Commission, representing the EU, and Norway, to make all documents and reports of discussions used for the decision-making process, available. For the sake of transparency, the delegation lists, including organisation affiliations and memberships, should be made accessible to the public.**

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<sup>5</sup> <http://www.discardless.eu/deliverables/entry/report-on-current-practices-in-the-handling-of-unavoidable-unwanted-catches>

<sup>6</sup> In accordance with what was done in the past, see 4.4.4 of the 'Agreed record of conclusions of fisheries consultations between the European Union and Norway for 2010', Brussels, 26 January 2010; and Council Regulation (EU) No 53/2010.