

Annex 1: On the Communication from the Commission on the State of Play of the Common Fisheries Policy and Consultation on the Fishing Opportunities for 2018 (COM(2017) 368 final)

We welcome the Commission Communication and Consultation on the fishing opportunities for 2018. It shows a continued commitment to the reformed Common Fisheries Policy (CFP), and specifically its objective to restore and maintain fish stock populations above biomass levels capable of producing maximum sustainable yield (B_{MSY}). It also sets out the principles that will guide the proposals for fishing opportunities for 2018, depending on the available scientific advice.

In the Communication, the Commission also reports on progress in achieving sustainable fisheries, and ultimately how the CFP is contributing to achieving good environmental status in European seas.

On the state of play of the Common Fisheries Policy – MSY objective under threat

The Commission outlines progress on a number of key objectives in the CFP, showing that more stocks are managed in line with Maximum Sustainable Yield (MSY), stock biomass in some areas is increasing, the landing obligation is gradually being implemented, economic performance of the fleet is improving with a better balance between resources and fishing capacity, and that the first Multiannual Plan (MAP) is being implemented.

Overall, we are moving very slowly in the right direction, which is positive. However, at this pace the EU is going to miss the 2020 deadline for stock recovery. We would like to highlight the following points related to the first section of the Communication:

Stock recovery and the MSY objective

- For the majority of EU fish stocks, there are still insufficient data available to provide scientific advice on mortality levels corresponding to MSY. Since 2003, only 4 more stocks in the North East Atlantic have been fully assessed compared to the 62 stocks in 2003. There has even been a slight decrease in the past few years. The situation is even worse for the Mediterranean and the Black Sea.
- Of those 66 fully assessed stocks, for which scientific advice on MSY exists, only 59 % (or 61 % in terms of catch volume) are actually exploited at or below F_{MSY} in the North Sea, North-East Atlantic and the Baltic Sea. The rest are still overfished. Add to that the roughly 90 stocks without MSY assessment, and the situation for 2020 is pretty bleak, despite an increase in the number of stocks not overfished.
- Almost half of the stocks either have an agreed Total Allowable Catch (TAC) above F_{MSY} or a TAC set without MSY advice. Considering that in the basic regulation (EU 1380/2013) the Maximum Sustainable Yield exploitation rate was set to be achieved by 2015 where possible and at the latest by 2020 for all stocks, this is a source for great concern. We are now approaching the fixing of fishing opportunities for 2018,

with only two more years ahead to meet this key objective.

- Trends for the Mediterranean and the Black Sea are much worse. According to the Scientific, Technical and Economic Committee for Fisheries (STECF), overfishing in the Mediterranean is very high and shows no sign of falling. Overall average spawning stock biomass has also been falling since 2003. Given the apparent opposition to fishing mortality targets proposed by the Commission in the first Mediterranean MAP following a first exchange of views in Council and in Parliament, it remains to be seen how the dire situation in this sea basin shall ever improve. Adding to the confusion is the unclear wording in the 'Medfish4Ever' Ministerial declaration that states under point 36:

*"To the extent possible no later than 2020, manage 100 % of the key fisheries with a multi-annual management plan in order to restore and maintain the populations of fish stocks **above fishing mortality levels** [our highlight] capable of producing maximum sustainable yield."*

If the declaration was aiming to be in line with the CFP objectives, this should have been "...to restore and maintain the populations of fish stocks **above levels** capable of producing maximum sustainable yield."

- On the positive side, the average spawning stock biomass for the North-East Atlantic has been increasing during the same time period, but it is worth noting that this increase is mainly for short lived pelagics that are fished at large volume/low price.
- Positive examples from across EU waters highlight that once the MSY objective has been achieved, stocks can provide the fishing industry with a more stable and increasing supply and lead to greater profitability for the fleet.

Multi Annual Plans

- Regarding progress in terms of implementing principles and objectives for multi annual plans (Arts 9 & 10 in EU 1380/2013), MAPs are an important part of the reformed CFP, which should provide stability as well as more sustainable fisheries. However, the adoption of a plan does not ensure qualitative progress in achieving more sustainable fisheries. This is dependent on both the provisions in the plan and whether they actually contribute to the CFP objectives, and its subsequent implementation. Despite being covered by a MAP, there is still no publicly available calculation for the 2017 TAC of Western Baltic cod, for example.
- The contents of the agreed Baltic MAP have raised significant concerns regarding the implementation of the MSY objective. Overfishing, TACs set above F_{MSY} , is permitted if the stock biomass is above $B_{trigger}$ – the biomass level which triggers advice on a reduced fishing mortality relative to F_{MSY} .
- In addition, the Baltic MAP does not specify what measures managers need to take when a stock is below $B_{trigger}$ or even below B_{lim} . Experience from the Baltic shows that these need to be more specific, and this should be addressed both in the North Sea MAP and in the coming revision of the Baltic MAP.
- We are also concerned that in the MAP(s), B_{lim} – the stock biomass level below which there may be reduced recruitment – has been used as the lower band conservation reference point and that when stocks are between B_{lim} and $B_{trigger}$ it is possible to set TACs **at** F_{MSY} rather than **below**, while the latter would ensure stock growth. When stocks are below $B_{trigger}$, using F_{lower} in, for example, the Baltic MAP MSY-ranges must be considered a minimum management measure to ensure rapid

recovery of the stock.

Landing obligation

- Given the CFP objective to have catches of all species subject to TACs, as well as minimum sizes in the Mediterranean, under the Landing Obligation by 2019, only two years remain to include those in joint recommendations for delegated acts on discard plans. The progress on this key CFP objective is not sufficient, with only 25–45 % of volume of demersal species covered so far. Member States have also repeatedly delayed including certain species in joint recommendations, leaving a lot of issues to be resolved in the coming years.
- A further concern is the deteriorating data situation at a time when scientists and decision makers actually need more and better data in order to assess the impact of the Landing Obligation. Member States urgently need to step up their efforts on both discard rates and comparative data for quantitative analysis.
- Measures to implement the landing obligation and eliminate discards must include a move toward more selective gears. The last haul controls done under joint deployment schemes by the European Fisheries Control Agency (EFCA) have proven that passive gears have a much higher selectivity than active gears. This must be recognised by Member States when they allocate the quotas nationally as one way of implementing the landing obligation as well as Art 17 of the CFP.
- The selectivity of active gear, and especially demersal trawls, must be developed further to fulfil the intent of the landing obligation. In order to avoid duplication and facilitate the identification of best practices, Member States must coordinate their projects to develop more selective fishing gears better. They should also further facilitate the distribution of funding resources available under the EMFF for the gradual elimination of bycatches and discards.
- Exemptions from the landing obligation based on 'high survival rates' cannot be accepted without solid evidence from the actual stock that is considered. For example, Baltic Sea plaice cannot be exempted by referring to studies done in the North Sea, given the differences in the environmental conditions.

Bycatch of sensitive species

- Progress in achieving sustainable fisheries should include consideration of bycatch levels of sensitive species. According to the latest assessments by ICES (Special Request Advice on cetacean bycatch) and other peer-reviewed sources, a number of fisheries are resulting in levels of bycatch that are or may be having a population level impact on cetaceans. Evidence of population level impacts exists in the *North Sea*, for harbour porpoises as a result of bycatch in static nets in the Kattegat, North Sea and Skagerrak, inner Danish waters and Norwegian coastal waters; humpback whales in static creel gear in Scottish waters; common dolphins in trawls and harbour porpoises in static nets in the *North Western Waters*; harbour porpoises in static gear in the Iberian Peninsula, common dolphins in Portuguese water and bottlenose dolphins in Andalusia in *South Western Waters*; critically endangered and distinct population of harbour porpoises in static nets and historically also in driftnets in the *Baltic Sea*; common and striped dolphins in static nets and the historic driftnet fleet; demographically isolated population of sperm whales in static and (illegal) drift nets in the *Mediterranean Sea*;

and, endangered harbour porpoises (a sub-species), bottlenose and common dolphins in static nets in the *Black Sea*.

- Where data are not sufficiently robust to be certain, precaution is required in setting TAC levels and better monitoring needs to be put in place. Measures to reduce bycatch should be required in all of the above fisheries.

On the general principles for fixing fishing opportunities for 2018

In the Communication, the Commission is clearly recommitting itself to following the CFP objectives and the best available scientific advice when making its proposals for fishing opportunities for 2018. This is very important, and we fully support this approach.

As in the past, the Commission sets out a number of principles for fixing the fishing opportunities, essentially based on the amount of scientific data that is available and the current management regime.

We would like to comment on the following aspects:

- The Commission is committed to the CFP objectives and to increasing the number of stocks fished below F_{MSY} , but it is clear that this will also require a commitment by the Council, which has been ignoring the scientific advice and previous proposals for almost half of the stocks for which it is available. We cannot reiterate enough how important this commitment is and that we hope that the Commission will consistently follow this principle when it can. In the past, stocks have been fished below F_{MSY} for a number of years, but then overfishing has been allowed to commence again. This goes against Article 2.2 (EU 1380/2013), which requires an incremental trajectory until all stocks have achieved the MSY objective at the latest in 2020.
- Under point 3.2, the Commission also states that it intends to adopt proposals for TACs in line with F_{MSY} for stocks under the management of MAPs, or F_{MSY} ranges if this has been agreed as in the Baltic MAP. This is another important commitment, but we still question the validity of F_{MSY} ranges in relation to the MSY objective, as it does not ensure a swift recovery of stocks, which would lead to the best socio-economic outcome. In addition, the Commission should have clearly stated that the CFP requires bringing stock biomass to levels “**above**” those that can produce MSY, and that it “**will**” rather than “intends” to adopt proposals in line with F_{MSY} for 2018.
- We welcome the ongoing efforts of the Commission and ICES to improve the information on stocks without biological advice and “develop tools to fill existing gaps”, as long as these efforts are in line with the objectives of the CFP.
- Regarding TAC adjustments and the landing obligation, we do not support the Commission intention to extrapolate discard data to calculate TAC adjustments. Without data to support them, no such adjustments should be made in discard plans.

- The Commission states that scrapping TACs to facilitate the implementation of the Landing Obligation, following the recent experience with dab and flounder in the North Sea, is a potential option. Such a measure would undermine the objective to gradually eliminate discards. Reducing the number of stocks included under the Landing Obligation is not a justified option when the available provisions outlined in the CFP and EMFF to facilitate the Landing Obligation have not been utilised.

Conclusions

With only two to three years left to achieve some of the key objectives of the CFP, all European decision makers and stakeholders involved in fisheries management need to step up their efforts. Despite early and repeated warnings from civil society, the measures agreed in the first years after the reform were insufficient. While the benefits of managing EU fish stocks more sustainably are clearly visible, as outlined in this communication, a lot remains to be done to achieve full CFP implementation.

Most importantly, according to the basic regulation, the Maximum Sustainable Yield exploitation rate was set to be achieved by 2020 at the latest for all stocks. What we know is that even for stocks where we have scientific advice on TACs in line with MSY, the Council continues to agree on exploitation rates above the target agreed in the CFP for almost half of them. This cannot continue – not only in terms of meeting the objectives of the CFP, but also as it is crucial in order to reach good environmental status under the EU Marine Strategy Framework Directive.

We therefore urge the Council to consider this carefully when preparing for the annual fixing of fishing opportunities for the coming year.