

THE
PEW
CHARITABLE TRUSTS

Response to the Commission's proposal for a multi-annual plan for the North Sea

COM (2016) 493 Final

27th of September 2016

SUMMARY

Pew welcomes the Commission's proposal for a multi-annual plan (MAP) for the North Sea, which has the potential to deliver the Common Fisheries Policy's (CFP) objectives in the region. In particular, Pew welcomes the reiteration of the CFP's objective to restore and maintain populations of harvested species above levels which can produce the maximum sustainable yield (MSY).

However, in order for the North Sea MAP to be fully in line with the CFP basic regulation, significant changes are needed:

- The plan divides North Sea stocks into seven groups, with different targets, safeguards and conservation measures. The proposal would benefit from a list of stocks per group, as well as from a provision detailing that stocks can move from one group to the other if new scientific information becomes available.
- Fishing mortality ranges exceeding the F_{MSY} point value (proposed in the case of groups 1 and 2) should not be included, as they will not contribute to restoring and maintaining fish populations above B_{MSY} levels in line with Article 2.2 of the CFP.
- If such ranges are kept in the plan, clear provisions reflecting the ICES "advice rule" need to be introduced, or the values used in Annex I of the MAP need to be amended to ensure that the ranges are in line with the options ICES developed. Exceptions allowing for their use must be clearer and scientific evidence supporting such exceptions must be provided publicly, and in a timely manner, and reviewed by the Scientific, Technical and Economic Committee for Fisheries (STECF).
- The CFP recovery objective (Art.2.2) must apply to all categories.
- Safeguards and management measures need to be introduced for groups 3-7 in case these fall below the biomass levels capable of producing Maximum Sustainable Yield.
- The plan should explicitly commit to basing management on the best available scientific advice.
- The evaluation of the plan should assess, among other things, whether the stock recovery objectives have been attained.

INTRODUCTION

On August 3rd the European Commission published a proposal for a multi-annual plan for demersal stocks in the North Sea and the fisheries exploiting those stocks.¹ The CFP requires, as a priority, the adoption of such plans that should provide robust and lasting frameworks for fisheries management to restore and maintain fish stocks above levels capable of producing MSY (CFP Article 9.1).

The reformed CFP requires an end to overfishing for all stocks, with legally binding targets and deadlines. Specifically, Article 2.2 requires that:

“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”.

The CFP allows for postponing the 2015 deadline only in exceptional cases, when meeting it *“would seriously jeopardise the social and economic sustainability of particular fleets”* (Recital 7).

If properly designed, the multi-annual plan for the North Sea could make a significant contribution to ending overfishing and restoring fish stocks in line with the CFP. However, Pew is concerned about a number of provisions in the proposal which need to be addressed to ensure that the North Sea plan actually delivers on the CFP's objectives to end overfishing. These are outlined below.

1 MAP OBJECTIVES

Pew welcomes that the North Sea MAP proposal reaffirms the following CFP objectives:

- to restore and maintain populations of harvested species above levels which can produce the maximum sustainable yield (MSY) in Article 3.1 and again in Articles 8.1 and 8.2;
- to contribute to the elimination of discards by avoiding and reducing, as far as possible, unwanted catches;
- to implement the ecosystem based approach to fisheries management in order to ensure that negative impacts of fishing activities on the marine ecosystem are minimised; and
- coherence with Union environmental legislation, in particular the objective of achieving good environmental status by 2020 as set out in the Marine Strategy Framework Directive (2008/56/EC).

¹ European Commission (2016) [Proposal for a Regulation of the European Parliament and of the Council on establishing a multi-annual plan for demersal stocks in the North Sea and the fisheries exploiting those stocks and repealing Council Regulation \(EC\) 676/2007 and Council Regulation \(EC\) 1342/2008. COM\(2016\) 493 final](#)

Pew proposes to add a provision similar to Article 3.4 of the Baltic MAP², which stipulates that measures under the plan shall be taken in accordance with the best available scientific advice. This is also in line with CFP Article 3(c).

2 TARGETS

An essential element of the plan concerns the targets and requirements for setting fishing limits for the stocks in question as a means to achieve the objectives of the plan and to end overfishing in line with the requirements of the CFP. The Commission proposes grouping stocks in seven categories, each with its own targets and considerations regarding fishing limits, without identifying which species are in each group. Pew recommends that the plan includes a list which specifies exactly which stocks would be considered as belonging to which group. In addition, provisions should detail that stocks can move from one group to another if new scientific information becomes available.

Targets for Groups 1 & 2 (Art. 4)

Pew remains strongly concerned about the Commission's proposal to set targets for fishing mortality in accordance with a range of values *around* F_{MSY} . Fishing above the F_{MSY} point value will not lead to restoring and maintaining fish populations for groups 1 and 2 of the proposal above B_{MSY} levels in line with CFP Article 2.2. The F_{MSY} mortality rate should be regarded as a limit, rather than a target. In its advice to the Commission³ the International Council for the Exploration of the Sea (ICES) stated:

"In a single-species context fishing above F_{MSY} implies reduced stock biomass and this may be substantial where F_{upper} is much higher than F_{MSY} . So in utilizing F_{MSY} ranges there are more advantages to fishing between F_{MSY} and F_{lower} than between F_{MSY} and F_{upper} . [...] For some mixed fisheries it may be difficult to reconcile the F s on different stocks. An approach for maximizing long-term yield could be to attempt to reconcile F on a mixed fishery using F s between F_{lower} and F_{MSY} ."

Furthermore Pew is concerned that the proposed North Sea MAP includes values for broader ranges around F_{MSY} without specifying in the articles that the ICES MSY "advice rule" needs to be followed when fishing limits are set. When the Commission asked ICES to advise on ranges *around* F_{MSY} , ICES did so on the basis of two different approaches:

- Broader ranges for plans following the ICES MSY advice rule, i.e. requiring reducing F linearly towards zero when SSB is below MSY $B_{trigger}$.
- Narrower ranges for plans that would not have such a requirement.

ICES stated: *"Although the first often provides a wider F_{MSY} range, it requires the ICES MSY advice rule to be used."* Yet, the North Sea plan mentions this requirement only in Recital 12. Clear

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, amending Council Regulation (EC) No 2187/2005 and repealing Council Regulation (EC) No 1098/2007

³ [ICES Special Request Advice 2015: EU request to ICES to provide \$F_{MSY}\$ ranges for selected North Sea and Baltic Sea stocks.](#)

provisions reflecting the ICES advice rule need to be introduced into the plan, or the values used in Annex I of the NS MAP need to be amended to ensure that the ranges used in the North Sea plan are in line with the options ICES developed.

Exceptions: Groups 1 & 2

While the objective of the proposed North Sea MAP is to restore and maintain harvested species above B_{MSY} levels, fishing mortality rates that would allow that aim to be achieved ($F < F_{MSY}$) are only unambiguously required if the stock biomass is below the minimum spawning biomass reference point ($MSY B_{trigger}$) level, which is lower than B_{MSY} . In the Commission's proposal (Art. 4.), stocks above $MSY B_{trigger}$ can, under vague conditions, be fished above the F_{MSY} point value fishing rates. This would however directly impede reaching the MAP and CFP objectives of progressively restoring and maintaining populations of fish stocks above B_{MSY} levels.

Two of the exceptions allowing fishing opportunities to be fixed based on the upper F range, and thus to overfish, are only vaguely defined and provide ample room for interpretation. The North Sea MAP proposal Art. 4.4 a) and b), states:

- a) *"If, on the basis of scientific advice or evidence, it is necessary for the achievement of the objectives laid down in Article 3 in the case of mixed fisheries"*.

It is not clear why overfishing would be needed to achieve the objectives as defined in Article 3. For example, the elimination of discards shall be achieved through the landing obligation and discard plans. Tools to facilitate the elimination of discards are for instance quota flexibility, swaps and increased selectivity.

- b) *"If, on the basis of scientific advice or evidence it is necessary to avoid serious harm to a stock caused by intra- or inter-species stock dynamics"*

The proposal does not define "serious harm to a stock". In an ecosystem most stocks have inter-species dynamics, and all stocks have intra-species dynamics.

It is imperative that the vagueness from these provisions is removed. In addition, the application of these exceptions must be explained by a reference to one or more of the conditions similar to the requirements in the Baltic MAP. The scientific advice / evidence mentioned in Article 4.4(a) and 4.4(b) needs to be peer reviewed by the Scientific, Technical and Economic Committee for Fisheries (STECF) and made publicly available to ensure minimum scientific standards, timely delivery as well as public scrutiny.

Targets for Groups 3 & 4 (Art. 5)

Pew welcomes the proposed Article 5.1, which states that fishing opportunities for stocks in categories 3 and 4 shall be consistent with scientifically advised F_{MSY} rates.

However, Pew is concerned about the proposed Article 5.2, which states that “in the absence of scientific advice on fishing mortality rate consistent with maximum sustainable yield, fishing opportunities shall be consistent with scientific advice to ensure the sustainability of the stocks in line with the precautionary approach”. Lack of scientific certainty due to insufficient relevant scientific information must not lead to less ambitious restoration targets for fish stocks, but additional safeguards need to be added. This will also provide an incentive to fully comply with the data collection requirements and to further enhance knowledge about the stock.

Precautionary reference points should not be treated as management targets when setting fishing opportunities. In the absence of MSY-based advice, good management should strive to keep fishing mortality well below F_{PA} , and SSB well above B_{PA} , until information to allow the assessment of MSY is possible. Further management actions to ensure stocks are on a trajectory to recover to levels above those capable of producing MSY should be considered when setting fishing opportunities.

Targets for Group 5 (Art.6), 6 and 7.

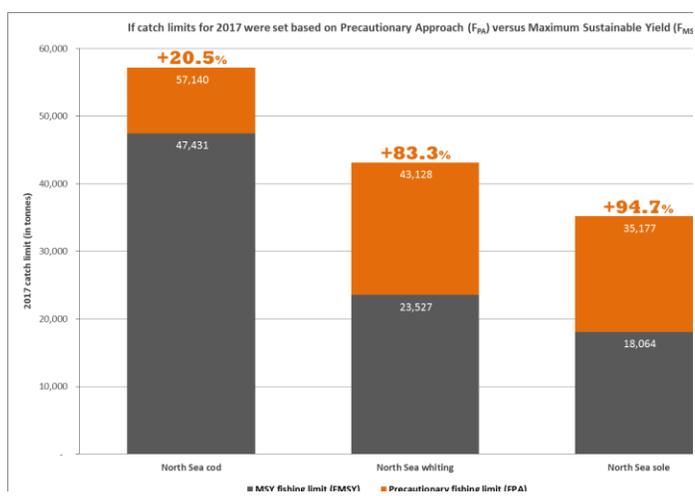
For stocks in group 5, defined as having no catch limits in the North Sea, it is unclear what the Commission means by management “based on the precautionary approach in line with scientific advice”. Management measures for such stocks, ensuring a comparable degree of conservation as for all other harvested species, should be further enunciated.

Group 6 is mentioned in the definitions, but no further provisions for the management of prohibited species are made in the proposed MAP. The Plan should outline on which basis these species will be managed, such as establishing recovery plans, area closures and bycatch mitigation measures.

Precautionary approach vs MSY approach

In order to provide advice for fisheries managers to maintain fish populations within safe biological limits, ICES have developed “precautionary reference points” (F_{PA} and B_{PA}) and advice rules. However, whilst the management application of precautionary reference points provides boundaries to ensure stocks remain within safe biological limits, this in itself is not a sufficient condition for restoring and maintaining fish stocks above levels capable of producing MSY, as required by Art. 2.2 of the CFP.

As illustrated by the examples in the graph below, the fishing mortality rate associated with harvesting at F_{PA} is higher than the rate F_{MSY} , as indicated by the corresponding catch limits (tonnes) for stocks. While for group 3-4 stocks the MSY reference points are not available, it must be ensured that fishing opportunities set on the basis of precautionary reference points ensure at least a comparable degree of conservation of the relevant stocks.



Likewise, group 7 is mentioned in the definitions as “demersal stocks for which targets as F_{MSY} ranges and safeguards linked to biomass are established in Union legislation other than this Regulation”. It is however unclear which stocks this grouping includes and under which other Union legislation they are managed. Providing more clarification on this grouping would be helpful. In addition, it might be useful to make provisions for widely ranging stocks without such ranges as well.

3 SAFEGUARDS

Similar to the concerns about different targets in Articles 4 – 6, Pew has strong concerns regarding the differentiation of recovery objectives for the different groupings. The CFP applies the same recovery objective to all harvested species. This key requirement is breached in the North Sea MAP which introduces lower recovery objectives for certain categories of stocks.

Safeguards Groups 1 & 2 (Art.8)

Pew welcomes the inclusion of a provision determining that, if biomass falls below minimum reference points, all appropriate remedial measures shall be taken to ensure that the stock recovers to levels above those capable of producing MSY. However, concrete actions within a specific timeframe for recovery should be included in the MAP, including a clear requirement to linearly reduce mortality in proportion to the decrease in biomass in line with the ICES framework for advice.

Article 8.2 requires that the targeted fishery be suspended if a stock falls below B_{lim} levels, but similarly does not require any concrete action within a specific timeframe, which Pew recommends is added.

Lack of safeguards for groups 3-7 and specific conservation measures (Art.9)

The proposed plan does not include any specific safeguards in terms of ensuring that stocks in groups 3-7 are recovered and maintained above levels capable of producing MSY – a serious inconsistency with the objectives of the CFP. The proposal only includes an article making reference to “remedial action [...] required for the *conservation*” of stocks in groups 3-7 (Article 9; emphasis added). This can be interpreted as management on the basis of precautionary reference points, which is less ambitious than the CFP (see box “Precautionary approach vs MSY approach”). No timeframe is suggested for the adoption of delegated acts or other measures for the recovery and management of stocks in these groups.

It is essential that all stock groupings be managed so as to allow stocks to rebuild and thereafter maintain biomass levels above those capable of producing MSY. Moreover, in line with CFP Art. 9.2., for stocks without MSY reference points, the MAP shall provide for measures based on the precautionary approach, ensuring at least a comparable degree of conservation of the relevant stocks. The NS MAP should ensure that management measures must be taken if stocks fall below the biomass levels capable of producing MSY. This must include the requirement to reduce fishing mortality when biomass is below $MSY B_{trigger}$ proportional to the reduction of biomass, as set out in ICES advice for wider F-ranges.

4 PROVISIONS LINKED TO THE LANDING OBLIGATION

Pew emphasises that the landing obligation is intended to put an end to the wasteful practice of discarding unwanted fish, by avoiding and reducing unwanted catches in the first place. As such, emphasis must be placed on avoidance and selectivity measures, followed by national and international quota swapping, which is allowed for under the CFP. In this regard, Pew particularly welcomes the proposed Article 10.1, which stipulates that member states shall ensure that the composition by species of the quotas available to vessels operating in mixed fisheries are appropriate to the likely composition of the catch.

Pew further recalls that Recital 32 of the CFP specifies that the introduction of the landing obligation should not jeopardise the MSY objective nor lead to an increase in fishing mortality. The fixing of fishing limits in mixed fisheries must take this into account.

5 EVALUATION OF THE PLAN

The proposed plan includes in Article 17 a requirement for evaluation no less than 5 years after entry into force of the regulation. It is essential that such an evaluation includes an assessment of the status of the stocks covered by the plan in relation to the biomass level capable of producing the MSY (B/B_{MSY}). Without this assessment it will not be possible to evaluate to what extent the plan achieved its objectives and the objectives of the CFP.

For more information, please contact:

Andrew Clayton

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

Email: AClayton@pewtrusts.org