

Setting Total Allowable Catches (TACs) in the context of the Landing Obligation

The current approach of the Commission and the Council is to base Total Allowable Catches (TACs) for fish on total catch advice. That means that the Commission and the Council assume that all the fish caught at sea are being brought to shore (albeit with deductions when setting TACs in some cases to account for legal exemption discards). This makes sense: the Landing Obligation (LO) in EU law means that fishers are required to bring in what they catch (apart from those exemptions). But the Commission and Council's approach will result in overfishing if compliance with the Landing Obligation (LO) remains poor, with illegal discards continuing. A man eating three chocolate biscuits each night above and beyond his prescribed weight-loss regime will keep the weight on, even if he does not admit he is eating them.

This document explains why the Commission and other decision-makers need to:

1. ensure that compliance with the LO and uptake of agreed TACs are effectively enforced and monitored, and – until this can be guaranteed –
2. set TACs below the total catch advice by a sufficient margin to ensure that continued illegal discards do not bring fishing above sustainable levels, and/or
3. make access by vessels to that part of the TAC that exceeds the landings (or wanted catch) advice conditional on demonstrated compliance.

The impact of the Landing Obligation on TAC-setting and catches – theory versus practice

Following the phasing in of the LO throughout European waters, the purpose of TACs changed from regulating *landings* of fish (before 2015) to regulating *catches*.¹ What used to be a total allowable landing limit has now become a Total Allowable Catch limit – at least in theory, as illustrated by the following three scenarios in the diagram below (Figure 1), which assume full compliance with the LO:

¹ Article 16 (2) of the Common Fisheries Policy (CFP) Basic Regulation

A: before 2015, no LO meant TACs were based on landings (or ‘wanted catch’) advice;
B: 2015-2018, the partial LO meant TACs were based on landings advice plus quota top-ups; and
C: from 2019 onwards, the full LO, without (C1) or with (C2) exemptions means that TACs are based on total catch advice (minus deductions where exemptions apply).

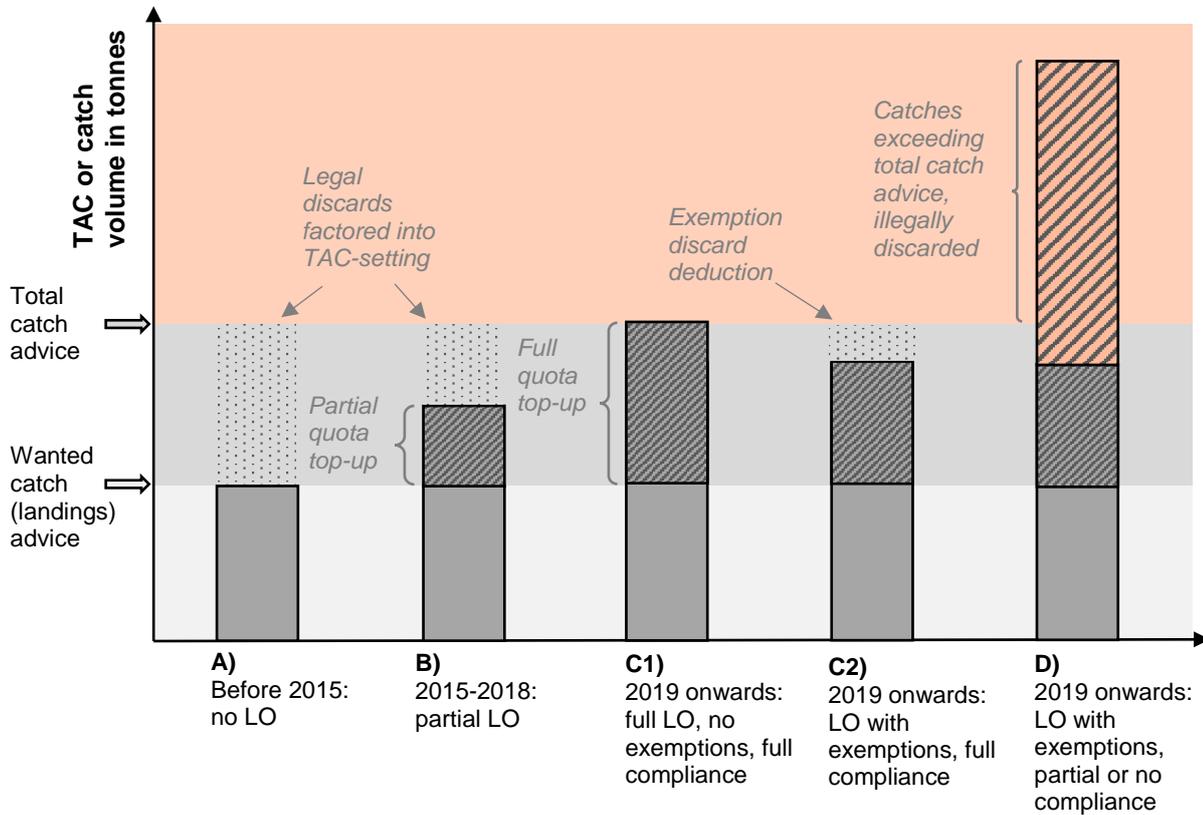


Figure legend

- = TACs or catches within this area are at or below scientific advice for landings (or ‘wanted catch’)
- = TACs or catches within this area are at or below scientific advice for total catches
- = TACs or catches within this area exceed scientific advice for total catches
- = Part of the agreed TAC that is based on landings
- = Part of the agreed TAC that is based on previous discards, now landed (i.e. ‘quota top-up’)
- = Legal discards beyond the agreed TAC, factored into TAC-setting (i.e. ‘quota deduction’)
- = Additional catches beyond agreed TAC, illegally discarded in the absence of compliance

Figure 1: Different TAC-setting scenarios - Landing Obligation and compliance. This diagram refers to an individual hypothetical TAC example, but reflects a realistic discard rate as for example found for Irish Sea plaice.

However, in reality, because of widespread non-compliance with the LO, we are facing scenario D illustrated above. Where actual catches are not limited to the agreed TAC, unreported discarding on top of the TAC will continue, bringing the total catch potentially far beyond the scientifically advised level. The diagram is based on a hypothetical TAC example, but reflects discard rates (here: around 50%) typically found in some stocks such as Irish Sea plaice. If these discard rates remain unchanged, this would mean for this example that the actual catch (including illegal discards) would exceed the agreed TAC by up to 100% if the TAC is fully exhausted and discarding continues as before, i.e. if there is no compliance at all (worst case scenario).

Clearly, the Commission's and Council's approach to base TACs on total catch advice could result in considerably higher catches than scientifically advised if compliance with the LO remains poor.² The extent of this issue will be exacerbated if the TAC is set above scientific advice to begin with. Like the dietician puzzling over her patient's weight, the Commission and the Council need to take into account what they ought to know is really happening with those biscuits.

Conclusion: ensure full compliance or set TACs below total catch advice

This leaves the Commission and other decision-makers with three options if they are to ensure that actual catch levels are sustainable:

1. (Priority) Effectively enforce the LO to ensure full compliance, for example with Remote Electronic Monitoring (REM) Tools, as a precondition for setting TACs at the advised catch levels; or
2. (If compliance is not ensured) Set TACs below the advised catch levels by a sufficient margin to ensure that the sum of reported landings and illegal discards does not exceed scientific advice; and/or
3. (If compliance is not ensured) Develop approaches for making access to what used to be considered the 'quota top-up' conditional on demonstrating compliance and/or full catch accountability.

² The scale of the issue will of course differ by stock, depending on the respective discard rates, exemptions in place, and fishery-specific compliance levels, but for stocks with high discard rates the impact could be huge.

Jenni Grossmann

Science and Policy Advisor

jgrossmann@clientearth.org

www.clientearth.org

Elisabeth Druel

Fisheries Project Lead

edruel@clientearth.org

www.clientearth.org



Brussels

60 Rue du Trône (3ème étage)
Box 11, Ixelles, 1050 Bruxelles
Belgique

Berlin

Albrechtstraße 22
10117 Berlin
Germany

Warsaw

ul. Mokotowska 33/35
00-560 Warszawa
Polska

Beijing

1950 Sunflower Tower
No. 37 Maizidianjie
Chaoyang District
Beijing 100026
China

London

Fieldworks
274 Richmond Road
Martello St. Entrance
E8 3QW
United Kingdom

Madrid

García de Paredes
76 duplicado
1º Dcha
28010 Madrid
Spain