

Recommendations to the Scottish Government on setting fishing opportunities for 2022

October 2021

On behalf of Blue Marine Foundation, ClientEarth, Marine Conservation Society and Oceana, we wish to present our recommendations on the setting of Northeast Atlantic fishing opportunities for 2022. It is our hope that these will assist the Scottish Government in advocating for decisions on fishing opportunities that end overfishing, significantly contribute to restoring and/or maintaining all fish stocks above healthy and productive levels and ensure the functionality of marine ecosystems.

The waters around Scotland are some of the most productive in Europe and contain many important fishing grounds which house numerous flagship species. Scottish vessels are also responsible for both the highest quantity and value of seafood landed in the UK annually.¹ The 2020 UK Fisheries Act and the UK-EU Trade and Cooperation Agreement (TCA) commit to ensure that fishing activities are environmentally sustainable and contribute to restoring and maintaining fish stocks above scientifically defined maximum sustainable yield (MSY) biomass reference point levels. It is vital all UK Governments deliver on these objectives to achieve sustainable fisheries and healthy, resilient marine ecosystems – key components of delivering Good Environmental Status (GES). Such achievements are also essential if Scotland is to support prosperous domestic fishing fleets and coastal communities, as well as meet international commitments and obligations such as the United Nations Convention on the Law of the Sea (UNCLOS), OSPAR and the United Nations Sustainable Development Goal (SDG) 14. We welcomed the leadership shown by the Scottish Government in being amongst the first countries in the world to commit to the SDGs, but further action is required to match the ambition.

To meet domestic and international requirements when setting fishing opportunities and fisheries management measures for 2022, we recommend the Scottish Government ensure that:

- TACs are set below the best available scientific advice provided by the International Council for the Exploration of the Sea (ICES), both for stocks with advice based on the ICES MSY approach and for stocks with advice based on the ICES data-limited precautionary approach;
- The precautionary approach is applied – as defined by the United Nations Fish Stocks Agreement (UNFSA) and enshrined in the UK Fisheries Act – when setting TACs for stocks where there is no MSY-based scientific advice on catches. This should include the setting of precautionary fishing limits and additional measures to mitigate the risk of overfishing, as well as enhanced monitoring and data collection to enable the definition of MSY reference points for the stocks concerned;
- For stocks caught and assessed within a mixed fishery, ICES mixed fisheries considerations are factored in to ensure all stocks are restored and/or maintained above biomass levels capable of producing MSY. If the mixed fisheries approach supports a reduction in single species TAC below the MSY advice in order to safeguard the more vulnerable stocks caught in the fishery, this should be followed;
- The widely recognised poor compliance with the Landing Obligation (LO) is factored in by setting TACs lower than the recommended ICES maximum catch advice, to ensure agreed TACs do not lead to fishing mortality beyond sustainable levels.² If quota adjustments are agreed to account for previous discards, access to such quota “top-ups” should only be granted to vessels which demonstrate full compliance with the LO;
- Stocks with zero catch advice should only be granted ‘bycatch TACs’ if a rebuilding plan has been demonstrably implemented. This plan should effectively reduce bycatch, set

¹ House of Commons, 2020. Available at: <https://researchbriefings.files.parliament.uk/documents/SN02788/SN02788.pdf> [Last accessed 07.10.2021]

² ClientEarth, 2020. Setting Total Allowable Catches (TACs) in the context of the Landing Obligation. Available at: <https://www.documents.clientearth.org/library/download-info/setting-total-allowable-catches-tacs-in-the-context-of-the-landing-obligation/> [Last accessed 07.10.2021]

the relevant stocks on a pathway to recovery above levels capable of producing MSY as soon as possible, and be closely monitored and enforced using remote electronic monitoring with cameras (REM);

- Forage fish stocks (including Norway pout, sand eel, sardines and sprat) which have important ecological roles in supporting marine wildlife (such as seabirds, marine mammals and other commercial fish species), are managed using an ecosystem-based approach which accounts for the requirements of dependent predators. This means including escapement thresholds while setting TACs that ensure ecosystem needs are fully considered;
- TACs are set below the scientific maximum catch advice for species vulnerable to the impacts of climate change to provide a “climate buffer” and to improve population resilience;
- No TACs are removed as this is not a viable solution to sustainable management. In instances where a TAC has already been removed, it should be reinstated. Removing a TAC downgrades the concerned stock from a situation where the catches are capped to limit fishing mortality, to a situation where catches are effectively unlimited.

Shared stocks with third parties

Many of Scotland’s important fish stocks are transboundary and shared with third parties. The UK and the third parties with which it shares fish resources must become constructive partners in the fight against overfishing, biodiversity loss and climate change. It is therefore vital that the UK and third parties agree to prioritise sustainability and deliver on domestic and international commitments, in particular to end overfishing, a deadline meant to have been reached by 2020. During coastal state negotiations, we urge the UK Government, engaging closely with the Scottish Government, to advocate for sharing arrangements and long-term management strategies that enshrine these commitments for both quota and non-quota stocks.

Depleted stocks and mixed fisheries

Several stocks of interest to Scotland – notably West of Scotland cod, whiting and herring - continue to be subject to very low or zero catch advice by ICES. We are extremely concerned that limited concerted effort has been made by the Scottish Government to apply progressive management measures to these fisheries to try to recover them. Instead, TACs have been set far above scientific advice to avoid fisheries closures for several years, and the Scottish Government pushed for inter-area flexibility, risking increased fishing activity in the area. As reported in the Financial Times,³ increasing catches of haddock, hake and monkfish off the west coast of Scotland could lead to the further decline of already depleted stocks of cod and whiting. These stocks present an opportunity to use the new powers of the Fisheries Act to implement robust Fisheries Management Plans (FMPs) that focus on the recovery of depleted stocks in mixed fisheries. Catch limits for all stocks should reflect the need to recover affected depleted stocks and efforts should be made to ensure any fishery interacting with already depleted populations are fully documented through the use of REM with cameras as a priority. There is also a need to explore effort limitations within some fleet segments to avoid overfishing within mixed fisheries and more broadly.

In addition to setting TACs not exceeding ICES advice, the Scottish Government should develop a range of complementary measures to improve the selectivity of fishing gear, increase avoidance of these species and provide refuges that protect depleted stocks from fishing activity. All catches need to be fully documented at sea through the roll-out of REM. We welcome the news that the Scottish government intends to consult on the use of REM in the Scottish fleet, however it is disappointing that REM has not already been included as a key part of the plan to monitor catches and improve catch data.

Mixed fisheries are of particular importance to the fleet in Scotland, which can present challenges for management and for the industry, particularly when dealing with overfished stocks. However, there are

³ Financial times, 2021. Available at: <https://www.ft.com/content/02fa9714-b766-4db0-a13a-ab64d9d6127e> [Last accessed 07.10.2021]

multiple measures that can and should be implemented simultaneously to mitigate the impact of “choke” situations whilst still fishing within MSY limits. This includes applying mixed fishery MSY advice provided by ICES to set catch limits; mandating the use of multiple selectivity and avoidance measures at the same time; and keeping record of which vessels are using which measures to track progress and demonstrate efforts are being made.

Landing obligation challenges

Despite the LO having been phased in since 2015 and formally having been fully in place since 2019, it is recognised that non-compliance is widespread. Setting TACs based on catch rather than landings advice while illegal discarding continues, allows for unsustainable catches potentially far beyond scientific advice.⁴ Poor implementation of the LO poses significant risks to sustainable fisheries and decisive steps must be taken to remedy the current situation. Any future catching policy should ensure the full ethos of the current LO is maintained and should outline how its success is going to be quantified. Provisions should also be made to fully document fisheries while collecting relevant data.

Deep Sea Stocks

The biological characteristics of most deep-sea species and the ecosystems they inhabit make them particularly vulnerable to overexploitation and poorly adapted to sustained fishing pressure since their productivity and recovery capacity are very limited. The responsibility for the management of these stocks has been delegated to the newly formed Specialized Committee on Fisheries (SCF). We urge Scotland to advocate for a precautionary approach to be applied to these fisheries and serious efforts should be made to improve the amount and quality of the currently still very limited data we have regarding deep sea stocks. Additionally, the list of managed deep-sea shark species should be updated and expanded to include all cartilaginous fish species caught in deep-sea fisheries. Furthermore, a management plan for these species consisting of enhanced monitoring (through fully documented fisheries), selectivity measures and improved data collection should be developed.

The damage inflicted on deep sea habitats is also of great concern. However, as of yet no provisions have been made to reduce or prevent the use of bottom fishing gear, even within areas that have been identified as Vulnerable Marine Ecosystems (VMEs). ICES identified 1,943 areas within the Northeast Atlantic where VMEs are known or likely to occur, and which therefore require additional protection from damaging fishing activities.

We hope you find these recommendations useful for evaluating the Scottish Government’s policies and help to shape Scotland’s position during UK negotiations with the EU for the setting of fishing opportunities for 2022. For further detail, please see these [linked recommendations for the UK Government](#) or contact:

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⁴ L. Borges. 2020. The Unintended Impact of the European Discard Ban. ICES Journal of Marine Science. Available at:

<https://doi.org/10.1093/icesjms/fsaa200> [Last accessed 07.10.2021]

Also see: ClientEarth’s and Our Fish’s briefings on the LO. Available at: <https://www.clientearth.org/latest/documents/setting-total-allowable-catches-tacs-in-the-context-of-the-landing-obligation/> & <https://our.fish/wp-content/uploads/2020/11/Science-Briefing-EU-fisheries-management-system-likely-to-implode-the-unintended-impact-of-not-enforcing-the-ban-on-fish-discards-.pdf> [Last accessed 07.10.2021]