



Recommendations to the UK on the setting of fishing opportunities for 2024

14 September 2023

On behalf of Blue Marine Foundation, ClientEarth, Marine Conservation Society (MCS), Oceana UK, Open Seas, Royal Society for the Protection of Birds (RSPB), Shark Trust, Whale and Dolphin Conservation (WDC) and World Wide Fund for Nature (WWF), we wish to present our recommendations on the setting of fishing opportunities for Northeast Atlantic stocks for 2024. Our intent is to assist the UK Government and devolved administrations in making decisions on fishing opportunities that end overfishing, significantly contribute to restoring and/or maintaining all fish stocks above healthy levels and to minimising levels of incidental catches, and that safeguard marine ecosystem functions and resilience, also in light of the increasing effects of climate change.

1. Overfishing and UK ambitions as a sovereign coastal state

UK fish stocks are in a worrying state, with the UK Government and devolved administrations continuing to set fishing limits above scientific advice. Only around a third of the assessed TACs negotiated by the UK for 2020, 2021 and 2022 followed scientific advice from the International Council for the Exploration of the Sea (ICES), with nearly two thirds still set above scientific advice according to the UK Government's own report.¹ Progress made in 2023 was limited, with 40% of the assessed TACs following scientific advice.²

The UK Government stated its commitment to become a world leader in fisheries management by '*setting a gold standard*' following its departure from the EU,³ as well as continuing to uphold the vision of '*clean, healthy, safe, productive, and biologically diverse seas*' set out in the UK's Marine Strategy.⁴ The 2020 UK Fisheries Act⁵ and the UK-EU Trade and Cooperation Agreement⁶ (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 points.

It is vital that governments across the UK deliver on these objectives to achieve sustainable fisheries and healthy, resilient marine ecosystems to meet the Fisheries Act legal requirements, as well as the Marine Strategy Regulations obligation to achieve Good Environmental Status (GES). However, the independent assessment by the Office for Environmental Protection published earlier this year concluded that the

1 Bell, E, Nash, R, Garnacho, E, De Oliveira, J, O'Brien, C (2022). [Assessing the sustainability of fisheries catch limits negotiated by the UK for 2020 to 2022](#). Cefas. 38 pp. 2 January 2022.

2 Bell ED, Nash RMD, Garnacho E, De Oliveira J, Hanin M, Gilmour F, O'Brien CM (2023). [Assessing the sustainability of negotiated fisheries catch limits by the UK for 2023](#). Cefas project report for Defra. 30 pp.

3 Department for Environment, Food and Rural Affairs (DEFRA) (2018). [Fisheries white paper: Sustainable fisheries for future generations](#). 25 October 2018.

4 Department for Environment, Food and Rural Affairs (DEFRA) (2019). [Marine Strategy Part One: UK updated assessment and Good Environmental Status](#). October 2019.

5 [UK Fisheries Act](#) (2020).

6 [Trade and Cooperation Agreement](#) between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland of the other part. 2020.

“Government’s progress on delivery of its 25 year plan to improve the environment has ‘fallen far short’”,⁷ with 14 of 23 assessed environmental targets found to be “off track, in some cases significantly so”.⁸ This includes a failure so far to achieve or maintain marine GES by 31 December 2020,⁹ with commercial fishing having previously been identified as one of the “predominant human pressures preventing GES being achieved”.¹⁰

Decisive action is essential if the UK is to support prosperous and sustainable domestic fishing fleets and coastal communities and meet its commitments and obligations under international law such as the United Nations Convention on the Law of the Sea (UNCLOS),¹¹ the United Nations Fish Stocks Agreement (UNFSA),¹² the Convention on Biological Diversity (CBD) and the United Nations Sustainable Development Goal (SDG) 14.¹³

Despite these national and international commitments, overfishing persists in UK waters, affecting both UK and shared stocks. As highlighted in Box 1, many stocks remain overfished and the UK and its negotiating partners, most notably the EU, have continued to set Total Allowable Catches (TACs) above the best available scientific advice provided by ICES.

Box 1. The status quo: overfishing continues and TACs exceed scientific advice

The first comprehensive audit of the state of the UK’s fish stocks concluded that in 2020, the deadline year for ending overfishing under SDG 14, only around 38% of fished stocks were sustainably exploited, a far reach from the 100% goal.¹⁴ An update of this audit by Oceana shows a small improvement with 45% of the 104 stocks analysed now sustainably fished, but 34% still overfished, while another 21% could not be assessed due to lack of data.¹⁵ Less than half (41%) of the stocks analysed were deemed to be of a healthy stock size, and 25% were in a critical condition, with 34% still data-limited and at greater risk of overfishing.

TAC-setting still falls well short of the UK’s sustainability commitments: this year’s report by the Centre for Environment, Fisheries and Aquaculture Science (Cefas) concluded that only 40% of the assessed TACs negotiated by the UK for 2023 (covering various TAC-setting processes, including the EU/UK and EU/UK/Norway negotiations) followed scientific advice, with 60% still set above scientific advice.¹⁶ While this represents a small improvement from the figures for 2020, 2021 and 2022 figures presented in the previous report (with little over one third of TACs following the advice),¹⁷ it is clearly still inadequate. Progress for data-limited stocks with precautionary advice is particularly lagging behind, with only 20% of the analysed 2023 TACs following this advice, compared to 50% for stocks with MSY advice (i.e. 80% and 50% still above the respective advice). Another recent analysis even indicates that progress since 2016 regarding following precautionary advice was reversed in 2023 for EU/UK shared stocks.¹⁸

7 Office for Environmental Protection (2023). Progress in improving the natural environment in England, 2021/2022. 19 January 2023.

<https://www.theoep.org.uk/report/progress-improving-natural-environment-england-20212022>. Full report available [here](#).

8 *Ibid.*, p. 10.

9 *Ibid.*, p. 31.

10 Department for Environment, Food & Rural Affairs (2019). [Marine Strategy Part One: UK updated assessment and Good Environmental Status](#). October 2019.

11 UNCLOS (1982). [United Nations Convention on the Law of the Sea](#).

12 UN, [Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea](#) of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks.

13 <https://sustainabledevelopment.un.org/sdg14>.

14 [UK Fisheries Audit](#) (2021). Report produced by Macalister Elliott and Partners Ltd. for Oceana.

15 Oceana in the UK (2023). [Taking stock: The state of UK fish populations 2023](#). Report produced by Macalister Elliott and Partners Ltd. for Oceana. DOI number: 10.5281/zenodo.8312508.

16 Bell, ED, Nash, RMD, Garnacho, E, De Oliveira, J, Hanin, M, Gilmour, F, O’Brien, CM (2023). [Assessing the sustainability of negotiated fisheries catch limits by the UK for 2023](#). Cefas project report for Defra. 30 pp.

17 Bell, ED, Nash, RMD, Garnacho, E, De Oliveira, J, O’Brien, C (2022). [Assessing the sustainability of fisheries catch limits negotiated by the UK for 2020 to 2022](#). Cefas. 38 pp. 2 January 2022.

18 ClientEarth (2023). Taking stock 2023 – are TACs set to achieve MSY? This report is currently being finalized and due to be published later this year.

ClientEarth’s analysis covers those TACs shared between the EU and the UK as well as those set by the EU alone, excluding cases where the TAC and ICES

Although progress has been made for commercially important fish populations over the past decade, the UK has failed to attain GES for most stocks and a substantial proportion of stocks are still poorly managed. Justifications presented by UK and EU decision-makers often revolve around a lack of scientific data, the lower economic importance of such stocks or the risk of “choking” other fisheries if scientific advice for stocks caught primarily as bycatch was followed.

In this context, and recognising that the majority of stocks of UK interest are shared with the EU, it is worth noting that in her recent Opinion on a legal case regarding the EU Common Fisheries Policy’s missed 2020 MSY deadline,¹⁹ Advocate General Ćapeta agreed that this indeed constituted a binding deadline, without exception. Ultimately, she concluded that “*the CFP Basic Regulation did not leave any discretion to the Council to depart from the MSY obligation in relation to by-catch when setting fishing opportunities in mixed fisheries*”.²⁰ The judgement in this case is expected for the autumn, but we urge both the EU and the UK to already reflect on the considerations presented in the Advocate General’s Opinion and the potential implications for shared stocks in the negotiations for next year.

Given insufficient progress in recent years, it is essential that ending overfishing is given the highest priority by the UK Government and devolved administrations, with renewed, accelerated commitments to consign overfishing to the past. This will give marine ecosystems the chance to rebound and build resilience to large-scale threats such as climate change.

As an independent coastal state, the UK has the opportunity and responsibility to lead the way in achieving sustainable fisheries, as required under the UK Fisheries Act and international agreements.²¹ We expect the UK to fulfil its ambition to be a global champion of sustainable fisheries by setting fishing opportunities for 2024 in line with sustainable exploitation levels.

2. Key recommendations on setting fishing opportunities

Persistent political decisions to set fishing opportunities above scientifically advised levels perpetuate overfishing of Northeast Atlantic stocks, including vulnerable deep-sea stocks, and are a substantial roadblock in sustainable fisheries management. Notably, the UK Fisheries Act contains the fundamental “precautionary objective”, that “(a) *the precautionary approach to fisheries management is applied, and (b) exploitation of marine stocks restores and maintains populations of harvested species above biomass levels capable of producing maximum sustainable yield*”. We therefore call on the UK Government and devolved administrations to stop repeating past management errors and to show political leadership in negotiations in order to fulfil its domestic management commitments and international agreements related to the setting of fishing opportunities.

In light of the current biodiversity and climate crises, it is imperative to rebuild all stocks well above sustainable and productive levels in order to enable them to cope with and mitigate mounting pressures. **We therefore strongly recommend investing in the resilience of stocks and ecosystems by fishing well below the maximum catch level advised by ICES in the single-stock advice**, rather than setting TACs precisely at this level as a default (also see section 4 for further details). There are plenty of reasons for this approach, also to deliver on the fisheries objectives in the Fisheries Act, such as the need to

advice do not cover the same area and are thus not directly comparable. The preliminary results presented here are based on the same scope and methodology described in ClientEarth’s latest report: ClientEarth (2022), [Taking stock 2022 - are TACs set to achieve MSY?](#) October 2022. Note that discrepancies between the results of this analysis and that presented by Cefas are most likely due to differences in scope and parts of the methodology used, but both confirm that many TACs continue to exceed scientific advice and progress has been limited.

19 Case C-330/220 Friends of the Irish Environment CLG v Minister for Agriculture, Food and the Marine, Ireland, Attorney General EU:C:2023:487. <https://curia.europa.eu/juris/documents.jsf?num=C-330/22>. [OPINION OF ADVOCATE GENERAL ĆAPETA](#) delivered on 15 June 2023.

20 *Ibid.*, paragraph 42.

21 Such as the United Nations Convention on the Law of the Sea ([UNCLOS](#)), United Nations Fish Stock Agreement ([UNFSA](#)) or the Sustainable Development Goals on life under water ([SDG14](#)).

- a) maximise stock and ecosystem health and resilience in the face of climate change and other challenges,²² such as a projected increasing frequency of marine heatwaves;
- b) maximise the potential of fish stocks to contribute to effective oceanic carbon sequestration to mitigate against climate change;²³
- c) factor in the risk of illegal discarding;²⁴
- d) minimise and where possible reverse the impacts of fishing on ecosystems, e.g. by fully accounting for predator needs and other ecosystem dynamics;²⁵
- e) safeguard depleted or vulnerable stocks in mixed fisheries;²⁶
- f) provide a buffer in case of unexpected changes in the perception of the stock and/or the ICES advice and its underlying assessment;²⁷ and
- g) facilitate stabilising prices by avoiding large fluctuations in TACs and corresponding catches between years.

While this approach of setting TACs below the advice may require a decrease in certain TACs in the short-term, it is a key way of future-proofing UK fisheries and maximising their potential to be sustainable and ultimately more productive in the long-term. **Sustainable, ecosystem-based TAC-setting must also be underpinned by robust and comprehensive monitoring and enforcement to ensure that catches are fully documented and accounted for.** The swift roll-out of remote electronic monitoring (REM) with cameras is essential in this context.

With regards to the current push by some EU Member States for multiannual TACs, we note that currently this only appears to be under consideration for EU-only stocks. However, in case a similar approach might be discussed as part of the negotiations on shared stocks, we would already like to register our concern about the impact this might have on sustainable TAC-setting in line with the most up-to-date, best available scientific advice. While the desire for stability and predictability for the industry is understandable, we believe that the best way to achieve this is to allow stocks to recover well enough above sustainable levels to minimise the risk of large fluctuations in stock size between years, and to refrain from fully exhausting every increase in catch advice. **If multiannual TACs are nonetheless pursued, this must be done in a way that does not impede the ability of decision-makers to follow the best available scientific advice, nor result in new information about a potential change in stock status not being requested or used.** This may require setting TACs well enough below the respective ICES headline advice to provide a buffer against unforeseen stock decreases. In any case, safeguards are needed to ensure that TACs are decreased accordingly where new scientific advice indicates the stock status has deteriorated compared to when the multiannual TACs were initially set.

As for data-limited stocks, we welcome the ongoing work within ICES to further develop methods to provide quantitative advice using available information for example on life history traits and exploitation characteristics.²⁸ **We strongly recommend that remaining data gaps are explicitly identified on a**

22 See section and Box 4. Also see Sumaila, UR, de Fontaubert, C, Palomares, MLD (2023). [Editorial: How overfishing handicaps resilience of marine resources under climate change](#). Front. Mar. Sci., 15 August 2023. Sec. Marine Fisheries, Aquaculture and Living Resources. Volume 10 - 2023.

23 Saba GK, Burd AB, Dunne JP, Hernández-León S, Martin AH, Rose KA, Salisbury J, Steinberg DK, Trueman CN, Wilson, RW, Wilson, SE (2021). [Toward a better understanding of fish-based contribution to ocean carbon flux](#). Limnology and Oceanography, Volume 66, Issue 5, pp.1639-1664.

24 See section and Box 5.

25 See section and Box 4.

26 *Ibid*.

27 Irish Sea sole is a negative example of a stock for which the TAC was immediately set at the ICES headline advice level as soon as this was no longer for zero catch in 2019, rather than gradually increasing the TAC while monitoring the stock situation. The most recent stock assessment revealed that fishing mortality has increased steeply in the last few years and the stock has dropped back below MSY $B_{trigger}$ and B_{pa} and is now close to B_{lim} , resulting once again in zero catch advice. ICES (2023). Sole (*Solea solea*) in Division 7.a (Irish Sea). ICES Advice: Recurrent Advice. Report. <https://doi.org/10.17895/ices.advice.21864291.v1>, Table 6, p. 4 and Figure 1, p. 1. Not fully exhausting every increase in catch advice could help safeguard against such developments. West of Scotland whiting could serve as such a more positive example, for which the increase in catch advice from zero catch to 4114 t in 2022 was not immediately fully exhausted. Fishing mortality for this stock currently remains low whereas the stock is below MSY $B_{trigger}$ and projected to decrease. ICES (2023). Whiting (*Merlangius merlangus*) in Division 6.a (West of Scotland). ICES Advice: Recurrent Advice. Report. <https://doi.org/10.17895/ices.advice.21864327.v1>, Table 6, p. 4 and Figure 1, p. 1.

28 The ICES WKLIFE workshops have been developing quantitative assessment methodologies for data-limited stocks. See for example <https://www.ices.dk/community/groups/Pages/WKLIFEX.aspx> and <https://www.ices.dk/community/groups/Pages/WKLIFEXI.aspx>.

stock-by-stock basis and that concrete roadmaps as to what is needed to effectively address them going forward are developed and implemented as a matter of urgency. Lifting stocks out of the data-poorest categories where only landings information is available is crucial to move on from the current situation where precautionary advice, often criticised by industry for the use of the precautionary buffer, is exceeded on a regular basis.

The recent examples of Celtic Sea pollack²⁹ and Irish Sea cod³⁰ which both moved from (routinely exceeded) precautionary advice to zero-catch advice based on the MSY approach, confirming their severely depleted state, should serve as a (pre)cautionary tale on the consequences of ignoring precautionary advice.

Box 2 below outlines our main recommendations on the setting of fishing opportunities for 2024.

Box 2. Key recommendations for the setting of fishing opportunities for 2023

- **Set catch limits not exceeding, and preferably well below, the best available scientific advice provided by ICES, in order to maximise long-term stock and ecosystem health and productivity.** This is necessary both for stocks with advice based on the ICES MSY approach and for stocks with advice based on the ICES precautionary approach for data-limited stocks. Importantly, the ICES headline advice presented at the top of the respective ICES single-stock advice document represents the maximum level of catches not to be exceeded rather than a target or absolute recommendation. Indeed, certain TACs need to be set below this headline advice in order to safeguard other stocks caught in the same fisheries and/or to factor in additional pressures or ecosystem dynamics (see below and Box 4).
- **Fulfil the UK's legal obligation to implement the Fisheries Act objectives, including the precautionary approach** (as defined by the UNFSA and enshrined in the UK Fisheries Act) when setting all TACs, including those for stocks where scientific advice based on the MSY approach is not available. This includes 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. This is also critical for deep-sea stocks since most of these are currently still subject to precautionary advice.
- **Fulfil the UK's legal obligation to take an ecosystem-based approach to fisheries management, including for forage fish.** One fundamental step of implementing ecosystem-based fisheries management (EBFM) is to set TACs within ecological limits, i.e. TACs that account not just for the population health of target species but for the effects of fisheries on non-target species and food webs as well as for relevant environmental conditions. This is especially critical for forage fish (including for example Norway pout, sandeel, herring, sardines and sprat) which have an important ecological role in supporting marine wildlife (such as seabirds, marine mammals and commercial fish species). This means setting their TACs below the advised levels, where ecosystem needs are not already fully factored into the scientific advice the TACs are based on, as well as commissioning the science needed to better account for these needs. See section 4 for details.

29 ICES (2023). Pollack (*Pollachius pollachius*) in subareas 6–7 (Celtic Seas and the English Channel). ICES Advice: Recurrent Advice. Report. <https://doi.org/10.17895/ices.advice.21841011.v1>. This stock was subject to precautionary advice of 3360 t from 2019 to 2023 which was exceeded substantially in all years (the sum of the two relevant TACs was 12560 t in 2019, 12401 t in 2020, 9610 t in 2021, 8168 t in 2022 and 6535 t in 2023), see Table 6, p. 4.

30 ICES (2022). Cod (*Gadus morhua*) in Division 7.a (Irish Sea). ICES Advice: Recurrent Advice. Report. <https://doi.org/10.17895/ices.advice.19447895.v3>. The advice for 2024 has not been released yet. The stock was subject to precautionary advice since 2020 which has been exceeded (TAC of 257 t versus advice of 116 t in 2020; 206 t vs. 93 t and 74 t in 2021 and 2022, respectively, see Table 6, p. 5).

- **Set TACs below the maximum catch advice for species vulnerable to the impacts of climate change and/or marine heatwaves**, or subject to other pressures or stressors, to provide a “climate buffer”, improve population resilience and invest in larger stocks with a healthy age/size structure and higher long-term productivity. See section 4 for details.
- **For stocks caught and assessed within a mixed fishery, factor in ICES mixed fisheries considerations** to ensure that all stocks are restored and/or maintained above biomass levels capable of producing MSY. This means setting TACs for the more abundant stocks below their single-stock advice, where this is necessary to safeguard the more vulnerable stocks caught in the fishery. See section 4 for further details. The UK and its negotiation partners like the EU should prioritise addressing any remaining concerns about the data or approach used in the current ICES mixed fisheries considerations, in order to support the effective application of the latter in TAC-setting.
- **If multiannual TACs are pursued, ensure that these do not result in a failure to follow the most up-to-date best available scientific advice, or in such advice not being requested.** By default, TACs (whether multiannual or not) should be set below the ICES headline advice to allow stock levels to increase, to minimise the risk of large fluctuations in stock sizes, and to build population and ecosystem resilience. Safeguards are needed to ensure that TAC-setting remains responsive to stock declines.
- **Factor in the widely recognised poor compliance with the Landing Obligation (LO) by setting TACs lower than the recommended ICES maximum catch advice**, to ensure the agreed TAC does not lead to fishing mortality beyond sustainable levels.³¹ If quota adjustments are granted to account for previous discards, the UK and devolved administrations should make them accessible only to vessels which demonstrate full compliance with the LO. See section 5 for details.
- **In the case of stocks with zero catch advice, ensure that ‘bycatch TACs’ are not granted** unless and until a rebuilding plan has been implemented that effectively (1) reduces bycatch, (2) sets the relevant stocks on a pathway to recovery above levels capable of producing MSY as soon as possible, and (3) is closely monitored and enforced using remote electronic monitoring (REM) with cameras. See section 6 for further details.
- **Do not remove TACs**, as the removal of a direct limit on fishing mortality is not a sustainable management solution. In instances where a TAC has already been removed (e.g. dab and flounder), 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. Even if a stock is not directly targeted, removing a TAC could leave a stock exposed to an unsustainably high fishing mortality, such as through high discarding rates.
- **When considering (re)opening fisheries, apply a gradual, precautionary approach to safeguard population health, particularly for vulnerable species.** For example, the spurdog fishery was reopened with individuals of 100 cm or less being taken off the prohibited species list and the TAC reinstated. As this population had previously collapsed, the reopening should have been more cautious, as noted in the UK-EU Written Record,³² to prevent a boom and bust scenario. We note that sections 5.3.5 and 5.3.6 of the Joint Fisheries Statement require regular reviews of sustainability measures for stocks not included in a fisheries management plan and that these reviews must be undertaken before new fisheries are opened. We are not aware that

³¹ ClientEarth (2020). [Setting Total Allowable Catches \(TACs\) in the context of the Landing Obligation](#). July 2020.

³² [Written Record of fisheries consultations between the United Kingdom and the European Union for 2023](#). Section 4 d), p. 8.

this approach was adopted for spurdog and highlight that, unfortunately, according to the Cefas assessment spurdog is at risk of being unsustainably managed.³³

- **Prioritise and apply environmental criteria for allocation of fishing opportunities**, for example through incentivising use of selective fishing gear and low impact fishing practices in line with Section 25(3) of the UK Fisheries Act and penalising destructive fishing practices. The UK Government and devolved administrations should make their allocation criteria public.
- **The UK should increase the transparency of the decision-making process regarding fishing opportunities**, in line with the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention).³⁴ The improved access for NGOs to certain parts of international negotiations, such as plenary sessions, on the initiative of the UK is a welcome development. We also welcome the publication of the Cefas report on the sustainability of agreed fishing limits on the UK government's website earlier this year, as well as last year.³⁵ These reports clearly demonstrate the insufficient progress so far towards sustainable TAC-setting, and represent a notable improvement in transparency over the final decisions. We urge the UK to properly document and proactively publish the relevant negotiating positions and records of negotiations in order to enable stakeholders to meaningfully follow and contribute to this important process.

3. Fish stocks shared with third parties

Many of the UK's important fish stocks are transboundary and shared with third parties. Following Brexit, this means there are over 100 stocks for which annual catch limits need to be agreed with other parties such as the EU and Norway, or through the Northeast Atlantic Fisheries Commission (NEAFC) Coastal States process. We welcome the fact the UK has become a NEAFC contracting party,³⁶ and has established bilateral agreements and memoranda of understanding with the main Northeast Atlantic coastal fishing states, including the comprehensive TCA with the EU. While such arrangements provide management and negotiation frameworks, the setting of annual fishing opportunities still depends on annual negotiations between the UK and these third parties.

To date, international agreements for Northeast Atlantic shared stocks have failed to deliver sustainable exploitation of these resources. The frequent lack of agreement on stock shares led to the setting of unilateral quotas which exceed the agreed TAC and/or the scientific advice, resulting in overfishing.³⁷

The UK and the third parties with which it shares fish resources must become constructive partners in the fight against overfishing, biodiversity and habitat loss and climate change. To achieve this, we urge the UK (UK Government and devolved administrations) and other coastal states involved in the setting of fishing opportunities for shared stocks to follow the recommendations in Box 3 below.

Box 3. Recommendations on fish stocks shared between the UK and third countries

- **Uphold and deliver on the UK's legal and political sustainability commitments in negotiations with third countries**, i.e. ensure that total fishing limits for all exploited fish

33 Bell, ED, Nash, RMD, Garnacho, E, De Oliveira, J, Hanin, M, Gilmour, F, O'Brien, CM (2023). [Assessing the sustainability of negotiated fisheries catch limits by the UK for 2023](#). Cefas project report for Defra. 30pp. See Table 2, p. 21 and Table 3, p. 25., TAC code DGS/15X14.

34 UNECE (1998). Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters ([Aarhus Convention](#)).

35 <https://www.gov.uk/government/publications/fisheries-analysis-of-the-outcomes-of-annual-negotiations-for-uk-fishing-opportunities>. Bell ED, Nash RMD, Garnacho E, De Oliveira J, Hanin M, Gilmour F, O'Brien CM (2023). [Assessing the sustainability of negotiated fisheries catch limits by the UK for 2023](#). Cefas project report for Defra. 30 pp. Bell, E, Nash, R, Garnacho, E, De Oliveira, J, O'Brien, C (2022). [Assessing the sustainability of fisheries catch limits negotiated by the UK for 2020 to 2022](#). Cefas. 38 pp.

36 The Northeast Atlantic Fisheries Commission, 2020. [The United Kingdom becomes the 6th Contracting Party to NEAFC](#).

37 This situation applies to key commercial stocks to the UK such as Northeast Atlantic mackerel, Atlanto-Scandian herring and blue whiting.

populations do not exceed the scientifically advised levels. The UK should also reliably demonstrate that its negotiating position was indeed fully aligned with its own domestic requirements and objectives under the UK Fisheries Act. If the resulting overall fishing limits nevertheless exceed scientific advice, despite the UK's best efforts, the UK must not make the part of its share that is the equivalent portion above the advice available to its fishers.

- **Implement a genuine precautionary approach (as defined by the UNFSA) in agreements on shared stocks.** When the available data and information are uncertain, unreliable, or inadequate, decision-makers should engage in more cautious management that safeguards vulnerable or data-limited stocks and habitats, and a lack of scientific certainty cannot preclude management action as outlined in the UK Fisheries Act.
- **Include provisions regarding abundance of fish populations, limit reference points for mortality, and precautionary and ecosystem considerations in agreements on shared stocks.** We urgently call upon coastal states to conserve biodiversity, reduce the impact of fishing activity on fish populations, sensitive species and on the whole ecosystem, including the seafloor, and use scientific knowledge to inform management decisions.
- **Avoid unilateral processes leading to catches above scientific advice.** Talks on joint management should be comprehensive, including all relevant cooperative coastal states and stakeholders. Where one or more of the relevant coastal states are not part of the relevant discussions, as has recently been the case for Russia, quotas set and catches nevertheless taken by such parties must be factored in in a precautionary way when agreeing catch limits between the other involved coastal states. In line with UNCLOS, collaboration on management should be multilateral when more than two coastal states have a stake in a given fish population, or fishery.
- **Implement the transparency obligations and rights under the Aarhus Convention** in the management of shared stocks. The underpinning scientific advice, management proposals, negotiations, positions of the parties and decisions should be published for public scrutiny, with access guaranteed for all stakeholders.
- **Apply long-term management as the underlying approach to fisheries management by default.** Although details will need to be revisited regularly, all stakeholders benefit from agreeing to, and working toward, long-term sustainable management objectives. This includes stable sharing arrangements and harvest strategies (including precautionary harvest control rules for setting catch limits). It also requires a robust monitoring and evaluation scheme, control measures and the fight against IUU fishing, a periodic review process, and any necessary mechanisms to transition from previous arrangements to a new system. For certain at-risk species and stocks, immediate emergency measures may be necessary.
- **Use published scientific advice from ICES as the basis for fisheries management decisions taken by coastal states.** For additional scientific input explicit standards should be set, ensuring that only the best available, peer-reviewed scientific advice from independent institutions recognised at the international level is used.
- **Contribute to the timely implementation of the bilateral agreements and memoranda of understanding with the main Northeast Atlantic coastal fishing states.** Priority should be given to sustainable management objectives and principles, the precautionary approach, and agreeing TACs in accordance with the best available scientific advice by ICES and governed by the MSY objective, as required for example under the TCA.

- **Prioritise resolving the allocation issues of pelagic stocks (mackerel, herring, and blue whiting) with the NEAFC Contracting Parties**, and ensure that the overall catches for each stock do not exceed scientific advice and in no case lead to unilateral quota increases.
- **Where the UK and the EU fail to reach an agreement on TACs for shared stocks by the 20th of December 2023, provisional unilateral TACs must not exceed the respective party's share of the maximum catch level advised by ICES**, as per Article 499(2) of the TCA. This represents an important safeguard to ensure that stocks are not fished unsustainably where no agreement is reached.

4. Mixed fisheries and ecosystem considerations

Achieving sustainable exploitation of each stock in fisheries targeting multiple species (mixed fisheries) can represent challenges, particularly when dealing with overfished stocks (see section 6 below). Demersal fisheries around the UK are a representative example of this issue with a diversity of species and fisheries subject to numerous biological and technical interactions.

So far, UK management decisions for mixed fisheries have mostly prioritised the exploitation of the most productive and/or economically profitable stocks, at the expense of the most vulnerable stocks (often caught as bycatch) or associated species. This approach perpetuates the depletion of vulnerable populations for the sake of avoiding short-term fisheries closures, when the focus should be on rebuilding depleted stocks which would support thriving fisheries in the long-term without the constant threat of “choking”, thanks to a more resilient, productive ecosystem.

There are multiple measures that can be implemented simultaneously to mitigate these challenges and reduce fishing pressure where necessary. Using a combination of the tools below (Box 4), fishers and managers should be able to reduce the likelihood and mitigate the impact of “choke” situations whilst still fishing within MSY limits. The UK Government and devolved administrations should ensure that all these options are used to their maximum effect, particularly for at-risk species and stocks.

Moreover, the UK must deliver on its legal requirement to apply an ecosystem-based approach to fisheries management. In the context of fishing opportunities, this means that TAC decisions must reflect the ecosystem role of harvested species (both targeted and taken as bycatch), including their relationship to other species in the food web (for example as forage fish for seabirds or marine mammals), and the ecological consequences of target species exploitation. Similarly, additional pressures or stressors impacting on harvested stocks or the ecosystem they live in, such as consequences of climate change, must be factored in when setting fishing limits.

In combination with the fundamental precautionary approach, this means setting certain TACs below the single-stock advice, especially in the face of uncertainty and data limitations and of the ongoing biodiversity and climate crises and other mounting pressures. This will require a decisive move towards a new approach to TAC-setting that by default prioritises the rebuilding of all stocks, both UK-only and shared ones, well above sustainable levels, rather than aiming to merely keep them at or near those (often diminished) levels. For example, a recent scientific paper by Kemp et al. 2023 concludes that the *“biomass of fish stocks should be allowed to regenerate to a minimum of 120% of that which will achieve MSY to provide a buffer against the uncertainty in ecological response to climate change”*.³⁸ Similarly, an earlier study by Beaugrand et al. 2022 investigating the impacts of fishing pressure and climate-induced environmental change on cod found that *“alleviating fishing effort is the only way to maintain a stable SSB when the environmental regime becomes less suitable”* and that *“preventing collapse is easier than*

38 Kemp, PS, Subbiah, G, Barnes, R, Border, K, O’Leary, BC, Stewart, B, Williams, C (2023). The future of marine fisheries management and conservation in the United Kingdom: Lessons learnt from over 100 years of biased policy. *Marine Policy* 147 (2023) 105075, <https://doi.org/10.1016/j.marpol.2022.105075>, p. 1 (abstract).

trying to reverse a collapse”.³⁹ There also needs to be an explicit focus on ensuring a healthy age/size structure, which fishing below F_{MSY} could contribute to and which is a key element of GES under the Marine Strategy Regulations and should already have been achieved by 2020. The reasons and benefits of investing in larger stocks with a healthy proportion of larger fish are manifold:

- Such stocks are likely to be more resilient to challenges posed by climate change and other mounting pressures, as well as more productive since larger fish tend to produce more offspring per spawner.
- They can improve carbon efficiency of fishing operations and potentially increase the value or marketability of the catch since a lower amount of fuel and time is needed to catch the same amount of fish compared to a situation where fish are less abundant and smaller.
- Year-to-year fluctuations in stock size may also be more effectively mitigated by larger overall stock sizes, and adopting a habit of not fully exhausting every advised catch increase can buffer future TAC decreases if the perception of the stock deteriorates, offering more stability for fishers.
- Overall, it would constitute a key way of future-proofing UK fisheries in the face of climate change and mounting pressures which may negatively impact productivity going forward, for example providing a potential buffer against recruitment failures caused or exacerbated by environmental factors.
- Ultimately, it is an investment into the long-term profitability of the fleet as well as access to sustainable seafood for current and future generations, whereas a continuation of unsustainable fishing levels and practices jeopardises long-term sustainability across all three dimensions referred to in the “sustainability objective” of the Fisheries Act (environmental, social, economic).

While the ICES single-stock advice currently aims for MSY-based exploitation, rather than presenting specific quantitative catch scenarios corresponding to our recommended focus on rebuilding stocks to larger sizes, this is something that should be explored further and more explicitly both within the UK and with its international negotiation partners. It is the responsibility of the ICES clients such as the UK and the EU to request catch advice that effectively prioritises healthy and productive stocks in the long-term, by taking full account of climate change and other relevant factors. In the short-term, one option could be to base TACs on additional catch scenarios geared towards larger biomass levels or to apply a generic buffer to all catch advice and by default set TACs below the single-stock advice by at least a certain percentage. Similar approaches, based on the concept of maximum economic yield (MEY), are already in use for example in Australia.⁴⁰

To adequately account for mixed fisheries interactions and ecosystem dynamics, as well as factoring in and mitigating against risks posed by climate change and other pressures, we therefore urge the UK Government and devolved administrations to follow the recommendations in Box 4 below.

Box 4. Recommendations for TAC-setting in a mixed fisheries and ecosystem context

- **Use mixed fishery MSY considerations provided by ICES** to assess the compatibility of single-stock TACs with the ambition to safeguard the most vulnerable stock(s) caught in the fishery. When seeking mixed fisheries scenarios from ICES, options geared towards the recovery

³⁹ Beaugrand, G, Balembos, A, Kléparski, L, Kirby, RR (2022). Addressing the dichotomy of fishing and climate in fishery management with the FishClim model. *Communications Biology* 5, Article number: 1146 (2022). <https://doi.org/10.1038/s42003-022-04100-6>, pp. 4 and 8.

⁴⁰ Department of Agriculture and Water Resources (2018). [Guidelines for the Implementation of the Commonwealth Fisheries Harvest Strategy Policy](#), Canberra, June. CC BY 4.0, p. 19. “Some commercial fish stocks around the world are managed to a biomass target that achieves maximum sustainable yield (B_{MSY}). This target maximises the long-term catch that can be taken in a fishery, but ignores the increasing costs of fishing as stocks are fished down to B_{MSY} levels. **MEY is generally achieved at a lower catch level (and conversely a higher biomass, B_{MEY}) and aims to maximise the economic returns from fishing rather than maximise the quantity of fish landed.**” The guidelines further explain that for stocks for which bioeconomic models, needed to determine MEY-based reference points and targets, are not available or feasible, MEY proxies are used, including for example the proxy of $1.2 * B_{MSY}$. This proxy is explicitly geared towards a biomass 20% larger than B_{MSY} .

of depleted stocks should be prioritised rather than those focusing on the full exploitation of the more abundant stocks in the fishery.

- **Set TACs for more abundant stocks in mixed fisheries below the ICES single-stock maximum catch advice** to account for mixed fishery interactions, and to ensure that no stocks in the fishery are fished above scientific advice.
- **Adopt spatial measures to reduce fishing pressure on more vulnerable species**, including temporary and permanent closures, real-time closures and ‘move-on’ rules.
- **Ensure independent, reliable monitoring and full documentation of catches** through Remote Electronic Monitoring (REM) with cameras, supported by observer coverage as appropriate, to better understand catch composition in mixed fisheries and use this to inform further fisheries management.
- **Mandate the use of the best available technology and practices to improve the selectivity of fishing operations.** A list of authorised mitigation measures should be made available for each active mixed fishery to support fishers. Selectivity measures employed during fishing activity should be included within the legal requirement of logbook reporting to track progress and place the burden of proof onto fishers to prove they are doing everything possible and practicable to minimise unwanted catches.
- **Ensure that TAC decisions are based on scientific advice that fully incorporates ecosystem considerations, for example regarding predator-prey interactions** (and commission such advice where these considerations are not yet fully reflected). We note the current use by ICES of multispecies modelling to account for foodweb dynamics in natural mortality values in the assessments of several species. However, there are concerns that this approach does not ensure that a sufficiently large biomass of forage fish (and other fish forming part of the prey of dependent predators) remains in the water or areas closed to fishing are fully accounted for⁴¹ to allow dependent predators to meet their needs. In light of various political commitments around maintaining food web integrity, conserving marine birds and mammals, and in line with the precautionary approach and the ecosystem-based approach, decision-makers should therefore:
 - (1) Ensure there are additional safeguards to guarantee that fisheries do not impact on the population health of dependent predators, particularly seabirds;
 - (2) Set TACs for forage fish below the relevant headline advice in order to account for ecosystem needs. We believe that the UK EEZ should be closed to industrial fishing for sandeel and therefore, zero TACs should be applied to the relevant sandeel management areas. The swift conclusion of the UK Government’s and Scottish Government’s respective sandeel consultations are critical to achieving this; and
 - (3) Request that ICES explores more ecologically robust alternative reference points, which set safe ecological limits for predators by accounting for not only how much fish biomass predators consume (i.e. their physiological requirements) when breeding successfully, but also the much greater biomass they require access to in order to do so (i.e. their ecological requirements).^{42,43}

41 Dunn, E (2021). [Revive our Seas: The case for stronger regulation of sandeel fisheries in UK waters](#). Royal Society for the Protection of Birds. June 2021.

42 Hill, SL, Hinke, J, Bertrand, S, Fritz, L, Furness, RW, Ianelli, JN, Murphy, M, Oliveros-Ramos, R, Pichegru, L, Sharp, R, Stillman, RA, Wright, PJ, Ratcliffe, N (2020). [Reference points for predators will progress ecosystem-based management of fisheries](#). Fish and Fisheries. 2020; 00:1–11.

43 Note for example, that the MSC Fisheries Standard aims to leave up to 75% of the unfished population of “low trophic level” species (such as forage fish like sandeel) in the ocean to meet ecosystem needs, compared to 40% as is typically the case for species managed based on MSY. See Marine Stewardship Council (2023). [Clarifying the assessment of key low trophic level stocks](#).

- **Swiftly review and act on the findings of the ICES response to the pending request regarding the extent to which ICES single-stock advice for forage fish factors in ecosystem considerations.**⁴⁴ This request represents a key step in the right direction, but it will be crucial to ensure that any gaps identified (i.e. occasions where the single-stock advice does not yet fully and robustly account for all relevant ecosystem considerations) are urgently addressed. Recognising that developing or adopting the relevant methodologies may take some time, it is the responsibility of the decision-makers in the meantime to use the currently available scientific advice in a much more precautionary way, for example by setting TACs below the single-stock headline advice where relevant ecosystem considerations are not yet fully reflected. In order to clearly identify such cases, the EU and the UK could request ICES to specify in future on a stock-by-stock basis (for all stocks, not just forage fish species):

- (a) which ecosystem considerations are (likely to be) relevant for each stock;
- (b) to what extent they and any other conservation measures (e.g. area closures) have (not yet) been factored into the advice; and
- (c) what the consequences of a failure to reflect these aspects are likely to be for the stock in question and for the sustainability of the respective headline advice.

A recent review of the inclusion of ecosystem trends and variability in ICES advice on fishing opportunities by Trenkel et al. 2023⁴⁵ already presents important findings in this regard that such further work should build on. This type of information could then, for example, be provided as part of the single-stock advice by default and support more ecosystem-based TAC-setting even where ecosystem considerations are not yet fully incorporated into the advice in a quantitative manner.

- **Set TACs below the single-stock advice where stocks are subject to additional pressures or stressors such as climate-related and other impacts that are not (yet) explicitly factored into the advice,** and support the incorporation of ecosystem considerations into ICES advice on sustainable catches. This is important to account for potential cumulative impacts of fisheries, offshore renewable developments and other aspects (like environmental factors) which can impact on stock status and fishing opportunities. In line with the precautionary approach, more caution should be exercised, where information about additional pressures is limited or uncertain, meaning that TACs should be set further below the advice as an additional buffer. One option could be, as a minimum, to default to setting TACs below the single-stock ICES headline advice by at least a certain percentage.

5. Landing obligation challenges

Since the LO came fully into force in 2019, TACs have been set based on total catch advice (albeit with some deductions for exempted discards), rather than landings advice as they used to before 2015. 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, unreported discarding continues and the LO is not effectively controlled and enforced.⁴⁶ Setting TACs based on catch advice rather than landings advice, while illegal discarding continues, allows for unsustainable catches potentially far beyond scientific

⁴⁴ A commitment to submit such a request to ICES was included in the [Written Record of fisheries consultations on 09 to 13 March 2023 between the United Kingdom and the European Union about sandeels in 2023](#), paragraph 6, p. 1.

⁴⁵ Trenkel, VM, Ojaveer, H, Miller, DCM, Dickey-Collas, M (2023). The rationale for heterogeneous inclusion of ecosystem trends and variability in ICES fishing opportunities advice. *Mar Ecol Prog Ser* 704:81-97. <https://doi.org/10.3354/meps14227>.

⁴⁶ For example, Communication from the Commission to the European Parliament and the Council (2022). COM(2022) 253 final. [Towards more sustainable fishing in the EU: state of play and orientations for 2023](#). Commission Staff Working Document [SWD\(2022\) 157 final](#).

advice.⁴⁷ Poor implementation of the LO fundamentally undermines sustainable fisheries and decisive steps must be taken to remedy the current situation.

Furthermore, there are industry voices who claim that failures of implementation mean that the policy is unworkable, and that a reform/elimination of the LO is needed. The UK's departure from the EU represents both opportunities, for example for taking a leadership role in the roll-out of REM and full catch documentation, and risks, such as the introduction of further exemptions that would make control and enforcement even more difficult. Current developments in the context of "Future Catching Policies", for example the ongoing Defra consultation about a discards reform,⁴⁸ suggest that the UK and devolved administrations are considering substantial changes in the way discards are managed and accounted for.

The shared NGO position is that the LO has not been given a chance to work and that the underlying problems (such as a lack of fishing gear selectivity and effective avoidance of unwanted catches) can and must be tackled under the existing framework. Any future catching policy should ensure that the full ethos of the current LO – minimising and avoiding unwanted catches and waste – 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. All of these elements will be supported by the adoption of REM with cameras which will provide improved understanding and evidence of selectivity as well as support compliance. To avoid negative effects of the failure to properly implement the LO on the setting of sustainable catch limits we make the following recommendations in Box 5 below.

Box 5. Recommendations regarding TAC-setting in the context of the LO

- **Underpin sustainable TAC-setting by robust controls and full catch documentation using remote electronic and camera monitoring.** REM has become a vital and irreplaceable tool that is now implemented in fisheries around the world. The swift roll-out of REM across UK waters is key to ensuring that catches are fully documented and accounted for, and that management measures (including TACs) are complied with.⁴⁹
- **In the absence of robust, comprehensive control and monitoring, factor in poor compliance with the LO by proposing and setting TACs lower than the ICES maximum catch advice,** to ensure that the agreed TACs do not lead to fishing mortality beyond sustainable levels. So-called quota "top-ups", intended to cover catches that used to be discarded prior to the LO and now have to be landed, should not be applied while the LO is not effectively monitored and controlled. If such top-ups nevertheless continue to be used, then TAC deductions need to be made in order to account for continued discards covered by LO exemptions. Such deductions need to be based on robust discard estimates, and where discard information is limited or uncertain, larger deductions need to be applied in line with the precautionary approach.
- **Make access to quota "top-ups" conditional on demonstrated vessel compliance with the LO and full catch documentation,** notably through REM, supported by independent observer coverage as appropriate. Such top-ups were intended to allow fishers to legally land catches that would have been discarded prior to the LO, and therefore must not be made available to vessels that are not demonstrably complying with the LO.
- **Create and promote quota redistribution solutions,** beyond traditional swaps, to avoid closing fisheries if quota is available elsewhere.

⁴⁷ Borges, L (2020). [The Unintended Impact of the European Discard Ban](#). ICES Journal of Marine Science. Also see: [ClientEarth's](#) and [Our Fish's](#) briefings on the LO. This [short 5 min presentation](#) (starting at 15:30) visualises the risk that 'topped up' catch-based TACs pose in combination with illegal discards.

⁴⁸ <https://www.gov.uk/government/consultations/discards-reform> (consultation closes on 9 October 2023)

⁴⁹ Future Fisheries Alliance (2022). [TransparentSea – Protecting our ocean using Remote Electronic Monitoring with cameras.](#)

6. Depleted stocks with zero or very low catch advice

The most recent scientific advice published by ICES highlights the continued severely depleted status of a number of key fish stocks, many of which are now jointly managed with the EU. Examples include Celtic Sea and Irish Sea whiting, Celtic Sea cod, herring in the Irish Sea, Celtic Sea and southwest of Ireland, and as of this year also Irish Sea sole and Celtic Sea pollack.⁵⁰ All of these stocks are below the biomass limit reference point, and for all of them the ICES advice is for zero catch. With climate change also likely to be affecting the resilience of some fish populations,⁵¹ effective efforts to recover these stocks are needed more urgently than ever.⁵²

We are extremely concerned that limited effort has been made by all parties involved to apply effective recovery measures while TACs continue to exceed scientific advice. In this context, it is also worth recalling the recent Opinion by Advocate General Ćapeta that indeed the CFP's 2020 MSY deadline applies to all stocks, without exception,⁵³ i.e. including stocks primarily caught as bycatch. While this is an EU-level case and the judgement has not been delivered yet, the considerations discussed throughout this process should be factored into the TAC negotiations for next year and beyond. These stocks are a public resource and recovering them is a necessity to contribute to a healthy resilient marine ecosystem and to provide long-term benefits to coastal communities.

Managing mixed fisheries involving stocks subject to zero or very low catch advice presents a number of challenges. However, there are steps that can be taken to reduce unwanted catches and minimise the impacts of fishing on depleted stocks. With specific regard to low or zero catch advice stocks, we provide the following recommendations in Box 6 below, complementing those presented in Box 4 above regarding mixed fisheries.

Box 6. Recommendations regarding depleted stocks with zero or low catch advice

- **Follow the scientific advice provided by ICES and set catch limits for depleted stocks accordingly.** The UK should prioritise the recovery of depleted stocks over short term profit maximisation, as this is in the long-term interest of both the marine environment and coastal communities.
- **Prioritise the recovery of depleted stocks particularly in cases where “bycatch TACs” are adopted,** and do not allow catches unless and until the relevant management authority has put in place an effective rebuilding plan or multi-year management strategies with clear recovery targets, timeframes and bycatch reduction strategies, including spatial measures (such as temporary and permanent closures) and selective gears, to achieve them.
- **Ensure that fisheries using “bycatch TACs” are fully documented using REM** (supported by observer coverage as appropriate), and strong remedial measures are in place. This is particularly crucial in light of long-standing concerns about the lack of compliance with the LO, as well as indications in the ICES advice for several depleted stocks that the relevant TACs have regularly been overshot in the past (e.g. for Celtic Sea cod and Irish Sea whiting).
- **Prioritise the recovery needs of these stocks in management for mixed fisheries** by ensuring that catches under no circumstances exceed the scientific advice, rather than the full

50 ICES advice for the referred depleted stocks: [Celtic Sea cod](#), [Celtic Sea whiting](#), [Irish Sea whiting](#), [herring in the Irish Sea](#), [Celtic Sea and southwest of Ireland](#), [Irish Sea sole](#), [Celtic Sea pollack](#).

51 Drinkwater, KF (2005). The response of Atlantic cod (*Gadus morhua*) to future climate change. ICES Journal of Marine Science, Volume 62, Issue 7, 2005, Pages 1327–1337. <https://doi.org/10.1016/j.icesims.2005.05.015>.

52 Sumaila, UR and Tai, TC (2020). End Overfishing and Increase the Resilience of the Ocean to Climate Change. Frontiers in Marine Science. <https://doi.org/10.3389/fmars.2020.00523>.

53 Case C-330/220 Friends of the Irish Environment CLG v Minister for Agriculture, Food and the Marine, Ireland, Attorney General EU:C:2023:487. <https://curia.europa.eu/juris/documents.jsf?num=C-330/22>. See for example [paragraphs 30, 31 and 42](#), as already quoted in section 1 of this paper.

exploitation of the possible fishing opportunities of healthy stocks in the same fishery.⁵⁴ As highlighted in Box 4, this means setting TACs for the more abundant stocks caught in the same fisheries (such as Norway lobster in the Irish Sea or haddock in the Celtic Sea) below their single-stock advice in order to safeguard depleted stocks (such as Irish Sea whiting or Celtic Sea whiting cod).

- **Request ICES to provide additional mixed fisheries scientific catch scenarios focusing on options which allow vulnerable stocks to rebuild** to inform fisheries management of the actions and/or reductions in TACs for healthy stocks which would be required. Evaluation of such scenarios could present options which avoid immediate fisheries closures while still allowing depleted stocks to recover within an ambitious timeframe.

7. Stocks not managed by a TAC

A few stocks which are currently not subject to a TAC have been exploited unsustainably for several years. Examples include the critically endangered European eel and European sea bass in the North Sea, Irish Sea, English Channel, Bristol Channel and Celtic Sea. In addition, very few management options have been explored for bycatch of vulnerable and endangered species like tope shark (*Galeorhinus galeus*).

The sustainability objective of the Fisheries Act, as well as the precautionary approach and the ecosystem-based approach are fundamental principles that must underpin UK fisheries management in general. It is crucial that effective stock-specific measures be introduced, particularly where no TAC is in place to regulate fishing levels, to ensure that vulnerable stocks are restored above sustainable levels, in line with legal requirements and the UK's wider sustainability ambitions. The fact that we know very little about the true catch levels of some of these species further strengthens the case for REM to improve data for their sustainable management. We therefore provide the following recommendations in Box 7 below for stocks not managed by a TAC.

Box 7. Recommendations for stocks not managed by a TAC

- **Introduce effective management measures for all non-TAC stocks** that aim to ensure each stock's recovery and sustainable exploitation in line with the UK's sustainability objectives, for example through recovery plans. In any cases where TACs have been removed and not reinstated, a quantitative evaluation of potential alternative management measures and their efficiency should be urgently conducted, as recommended by ICES for several deep-sea stocks in 2018,⁵⁵ to ensure the UK's sustainability objectives are met for the affected stocks. Management of non-TAC stocks should also be underpinned by REM to provide robust data on capture of these species.
- **Assess and minimise the impact of fisheries for stocks subject to TACs on non-quota species and other marine life.** For example, high numbers of dab are caught in the plaice and sole fishery in the North Sea, but mostly discarded, with a discard rate of 90%.⁵⁶ This should be addressed by setting TACs for the relevant target stocks at lower levels and implementing effective bycatch reduction measures to minimise the impact on associated non-quota stocks.

⁵⁴ ClientEarth (2020). [Ask the right question, get the right answer: Scientific advice for bycatch or non-targeted stocks that have zero catch advice.](#)

⁵⁵ ICES (2018): EU request for ICES to provide advice on a revision of the contribution of TACs to fisheries management and stock conservation for selected deep-water stocks. ICES Advice: Special Requests. Report. <https://doi.org/10.17895/ices.pub.4493>.

⁵⁶ ICES (2023). Dab (Limanda limanda) in Subarea 4 and Division 3.a (North Sea, Skagerrak and Kattegat). Replacing advice provided in 2022. ICES Advice: Recurrent Advice. Report. <https://doi.org/10.17895/ices.advice.22793633.v1>. Table 1, p. 2.

- **Ensure that the prohibited species list has clear criteria for uplisting and removal of species.** There is a clear need for transparent criteria for the listing of prohibited species to ensure that species that are in need of protection can be listed and species that have recovered can be sustainably exploited again.
- **Continue implementing measures to manage bycatches of sea bass** in commercial fisheries and to manage recreational removals of sea bass. Given that the spawning stock biomass is still below $MSY B_{trigger}$ and projected to decrease based on ICES headline advice,⁵⁷ catches should be limited to well below the headline advice to allow for a continued recovery of the stock.
- **Add European eel to the prohibited species list, stop all targeted fishing for eel, both commercial and recreational, and urgently introduce measures that address habitat loss and water quality in priority areas.** European eel is a shared stock with the EU and other countries and is subject to targeted fishing in both the UK and many other countries, despite being listed as Critically Endangered by the International Union for Conservation of Nature (IUCN).⁵⁸ The most recent scientific advice from ICES on fishing opportunities for eel,⁵⁹ provided to both the UK and the EU, is zero catch of all life stages and in all habitats, including eels used for restocking and aquaculture. It also includes advice to bring all other anthropogenic mortalities to zero and to urgently restore habitats ensuring connectivity and water quality to support recovery of the population.
- **Do not consider resuming UK international trade in eels.** In 2019, the UK requested advice from ICES regarding a potential UK non-detriment finding (NDF) for international trade in European eel in the context of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).⁶⁰ This indicates an openness in the UK to resuming international trade in European eel. However, in light of the most recent ICES advice on eel fishing opportunities, its conservation status and the widespread illegal trade in glass eels, we strongly advise against pursuing this further.

8. Deep-sea stocks

The majority of TACs for deep-sea stocks were already set last year for 2023 and 2024. However, new advice has since then been released for some of these stocks, and our previous recommendations continue to apply for any potential TAC updates.⁶¹

Scientists indicate that deep-sea fish populations in European waters are either depleted or lacking information to assess their status. Deep-sea fish live in rarely disturbed environments and tend to be slow-growing, late maturing and long-lived. The biological characteristics of most deep-sea species and the ecosystems they inhabit make them exceptionally vulnerable to over-exploitation and poorly adapted to sustained fishing pressure, whether targeted or not, since their productivity and recovery capacity are very limited. Deep-sea habitats themselves, including potential vulnerable marine ecosystems (VMEs), are highly vulnerable to damage from deep-sea fishing - damage that can take centuries for habitats to recover from. Given these characteristics, deep-sea species and ecosystems should be managed with significant precaution, instead of being treated as by-products of target fisheries for other stocks and jeopardised as collateral damage.

57 ICES (2023). Sea bass (*Dicentrarchus labrax*) in divisions 4.b–c, 7.a, and 7.d–h (central and southern North Sea, Irish Sea, English Channel, Bristol Channel, and Celtic Sea). ICES Advice: Recurrent Advice. Report. <https://doi.org/10.17895/ices.advice.21840747.v1>.

58 Pike, C, Crook, V, Gollock, M (2020). *Anguilla anguilla*. The IUCN Red List of Threatened Species 2020: e.T60344A152845178. <https://dx.doi.org/10.2305/IUCN.UK.2020-2.RLTS.T60344A152845178.en>.

59 ICES (2022). European eel (*Anguilla anguilla*) throughout its natural range. ICES Advice: Recurrent Advice. Report. <https://doi.org/10.17895/ices.advice.19772374.v1>.

60 ICES (2019): UK request for an independent review of the scientific basis for a UK non-detriment finding (NDF) for the international trade in European eel, seen in relation to CITES legislation. ICES Advice: Special Requests. Report. <https://doi.org/10.17895/ices.advice.4688>.

61 [Joint NGO recommendations to the UK on fishing opportunities for 2023](#). 22 September 2022. Section 8 and Box 8, p. 12f.

However, TACs have been repeatedly set above the precautionary advice provided by ICES, or even been removed for many of these vulnerable stocks, without successful efforts to date to fill the data gaps that still prevent full MSY-based stock assessments. This is contrary to the UK's sustainability requirements, including the precautionary approach, which requires more caution when data are lacking or uncertain, and the ecosystem-based approach of minimising negative impacts of fishing activities on the marine ecosystem.

It also fails to deliver on the UK's international commitments to manage deep-sea fisheries in a manner consistent with the global standard established by the United Nations General Assembly (UNGA).⁶² This standard requires UK regulations to contain, amongst other things, obligations to: end overfishing of deep-sea species; rebuild depleted stocks; prevent by-catch of vulnerable species; and protect vulnerable marine ecosystems (VMEs) from the adverse impacts of fishing for deep-sea species.

Box 8. Recommendations for deep-sea stocks

Many of the recommendations provided throughout Boxes 2 to 7 in this document directly apply to deep-sea stocks, particularly regarding the following:

- The setting of TACs in line with or (where necessary for example to reflect mixed fisheries or ecosystem dynamics) below the scientific advice;
- The application of the precautionary approach and the ecosystem-based approach to fisheries management and the need to prioritise the protection and recovery of vulnerable and/or depleted stocks;
- The concerns around TAC removal and the need for the implementation and evaluation of effective recovery measures to ensure the UK's sustainability objectives are met; and
- The need to urgently improve data collection and address current data gaps in order to enable the definition of MSY reference points or suitable proxies for the stocks concerned.

In addition to the above, recognising the particular vulnerability of deep-sea species and ecosystems, we recommend that the UK Government and devolved administrations:

- Support a swift implementation of the EU's adopted implementing act on the closure of vulnerable areas to fishing gears which touch the seabed, an act which aims to protect VMEs,⁶³ and consider a similar approach in UK waters;
- Adopt the position of a zero TAC for deep-sea species that are recognised as vulnerable, threatened or endangered, such as roundnose grenadier which is listed as Critically Endangered in the North Atlantic on the IUCN Red List; at NEAFC the UK should support a zero TAC for both roundnose grenadier and orange roughy;
- Set bycatch quotas at zero for any deep-sea species recognised as vulnerable, threatened or endangered, and implement effective mandatory bycatch mitigation measures for deep-sea sharks that are on the prohibited species list.

Environmental organisations remain committed to the objectives of the Fisheries Act, the TCA and other international agreements. We will continue to scrutinise the progress in ending overfishing as we urge the UK Government and devolved administrations to finally deliver on its ambition to champion sustainable fisheries management.

⁶² Resolutions [61/105](#) and [64/72](#) adopted by the General Assembly of the United Nations.

⁶³ [Regulation \(EU\) 2016/2336 of 14 December 2016](#) establishing specific conditions for fishing for deep-sea stocks in the north-east Atlantic and provisions for fishing in international waters of the north-east Atlantic and repealing Council Regulation (EC) No 2347/2002. https://oceans-and-fisheries.ec.europa.eu/news/fisheries-eu-moves-one-step-closer-protecting-deep-sea-ecosystems-bottom-fishing-its-waters-2022-06-28_en

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