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# Mismatch between TACs and ICES advice

Why it is an issue and how to address it

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## 1 Introduction

The reformed Common Fisheries Policy (CFP) includes the fundamental objective to progressively restore and maintain fish stocks above biomass levels capable of producing the maximum sustainable yield (MSY;<sup>1</sup> Article 2(2) of the CFP Basic Regulation<sup>2</sup>). For the purpose of achieving this 'MSY objective', the MSY exploitation rate shall be achieved on a progressive, incremental basis by 2020 at the latest. Moreover, the CFP must apply the precautionary approach to fisheries management, and measures should be taken in accordance with the best available scientific advice (Article 3(c) of the CFP Basic Regulation).

The main instrument regulating fishing mortality in European fisheries management is the annual TAC and Quota Regulation,<sup>3</sup> in which Total Allowable Catches (TACs) are set by the Council of Ministers following the publication of the European Commission's TAC proposals.<sup>4</sup> In order for TACs to be in line with the CFP's objectives and requirements outlined above, they need to be proposed and set at levels which are 1) at least moving towards MSY-based exploitation rates (so that they will be achieved by 2020 at the latest), and 2) in line with the precautionary approach where data are more limited and no MSY-based stock assessment is available. To determine whether this is actually the case, it is essential to compare both the Commission's TAC proposals and the final TACs set by the Council with the scientific catch (or landings) advice provided by the International Council for the Exploration of the Sea (ICES).<sup>5</sup>

Every year NGOs comment on the extent to which the TAC proposals and final TACs are in line with the scientific advice, based on such comparisons. ClientEarth's analysis of TACs for the Northeast Atlantic, North Sea and Baltic Sea<sup>6</sup> has raised several issues in terms of comparability between TAC proposals (and TACs) and scientific catch (and/or landings) advice. While both the proposed and set TACs refer to the same management units, comparing them to the scientific advice is much less straightforward in the majority of cases.

The main reason for this is that the management units for which the TACs are set do not always correspond to the stock units that ICES provides its scientific advice for. In fact, in most cases the TAC area is not exactly the same as the advice area and some TACs include more than one species while the advice is given for individual stocks. Such mismatch between management- and advice-units cannot be resolved without additional information, e.g. on the proportion of catches in those parts of the area where the TAC- and advice-units overlap.

Without access to such additional information it is impossible to comprehensively determine with certainty whether or to what extent the large number of TACs subject to area mismatch allow for catch levels that exceed the advice. This makes it difficult for external stakeholders to monitor whether TACs are being proposed and set in line with the legal requirements. These issues have to be solved for the Commission to fulfil its responsibility of demonstrating that European fisheries management measures, including TAC decisions, meet the requirements of the CFP and contribute to achieving its objectives.

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1 ClientEarth (2015). Maximum Sustainable Yield in the Common Fisheries Policy, Legal briefing. September 2015.

<http://www.documents.clientearth.org/library/download-info/maximum-sustainable-yield-in-the-common-fisheries-policy/>

2 Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy

3 For example, Council Regulation (EU) 2016/72 of 22 January 2016 fixing for 2016 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters, and amending Regulation (EU) 2015/104

4 For example, COM(2015) 559 final, Proposal for a Council Regulation fixing for 2016 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters

5 ICES' advice can be found on <http://www.ices.dk/community/advisory-process/Pages/Latest-Advice.aspx>

6 This analysis covers all North Western Waters, South Western Waters, North Sea and Baltic Sea stocks (including deep-sea fish stocks) for which both TACs and scientific advice (provided by ICES) are available, and is based on the TAC Regulations and scientific advice for 2016.

This briefing presents an overview and examples of the different scenarios of area and species mismatch, as well as a discussion of their implications for TAC analyses and additional data needs. The findings of this briefing should be seen within the broader context of our closely related briefing about overarching barriers to monitoring progress of TACs towards achieving the MSY objective and their compliance with other requirements of the CFP.<sup>7</sup>

## 2 Overview of area mismatch scenarios

Any comparison of TACs with the underlying scientific advice requires, as a first step, the identification of those TAC- and advice-units which correspond to each other in terms of species and area covered. As part of ClientEarth's analysis of the 2016 TACs, we compiled a table of all stocks for which ICES provides advice, and then identified the corresponding TACs based on the respective area and species descriptions. These descriptions are provided in the headers of the individual advice documents published by ICES,<sup>8</sup> and those of the individual TACs included in the TAC Regulations, respectively.<sup>9</sup> All TAC- and advice-units for which both species and area overlap at least partially were then included in the same comparison. Overall, we have identified 112 comparisons of TACs and scientific advice, covering 194 TAC- and 213 advice-units, with 57 of these comparisons involving more than one TAC- and/or advice-unit.<sup>10</sup>

All 112 comparisons were then allocated to one of four categories, depending on the type of overlap between the TAC- and advice-areas included. A schematic representation of the different scenarios in terms of area match or mismatch between the area covered by the TAC and the advice is given in Fig. 1.



Fig. 1: Schematic representations of the different area match and mismatch scenarios. The grey circles represent the advice area and the green circles represent the TAC area. a) match: advice and TAC area are the same, which is the preferred scenario (31 cases, ca. 28%). b) mismatch: TAC area > advice area (32 cases, ca. 29%). c) mismatch: TAC area < advice area (29 cases, ca. 26%). d) mismatch: TAC and advice area overlap partially (20 cases, ca. 18%).

The TAC-unit and the advice-unit are directly comparable in terms of both area and species for just over one quarter of the comparisons. However, in the remaining majority of cases (81 out of 112) the TAC area is either larger or smaller than the advice area, or overlaps only partially. For example, several TACs refer only to Union waters or waters of third countries, whereas the advice does not make this distinction as it refers to stock-units, regardless of jurisdiction. Additionally, more than half of the comparisons (57 out of 112) we identified involve more than one advice- and/or TAC-unit. In such cases, there are two approaches for how the comparison of TACs and scientific advice can be done (see Fig. 2).

<sup>7</sup> ClientEarth (2016): Assessing whether TACs are being set to achieve MSY. Briefing, December 2016.

<http://www.documents.clientearth.org/library/download-info/difficulties-in-monitoring-progress-of-tac-decisions-towards-msy-and-how-to-address-them/>

<sup>8</sup> ICES' advice can be found on <http://www.ices.dk/community/advisory-process/Pages/Latest-Advice.aspx>

<sup>9</sup> For example, Council Regulation (EU) 2016/72. See footnote 3 for full reference details.

<sup>10</sup> Note that due to changes in TAC- or advice-units across the years, in some cases the TAC- and/or advice-units included in a comparison changed as well. The figures presented here refer to the comparisons based on the TAC- and advice-units for 2016 in order to avoid double-counting.

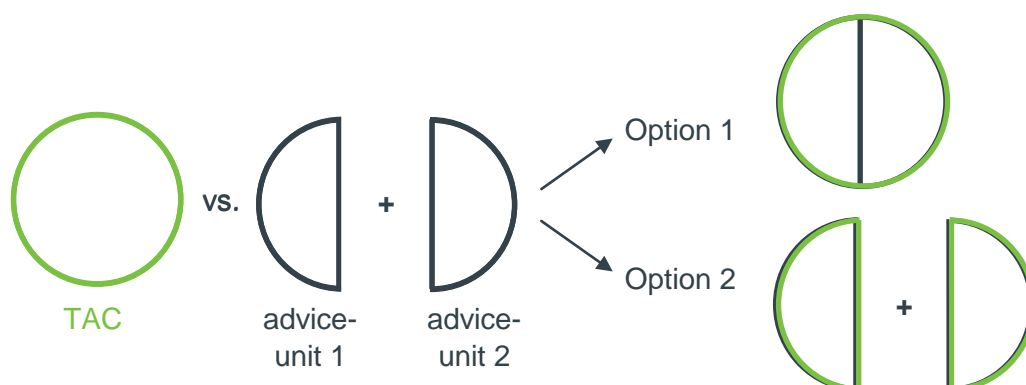


Fig. 2: Diagram illustrating how a TAC (green) and the corresponding advice (grey) can be compared if the TAC covers more than one advice-unit. The two options are 1) combining the advice-units, so the sum covers the same area as the TAC, and 2) using additional data to split the TAC into portions corresponding to the individual advice-units. Note that this concept also applies to the reverse scenario where one advice-unit corresponds to more than one TAC-unit.

Option one requires adding up more than one advice- or TAC-units so that they cover the same area as the corresponding individual TAC- or advice-unit (see Fig. 2, Option 1). In this case, it is not possible to conclude whether the TACs are in line with the individual advice-units (or whether the individual TACs are in line with the advice), but only whether this is the case for the sum of advice- or TAC-units as a whole.

Option two requires splitting one TAC-unit into multiple corresponding advice-units or vice versa (see Fig. 2, Option 2). In this case, additional data are needed to split the TAC- or advice-unit. A TAC can be split into those areas corresponding to the individual stocks based on additional data on catch distribution within the respective TAC. An advice-unit can in turn be split into the areas corresponding to the individual TACs using additional data on stock distribution.

In any case, most of the mismatch issues can only be addressed by using additional data on catches in those parts of the area where TAC- and advice-units overlap and/or on the proportion of the advice referring to the part of stock area subject to TACs. As we demonstrate in our briefing on monitoring progress of TAC decisions towards MSY,<sup>11</sup> such information is currently not readily available to the public. Please refer to that briefing for a more in-depth evaluation of shortcomings regarding transparency requirements for TAC decisions and the underlying information and process, as well as recommendations on how the situation could be improved.

The different scenarios of area and species mismatch and their implications, additional data needs and limitations for conclusions without such additional data are discussed and explained in more detail using examples in the following sections: section 3 (ideal scenario of matching TAC- and advice-unit), 4 (area mismatch scenarios) and 5 (non-area mismatch issues regarding the included species or stocks). All scenarios are explained using examples and maps are presented to illustrate one example per scenario.<sup>12</sup>

11 ClientEarth (2016): Assessing whether TACs are being set to achieve MSY. Briefing, December 2016.

12 All maps were produced using the CartoDB software (<https://carto.com/login>), based on shape-files of the ICES statistical areas (downloaded from [http://geo.ices.dk/download.php?dataset=ices\\_ref:ices\\_areas](http://geo.ices.dk/download.php?dataset=ices_ref:ices_areas)) and the Exclusive Economic Zones (EEZ) of the EU Member States (World EEZ v8 (2014-02-28), downloaded from <http://www.marineregions.org/downloads.php> and modified using cartodb to extract only the European EEZ).

### 3 Ideal scenario (a): TAC area = advice area

The ideal scenario, in terms of comparability of TACs with advice, is that both the area and the species covered by the TAC is exactly the same as the area and species combination for which the advice is given (see Fig. 1a) and Example 1). We have identified 27 out of 112 comparisons in our analysis that fall under this scenario. In another 4 cases (Example 2, Fig. 3) the areas could be made comparable by including more than one advice-unit in the same comparison, as the respective TAC covers more than one stock. Note that where TACs include more than one stock advice-unit, a conclusion about whether the TACs are in line with the advice is not possible unless additional data on the proportions of the TAC referring to the different advice-units are used to 'split' the TAC. Even then, it is possible that individual stocks within the TAC could be fished higher than their advice if there are no spatial management measures in place to prevent this.

**Example 1:** *common sole in the Irish Sea, sol-iris (advice) vs. SOL/07A (TAC)*. Both the advice and the TAC (proposal) refer to sole in VIIa. The numbers are thus directly comparable.

**Example 2 (Fig. 3):** *plaice in the English Channel, ple-eche + ple-echw (advice) vs. PLE/7DE (TAC)*. Advice was given for the Eastern and Western Channel individually, but after adding up the advice for both stocks the numbers are comparable to the TAC (proposal). Note however, that without additional information on which proportion of the combined TAC is to be taken in the different parts of the Channel, it is impossible to conclude whether both stocks are individually fished in line with the respective stock-specific advice.

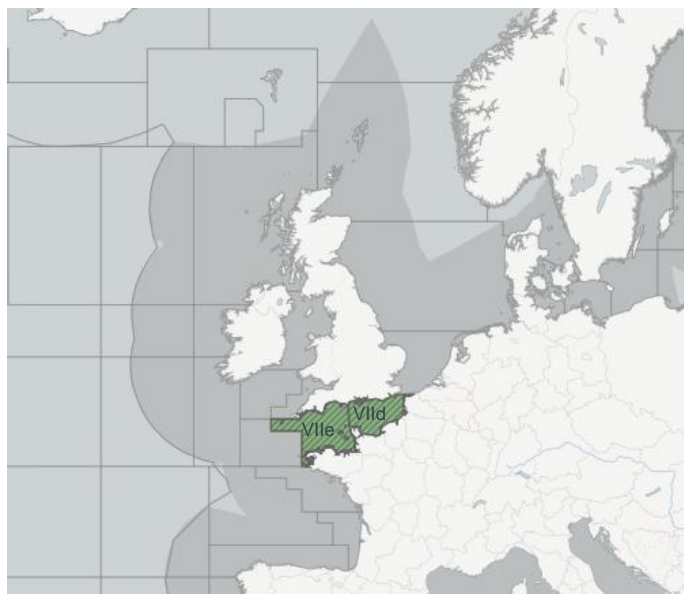


Fig. 3: Map for Example 2, scenario (a), TAC area = advice area, plaice in the English Channel. The codes correspond to the respective ICES statistical areas and the dark grey shading highlights the waters of the European Union. The grey hatching refers to the advice areas for the two plaice stocks (VIIId and VIIe) and the green shaded area refers to the TAC area. The advice is given for VIIId and VIIe separately, the TAC is set for both combined. However, the TAC area and the overall advice area are the same.

## 4 Different scenarios of area mismatch

### 4.1 Scenario (b): TAC area > advice area

We identified 32 cases where the TAC area is larger than the advice area (i.e. it includes all of the advice area and more) and there is no additional advice to cover the additional TAC area (see Fig. 1b). In 13 out of these cases, there is just one TAC per stock (Examples 3 and 4), and in the remaining 19 the values for several advice-units and/or TACs have to be added up for the TAC area to cover all of the advice area (Example 5, Fig. 5). Alternatively, for these cases additional data could be used to split the advice or TAC into portions corresponding to the individual TAC- or advice-units, respectively.

In order to make a definite statement whether the TAC is in line with the advice, catches under the respective TAC outside of the advice area would need to be deducted from the TAC, so that only the part of the TAC taken within the advice area is compared to the advice. This requires additional information on the proportion of catches taken within vs. outside of the advice area, as illustrated by Fig. 4.

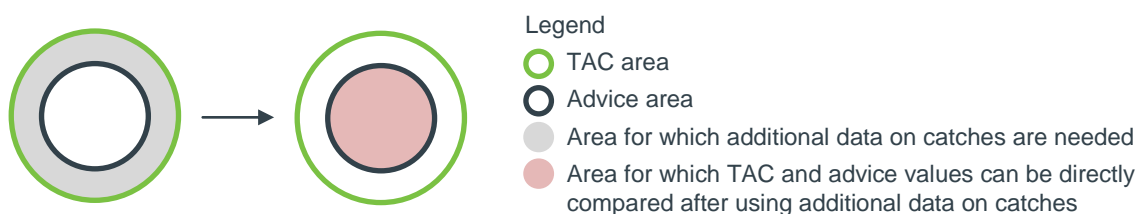


Fig. 4: Schematic representation of additional data needs to solve area mismatch scenario (b), TAC area > advice area. The TAC and advice values can be directly compared for the red shaded area after deducting the catches in the grey shaded area from the TAC.

Without such information, only the following conclusions are possible: if the TAC is smaller than or equal to the advice, it is in line with it; but if the TAC is larger than the advice, it may either be too high or not, depending on the level of catches taken within the advice area.

**Example 3:** *common sole in the North Sea, sol-nsea (advice) vs. SOL/24-C (TAC)*. The advice refers to IV, whereas the TAC additionally includes Union waters of IIa. In 2015 for example the TAC proposal (10,973 t) was lower than the advised catch (11,400 t) and was therefore definitely in line with the advice given.

**Example 4:** *Nephrops in Kattegat and Skagerrak, nep-3-4 (advice) vs. NEP/3A/BCD (TAC)*. The advice refers only to IIIa, whereas the TAC area also includes Union waters of Subdivisions 22-32. In 2015, for example, the TAC proposal was the same as the advised landings (5,318 t), and was therefore definitely in line with the advice. However, if all of that catch was to be taken within the advice area (IIIa), it would mean no catches would be allowed in Subdivisions 22-32. If there are any catches in that area, the catches within the advice area would have to be decreased by the same amount. The TAC proposal is thus more conservative than the advice.

**Example 5 (Fig. 5):** *megrims in West and Southwest of Ireland, mgw-78 (advice) vs. LEZ/07 + LEZ/8ABDE (TAC)*. The advice refers to VIIb-k, VIIIa, b and d, whereas the combined TACs refer to VII + VIIIa, b, d and e, i.e. additionally include VIIIa and VIIIe, for which no individual advice is available. Even after adding up the individual TACs, they are not fully comparable to



the advice, because they cover a larger area. In 2015, for example, the TAC (19,101 t) was higher than both the advice and the TAC proposal (both 15,180 t), so if the whole TAC were to be caught within the advice area, this would exceed the advice; but if only 15,180 t of it were to be caught in the advice area and the rest were to be caught in the other areas for which no advice is available, then the catches would be in line with the advice. Without information on which proportion of the TAC is to be caught within the advice area, it is thus impossible to tell whether it is in line with the advice or not.

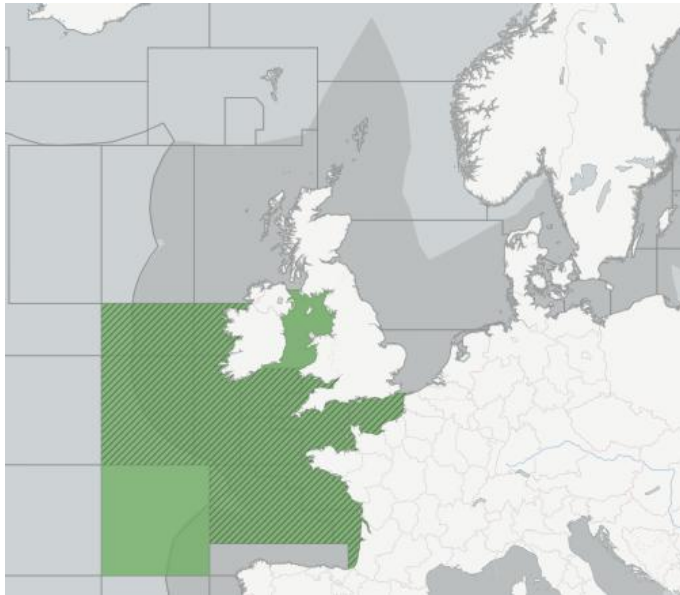


Fig. 5: Map for Example 5, scenario (b), TAC area > advice area: mackerels in the wider Celtic and Irish Sea. The dark grey shading highlights the waters of the European Union. The grey hatching refers to the advice area and the green shaded area refers to the TAC area. The TAC area includes all of the advice area and more areas for which no advice is available.

## 4.2 Scenario (c): TAC area < advice area

We identified 29 cases where the area of the TAC is smaller than the advice area, i.e. the advice area includes all of the TAC area and more, for which no TAC is proposed/set (see Fig. 1c) and Example 6, Fig. 7). This issue also applies to all individual TACs which have to be added up for comparability with the advice (see Example 5).

For this mismatch scenario, there are two options to come to a definite conclusion about whether the TAC is in line with the advice, as illustrated in Fig. 6: 1) either the advice can be split by deducting the part referring to the area outside of the TAC area from the overall advice; the TAC could then be compared to just that part of the advice referring to the TAC area; 2) or, alternatively, the catches within the part of the advice area that is not subject to the TAC could be added to the TAC; this would allow for a conclusion about the entire area for which advice is provided. For both options additional data are needed; in the first case information about the proportion of the advice referring to the TAC area is needed, and in the second case information about catches in that part of the advice area not covered by the TAC is needed.



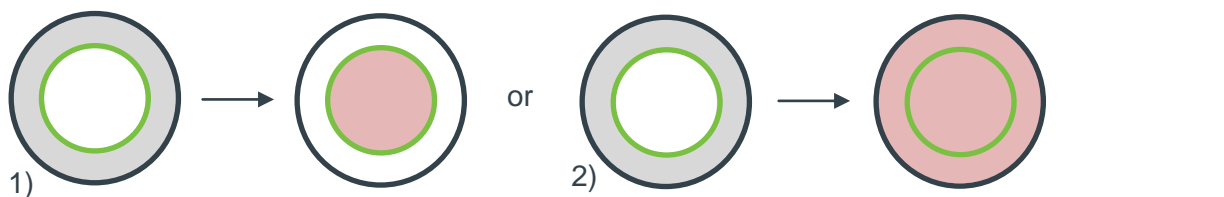


Fig. 6: Schematic representation of additional data needs to solve area mismatch scenario (c), TAC area < advice area. There are two options: the TAC and advice values can be directly compared for the red shaded area after 1) deducting the part of the advice referring to the grey shaded area from the overall advice, or 2) adding catches in the grey shaded area to the TAC.

- Legend
- TAC area
  - Advice area
  - Area for which additional data on 1) the proportion of the advice or 2) catches are needed
  - Area for which TAC and advice values can be directly compared after using additional data on 1) the proportion of the advice or 2) catches in the grey shaded area

Without such information, only the following conclusions are possible: if the TAC is higher than the advised catch, it definitely exceeds the advice; if the TAC is lower than or equal to the advised catch, the TAC itself is in line with the advice; however, in this case it is unclear whether the resulting catches in the overall advice area (including both the parts within and outside of the TAC area) will be in line with the advice or not. The catches taken within the whole advice area will only be in line with the advice if the catches taken within the TAC area and those taken outside of it add up to less than or equal to the advice.

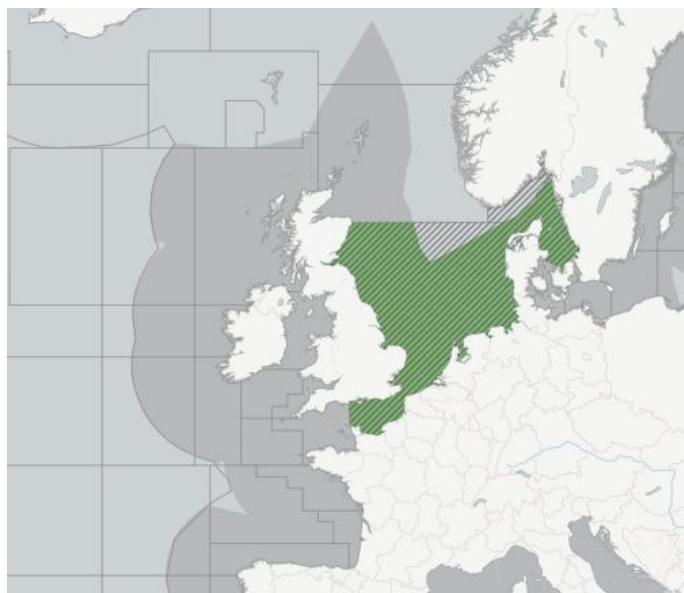


Fig. 7: Map for example 6, scenario (c), TAC area < advice area, horse mackerel. The dark grey shading highlights the waters of the European Union. The grey hatching refers to the advice area and the green shaded area refers to the TAC area. The TAC area covers only part of the advice area, and no additional TAC is set for the rest of the advice area.

**Example 6 (Fig. 7):** horse mackerel in Skagerrak and Kattegat, Southern and Central North Sea and Eastern English Channel, hom-nsea (advice) vs. JAX/4BC7D (TAC). The advice refers to IIIa, IVb, IVc and VIId, whereas the TAC only refers to Union waters of IVb, IVc and VIId (i.e.

excluding Norwegian waters of IVb) and does not include IIIa. There does not seem to be an individual TAC for these areas. For example, even though the TAC for 2015 was the same as the catch advice (15,200 t), it is unclear whether the overall catches of this stock are in line with the advice (assuming the TAC is complied with), unless additional data demonstrate that there are no additional catches outside of the TAC area.

### 4.3 Scenario (d): TAC area and ICES area only partially overlap

In 20 cases, the TAC area and the advice area overlap only partially, while each of them contains areas not included in the other (see Fig. 1d), Examples 8 and 9, Fig. 9). In these cases, the TAC and the corresponding advice are not directly comparable at all, unless additional information about which catches are taken and advised in the non-overlapping areas is used.

For this mismatch scenario, there are two options to come to a definite conclusion about whether the TAC is in line with the advice, as illustrated by Fig. 8: 1) for a statement just about the overlapping area, the advice for the area not subject to the TAC needs to be deducted from the advice, and the catches taken under the TAC outside of the advice area need to be deducted from the TAC; 2) for a comparison just covering the advice area, the catches taken in the parts of the advice area not subject to the TAC need to be added to the TAC, while the catches taken under the TAC outside of the advice area need to be deducted from the TAC. Without such additional information on catches in the areas where the TAC- and advice-unit do not overlap, a definite conclusion whether the TAC is in line with the advice is not possible.

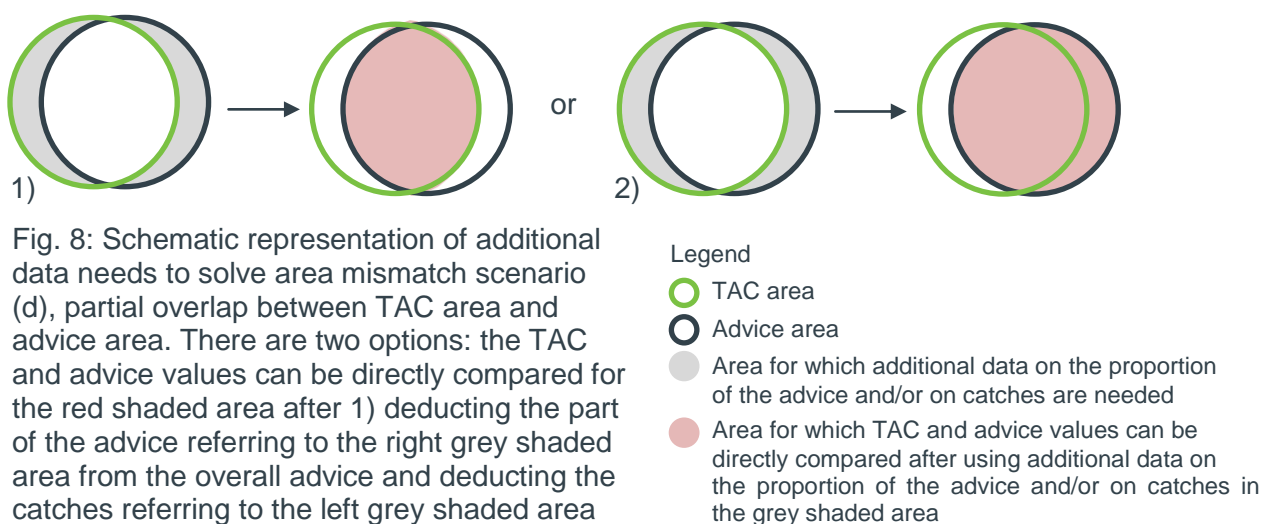


Fig. 8: Schematic representation of additional data needs to solve area mismatch scenario (d), partial overlap between TAC area and advice area. There are two options: the TAC and advice values can be directly compared for the red shaded area after 1) deducting the part of the advice referring to the right grey shaded area from the overall advice and deducting the catches referring to the left grey shaded area from the TAC, or 2) adding catches in the right grey shaded area to the TAC and deducting catches in the left grey shaded area from the TAC.

**Example 8:** common dab and flounder in the North Sea and Skagerrak/Kattegat, *dab-nsea + fle-nsea (advice) vs. DAB/2AC4-C and FLE/2AC4-C (TAC)*. The advice refers to IV and IIIa, whereas the TAC area does not include IIIa, but instead includes the Union waters of IIa which are not part of the advice area. Moreover, in this case the advice is given for dab and flounder individually, whereas the TAC is proposed/set for both of the stocks combined.

**Example 9 (Fig. 9):** *brill and turbot in the North Sea, Skagerrak/Kattegat and the English Channel, bll-nsea + tur-nsea (advice) vs. BLL/2AC4 and TUR/2AC4 (TAC)*. First of all, the

advice is given for brill and turbot individually, whereas the TAC is proposed and set for both species combined. Moreover, the advice areas for both species are different (IV, IIIa, VIIId, e for brill, just IV for turbot). Finally, the TAC area includes only Union waters of IV and IIa, and is thus lacking part of the advice area while including an additional area for which there is no advice for either of the included stocks. For example, even though the TAC for 2016 was the same as the sum of the landings advice for both stocks (4,488 t), it is unclear whether the TAC is in line with the advice due to the area mismatch. Moreover, additional data on the proportion of catches allocated to either of the two stocks would be needed for a reliable conclusion whether the TAC is in line with the individual stock advice or not. This example represents the most problematic mismatch scenario which cannot be resolved without additional information.

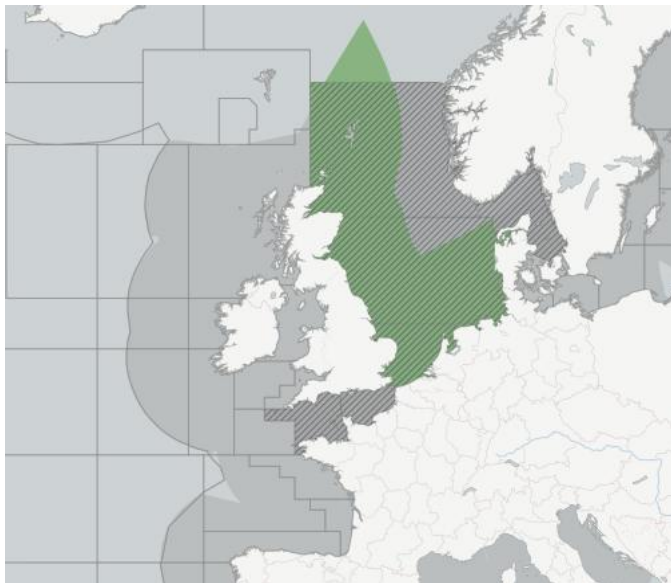


Fig. 9: Map for Example 9, scenario (d), TAC and advice area overlap partially, brill and turbot in the wider North Sea. The dark grey shading highlights the waters of the European Union. The grey hatching refers to the advice area and the green shaded area refers to the TAC area. The advice is given for brill and turbot separately for different areas, the TAC is set for both combined. Advice and TAC area overlap only partially.

## 5 Species and other non-area mismatch issues

While area mismatch, as discussed above, is the most prevalent issue hampering comparisons between TACs and scientific advice, our TAC analysis shows that several comparisons are also subject to a mismatch regarding the species or stocks covered.

There are 22 comparisons with such a mismatch between the species or stocks covered by the TACs and the scientific advice. In 17 comparisons, the TAC is set for several species or stocks combined, whereas the advice is given for individual stocks (see Examples 8 and 9). In another 5 comparisons, ‘associated by-catches’ are included as part of the TAC. Since the stocks this can apply to and the proportion of the TAC such bycatch may account for are not defined, such TACs cannot be directly compared to the stock-specific scientific advice.

**Example 10:** *sprat in the Skagerrak and Kattegat, spr-kask (advice) vs. SPR/03A. (TAC)*. Both advice and TAC refer to the same area (IIIa), but the TAC includes both sprat and ‘associated

*by-catches*, whereas the advice refers to this species alone. Even though there is no area mismatch it is therefore not possible to determine whether the TAC is in line with the advice for the sprat stock, or whether it is not, unless additional information is available about the proportion of catches to be accounted for by non-sprat bycatches. For example, the TAC of 33,280 t for 2016 exceeds the landings advice of 8,144 t for sprat; however, the resulting catches could still be in line with this advice if no more than 8,144 t of this TAC were used for sprat, and the remaining 25,136 t or more were used for other bycatch species.

Disentangling some of the species mismatch issues can also be a challenge, most notably for skates and rays: ICES provides catch or landings advice on 37 stocks of skates and rays, whereas there are only 5 TACs, each covering multiple stocks. The options for addressing this type of mismatch issue and the implications are essentially the same as for area mismatch: 1) either the relevant advice-units referring to the different species or stocks covered by the combined TAC need to be added up (which still wouldn't preclude overfishing of individual stocks), or 2) additional data on the proportion of the TAC applied to the individual species or stocks are needed to split the TAC into parts corresponding to the respective advice-units.

Where a TAC refers to more than one species or stock and no data are available for splitting it, it is not possible to conclude whether the TAC is in line with the advice on a stock-level, but only for all included stocks combined. This means that some stocks within the TAC can be fished above the advice (and some below), even if overall the amounts match up. Similarly, where a TAC covers bycatches and there are no additional data on which proportion of the TAC these are to account for, a conclusion whether the TAC is in line with the stock-specific advice is difficult: if such a TAC is less than the advice, it is in line with it, but if it is higher, it is impossible to conclude whether it allows for catches that exceed the stock advice.

## 6 Conclusion

Total Allowable Catches (TACs) are the main instrument regulating fishing mortality in European fisheries management, and need to be proposed and set in line with the requirements and objectives of the Common Fisheries Policy (CFP). Effective monitoring of whether this is the case depends on reliable comparisons between TACs and sustainable catch levels as indicated by scientific advice provided by the International Council for the Exploration of the Sea (ICES).

In this briefing, we demonstrated that such comparisons are significantly hampered by various types of mismatch between the areas and/or species which the TACs and the corresponding scientific advice refer to. In most cases, additional data which are not readily available to the public are needed to address these issues. Without such data, for example on catches in those parts of the area where the TAC and the corresponding advice-unit overlap, definite conclusions whether the TAC is in line with the advice or not are difficult, if not impossible.

Being aware of the different types of mismatch issues and their implications represents the essential first step of addressing and eventually solving them. This will be crucial to ensure that future TACs are proposed and set in line with sustainable levels, respecting the requirements and objectives of the CFP. The considerable extent of these issues, with the majority of comparisons being subject to some sort of mismatch, highlights the urgent need for solutions to these issues to allow the European Commission and the Council of Ministers to demonstrate that TAC management is in line with the CFP's requirements. This will also allow for improved oversight and understanding of the TAC management system by external stakeholders.

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