



Recommendations to the UK on the setting of fishing opportunities for 2023

22 September 2022

On behalf of Blue Marine Foundation, ClientEarth, Marine Conservation Society, Oceana, Royal Society for the Protection of Birds and Whale and Dolphin Conservation, we wish to present our recommendations on the setting of fishing opportunities for Northeast Atlantic stocks for 2023 and for deep-sea stocks for 2023 and 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 minimising levels of incidental catches, and safeguard marine ecosystem functions and resilience, also in light of the climate crisis.

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

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,² 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.³ The 2020 UK Fisheries Act⁴ and the UK-EU Trade and Cooperation Agreement⁵ (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).

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

³ Department for Environment, Food and Rural Affairs (DEFRA). 2019. [Marine Strategy Part One: UK updated assessment and Good Environmental Status](#). October 2019.

⁴ [UK Fisheries Act](#). 2020.

⁵ [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.

Such achievements are also essential if the UK is to support prosperous domestic fishing fleets and coastal communities, as well as meet its commitments and obligations under international law such as the United Nations Convention on the Law of the Sea (UNCLOS),⁶ the United Nations Fish Stocks Agreement (UNFSA),⁷ the Convention on Biological Diversity (CBD) and the United Nations Sustainable Development Goal (SDG) 14.⁸

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

A 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.⁹ The remaining stocks were either subject to overfishing (29%) or their status simply unknown (33%). Based on data presented in the most recent Scientific, Technical and Economic Committee for Fisheries (STECF) report on the performance of the EU's Common Fisheries Policy, 39% of the assessed stocks shared between the UK and the EU were still outside safe biological limits in the same year.¹⁰

TAC-setting still falls well short of the UK's sustainability commitments: according to a recent analysis,¹¹ 31% of the assessed UK/EU shared TACs for 2022 still exceeded scientific advice, down from 45% in 2021, which even represented a small increase compared to the 43% recorded for 2020. Moreover, precautionary advice for data-limited stocks continues to be exceeded more frequently (57%) than MSY-based advice for fully assessed stocks (16%), as well as for bycatch (39%) compared to target (24%) stocks.¹² The outlook presented in this year's report by the Centre for Environment, Fisheries and Aquaculture Science (Cefas) is even less encouraging, concluding that only around a third of the assessed TACs negotiated by the UK for 2020, 2021 and 2022 (covering various TAC-setting processes, including the EU/UK and EU/UK/Norway negotiations) followed scientific advice, with nearly two thirds set above scientific advice.¹³

Given this lack of 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.

⁶ UNCLOS. 1982. [United Nations Convention on the Law of the Sea](#).

⁷ 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.

⁸ <https://sustainabledevelopment.un.org/sdg14>.

⁹ [UK Fisheries Audit](#). 2021. Report produced by Macalister Elliott and Partners Ltd. for Oceana.

¹⁰ Scientific, Technical and Economic Committee for Fisheries (STECF) – [Monitoring of the performance of the Common Fisheries Policy \(STECF-Adhoc-22-01\)](#). EUR 28359 EN, Publications Office of the European Union, Luxembourg, 2022, ISBN 978-92-76-51702-3, doi:10.2760/566544, JRC129080. A total of 33 shared stocks subject to negotiations between the EU and the UK were identified in Table 26 on p. 63 (for which the status in relation to safe biological limits was assessed), and 13 out of these, i.e. 39%, were assessed to be outside safe biological limits in 2020.

¹¹ ClientEarth (2022). Taking stock 2022 – 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 set by the EU alone as well as those shared between the EU and the UK, excluding cases where the TAC and ICES 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 (2021). [Taking stock 2021 - are TACs set to achieve MSY?](#) November 2021.

¹² *Ibid.*, results to be published later this year.

¹³ 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. Note that discrepancies between the results of these two analyses 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.

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.¹⁴ We expect the UK to fulfil its ambition to be a global champion of sustainable fisheries by setting fishing opportunities for 2023 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. Box 2 below outlines our main recommendations on the setting of fishing opportunities for 2023 for Northeast Atlantic stocks, and for 2023 and 2024 for deep-sea stocks.

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

- **Set catch limits not exceeding the best available scientific advice** provided by ICES, 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 particularly relevant for deep-sea stocks since all 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 respective 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.

¹⁴ 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](#)).

- **Set TACs below the maximum catch advice for species vulnerable to the impacts of climate change** or subject to other pressures or stressors, to provide a “climate buffer” and improve population resilience. 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 that are in a bad or unknown state. See section 4 for further details.
- **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.¹⁵ 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, 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.
- **Prioritise and apply environmental criteria for allocation of fishing opportunities**, for example through incentivising 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).¹⁶ 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.¹⁷ This review clearly highlights that only around a third of the TACs negotiated by the UK for 2020 to 2022 were set in line with scientific advice and represents 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.

¹⁵ ClientEarth, 2020. [Setting Total Allowable Catches \(TACs\) in the context of the Landing Obligation](#). July 2020.

¹⁶ UNECE. 1998. Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters ([Aarhus Convention](#)).

¹⁷ <https://www.gov.uk/government/publications/fisheries-analysis-of-the-outcomes-of-annual-negotiations-for-uk-fishing-opportunities>. Bell, E., Nash, R., Gamacho, 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.

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,¹⁸ 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.¹⁹

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 (including 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 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, 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**. In addition to objectives to maximise long-term sustainable yields, coastal states must act with urgency 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 is currently 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.

¹⁸ The Northeast Atlantic Fisheries Commission. 2020. [The United Kingdom becomes the 6th Contracting Party to NEAFC](#).

¹⁹ This situation applies to key commercial stocks to the UK such as Northeast Atlantic mackerel, Atlanto-Scandian herring and blue whiting.

- **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, harvest strategies that include precautionary harvest control rules for setting catch limits, 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 under the TCA.
- **Prioritise resolving the allocation issues around pelagic stocks (mackerel, herring, and blue whiting) with the NEAFC Contracting Parties,** and ensure that 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 2022, 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 bycatch stocks 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 the climate crisis, 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. To adequately account for mixed fisheries interactions as well as ecosystem dynamics, 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 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 observer coverage and Remote Electronic Monitoring (REM) with cameras 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. Inclusion of 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 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 for²⁰ to allow dependent predators to meet their needs.

²⁰ Dunn, Euan (2021). [Revive our Seas: The case for stronger regulation of sandeel fisheries in UK waters](#). Royal Society for the Protection of Birds. June 2021.

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; 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).²¹

- **Set TACs below the single-stock advice where stocks are subject to additional pressures or stressors such as climate-related 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 and other aspects like environmental factors. 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.

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.²² Setting TACs based on catch rather than landings advice, while illegal discarding continues, allows for unsustainable catches potentially far beyond scientific advice.²³ Poorly implementing the LO poses significant risks to 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" suggest that the UK and devolved administrations are considering substantial changes in the way discards are managed. 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 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

²¹ Hill, S.L. et al. (2020) Reference points for predators will progress ecosystem-based management of fisheries. *Fish and Fisheries*. 2020; 00:1–11.

²² 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](#).

²³ L. Borges. 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.

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 in the implementation of 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

- **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 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 and/or appropriate independent observer coverage. 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.
- **Introduce robust controls and full catch documentation using remote electronic and camera monitoring**. CCTV projects, such as the ongoing Danish camera project in the demersal fishery in Kattegat, show that CCTV can be effectively used to ensure compliance with the LO.²⁴ Illegal discarding should be treated as a serious infringement.
- **Create and promote quota redistribution solutions**, beyond traditional swaps, to avoid closing fisheries if quota is available elsewhere.

6. Depleted stocks with zero or very low catch advice

The most recent scientific advice published by ICES highlights the critical status of a number of stocks key to the UK for yet another year. Examples of these severely depleted stocks include West of Scotland cod, Celtic Sea cod, Irish Sea whiting and cod, herring in the Irish Sea, Celtic Sea and southwest of Ireland and North Sea cod among others.²⁵ All of these stocks are below the biomass limit reference point, and for most of them the ICES advice is for strong reduction in catches, or even zero catch. With climate change also likely to be affecting the resilience of some fish populations,²⁶ effective efforts to recover these stocks are needed more urgently than ever.²⁷

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. 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.

²⁴ Ministeriet for Fødevarer, Landbrug og Fiskeri (2021). [Evalueringsrapport: Elektronisk monitorering i Kattegat](#). 13 December 2021.

²⁵ ICES advice for the referred depleted stocks: [West of Scotland cod](#), [Celtic Sea cod](#), [Irish Sea whiting](#), [Irish Sea cod](#), [herring in the Irish Sea](#), [Celtic Sea and southwest of Ireland](#), [North Sea cod](#).

²⁶ Drinkwater, K.F. 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.icesjms.2005.05.015>.

²⁷ Sumaila, U.R. and Tai, T.C. 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>.

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 a 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** and/or appropriate observer coverage, 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 North Sea cod).
- **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 exploitation of the possible fishing opportunities of healthy stocks in the same fishery.²⁸ 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 North Sea) below their single-stock advice in order to safeguard depleted stocks (such as Irish Sea whiting or North Sea 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 period of time.

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 species like sharks.

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

²⁸ ClientEarth, 2020. [Ask the right question, get the right answer: Scientific advice for bycatch or non-targeted stocks that have zero catch advice.](#)

levels, in line with legal requirements and the UK's wider sustainability ambitions. 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 2018,²⁹ to ensure the UK's sustainability objectives are met for the affected stocks.
- **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 89%. 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.
- **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 projected to decrease based on ICES headline advice, 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 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).³⁰ The most recent scientific advice from ICES on fishing opportunities for eel,³¹ 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 for bringing all other anthropogenic mortalities as close to zero as possible, highlighting the need to protect eels more generally 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).³² 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.

²⁹ 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>.

³⁰ 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>. Accessed on 07 September 2022.

³¹ ICES. 2021. European eel (*Anguilla anguilla*) throughout its natural range. In Report of the ICES Advisory Committee, 2021. ICES Advice 2021, ele.2737. <https://doi.org/10.17895/ices.advice.7752>.

³² 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>.

8. Deep-sea stocks

In addition to the Northeast Atlantic TACs, the UK and the EU will set TACs for deep-sea stocks for 2023 and 2024. 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.

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).³³ 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 precautionary 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,³⁴ and consider a similar approach in UK waters;

³³ Resolutions [61/105](#) and [64/72](#) adopted by the General Assembly of the United Nations.

³⁴ 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

- 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, and at NEAFC the UK supports 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.

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