



EP(16)88

8th December 2016

EAPO & Europêche Position Paper on Fishing Opportunities 2017 for December **Council of Fisheries Ministers**

A/ Introduction

The Commission Proposal COM(2016) 698 published on the 27th of October 2016 contains the proposals to the Council in relation to the setting of fishing opportunities for the majority of demersal and some pelagic stocks for 2017. As usual many TACs and quotas are shown with the reference 'pm' and between the publication and the decisive Council of Ministers in December, the missing data are being retrieved. The fishing industry keeps track of this development and awaits the last possible moment just before the Council meeting to finalize this communication to the Member State ministers responsible for fisheries.

B/ General Observations

In preparing the proposal for the Council the Commission translates the CFP objective for sustainable fisheries in aiming for a fishing mortality capable of achieving a maximum sustainable yield for a stock (Fmsy). Target Fmsy levels are the basis for scientific advice for stocks for which sufficient data are available. Therefore EAPO and Europêche have looked at the general status in relation to the CFP objective. It has been established that considerable progress has been and continues to be made towards delivering MSY in many of the European fisheries, specifically the ones in the North East Atlantic represented by the EAPO and Europêche members. This is also demonstrated by the fact that overall the spawning stock biomass (SSB) appears at a level twice as high than the beginning of the century. However, many of the North Atlantic fisheries are of a mixed nature which presents a particular challenge and for this reason it is important to balance progress towards MSY with protection of the livelihoods of fishermen.

The MSY timetable should never be allowed to become a dogma and if it takes a little more time to reach MSY, whilst safeguarding the integrity of EU fisheries, this is the pragmatic and common sense approach that should be applied. EAPO and Europêche are committed to sensible evidence based management and we hope that the Council of Ministers are with us on that.

C/ Demersal Stocks

1. Bass

The Commission's proposals are misguided and harmful. As proposed, in 2017 every bass caught in a net will be discarded dead and any bass caught in trawl over 1% of total catch will be discarded dead. The measures that have been introduced in recent years have had a dramatic impact. Steady rebuilding is the right way forward but avoiding unnecessary discards must be a key part of the policy.

The current measures should be given time and a proper assessment of the effect they have had should be carried out before adding more regulation. Rebuilding the stock biomass will take some time – primarily dependant on some good year classes coming through. The recreational angling sector is of course important but in terms of it actually being necessary to kill bass to have a successful hobby/sport industry, the case is overstated.

Most recreational fisheries are predominantly catch and release. Commercial fishermen do have to kill bass to earn a living for them and their families. Therefore it is clear that as proposed the measures will be highly damaging to many inshore (net and trawl) fishermen around the coast of the EU and will generate unnecessary discards of this highly valuable fish. EAPO and Europêche therefore urge the ministers to agree upon measures that are workable for the livelihood of commercial fishermen.

For the Bay of Biscay, the European Commission's (non-paper) proposal is not acceptable because it is based on false arguments which do not correspond to the objectives of the CFP. The ICES advice to fix catches for 2017 at a level comparable to the average catches in recent years is flawed, as no urgent measure is needed. The determination of monthly limitations by trade (on the basis of a mathematical proportionality) is not logic taking into account the seasonality of fishing activities. Their application on the basis of average production over the last three years would effectively reduce the catches by more than 60%, the overall landing level would then be well below the reference level defined by the European Commission

This proposal must therefore be withdrawn, and in the case of a stock predominantly exploited by France, the measures applied at a national level and those proposed for application in 2017 (increase minimum landing size to 38 cm and overall catch limit) should be subject to an impact assessment by the STECF, before any additional regulation framework is imposed.

2. Cod VIIe-k

The Commission proposes to cut the TAC 2016 by 68%. EAPO and Europêche members have had specific and detailed discussions with national scientific organisations on this stock. In recent years CEFAS (UK), for instance, have been carrying out mixed fisheries model analysis on this stock in combination with Haddock and it is EAPO and Europêche's understanding that this approach (rather than TACs based on single stock MSY advice) would lead to a greater increase in the haddock TAC (possibly more than 20%) and a mitigation of the proposed reduction of the Cod TAC to around 30%.

The Commission have recognised the validity of mixed fisheries approach where appropriate in previous years and this would appear to be an appropriate case. In view of the existing agreement in the Baltic Sea and of a proposal on the table for the North Sea, EAPO and Europêche recommend to consider a preamble for the North Western Waters based on the CEFAS (UK) analysis. Such multi-annual plans contain Fmsy ranges as targets instead of Fmsy point levels. By adopting this mixed fishery approach a maximum increase in the Haddock TAC and minimum reduction in Cod TAC can be secured, better reflecting the abundances being seen by fishermen.

Moreover, on the single species scientific analysis for Cod the assumption used by ICES for landings in 2016 is significantly higher than the real figures, so the forecasted catch options are based on an underestimation of the level of SSB. If the upper level of the Fmsy range would be used, the TAC reduction can be mitigated to 29%, keeping the resulting SSB at a level higher than Blim.

3. Haddock VIIb-k

The Commission proposes an increase of the TAC by 7%. This does not take into account the current high discarding rate due to an inappropriate level of TAC. In recent years technical measures have led to improving selectivity and a substantial reduction in catches of juvenile Haddock. However the current TAC in combination with the abundance still leads to wasteful regulatory discarding of marketable Haddock. EAPO and Europêche therefore consider that an increase of the 15% would be a sustainable decision by the Council.

4. Hake (Northern)

Hake is a stock with an analytical assessment and TAC advice is produced according to the MSY approach (Category 1).

The following statements are in the 2016 ICES advice:

- Catches have clearly been increasing for the last 15 years.
- Recruitment is higher than in the two previous years, returning again to values close to those in 2013.
- Fishing mortality is below Fmsy and continues to decline.
- Spawning Stock biomass is at historical maximum levels (exceeding more than the double of the objectives set in the Recovery Plan) and has been increasing since 2006.

Consequently the ICES proposal is that catches should not exceed 123,777 t in 2017, which would mean a TAC increase of 13% in relation to the TAC proposed for 2016. However, the Commission has only proposed an increase of 2.8%, with the TAC at 118,865 t. This amount would correspond to what ICES has calculated as wanted catches for 2017 using the MSY approach. The Commission would be required to add 11,912 t of unwanted catches, which are now under the landing obligation. EAPO therefor advises to maintain the TAC increase of 13% reaching 123,777 t for 2017.

5. Megrim VII & VIII

The Commission proposes to cut the TAC in area VII by 28% and in area VIII by 16%. Such significant TAC reductions proposed for these economically important stocks is alarming. The ICES stock assessment remains positive but the shift this year to a full analytical assessment and TAC proposals being made in-line with the Commission's unnecessarily dogmatic aspiration of achieving MSY in a single year results in the unnecessary and major reduction in TAC.

From discussions with scientific institutions about the merits of a staged move towards the MSY targets EAPO and Europêche deduce this seems to offer a scientifically justified reduction of 15% rather than 28%. The Spanish membership sees in the combination of MSY objectives and socio-economic impacts even a possibility to set the 2017 TACs 15% higher than the 2016 ones. Taking into account socio-economic consequences the objective must be that any reduction in TAC of this stock is minimised.

Within EAPO and Europêche the view exists that in the context of the adjustment of the TAC levels by a gradual approach to the MSY, the existing flexibility between the two management areas VII and VIII must be adjusted.

6. Monkfish VII & VIII

The Commission proposes to cut the TAC by 12%. The ICES advice is the same as last year, as is the Commission's proposal and the outcome secured at the last years Council was a rollover of the 2015 TAC. The rollover TAC secured last year was based on the generally positive trends over the assessment time period in both stock size and fishing pressure. This stock is of massive economic importance to fleets across Areas VII & VIII. The objective must be a minimum of rollover TACs and if possible increases to take account of the high abundances being seen in landings this year. The scientific evaluation by ICES of both the White and the Black Bellied Monkfish in the relevant area is in EAPO and Europêche's view not in contradiction with this request.

7. Nephrops

a/ Nephrops VII

While it is noted that in the Commission's proposal a "pm" figure has been included for the various Nephrops stocks which has since been updated on the 16th and 21st November. EAPO and Europêche would like to make two points in relation to Nephrops in area VII:

- The TAC for Nephrops VII has traditionally been set significantly higher than the catch figures included in the ICES advice but actual landings have been significantly lower due to the differential level of uptake by the various member states, some utilising all of their quota allocation and others leaving a significant portion of their quota uncaught. Based on this assessment and in line with ICES advice of a 9% increase compared to last year EAPO and Europêche recommend a 9% increase of the TACs from 2016 to 2017.
- With reference to the Porcupine Bank 'Of Which Restriction' EAPO and Europêche note that the Commission has once again proposed this restriction in addition to the seasonal closure. In 2014 STECF evaluated both of these measures and came to the conclusion that at that time only one of these measures i.e. either the closed area or the 'Of Which' Restriction' was required. From an EAPO and Europêche perspective the closed area appears to be a far more effective conservation tool and therefore in 2014 EAPO members brought this forward to the NWWAC which led to a NWWAC proposal for a mechanism to switch on and off the 'Of Which Restriction' over the last three years 2015, 2016 and 2017. If followed this would have led to the 'Of Which Restriction' removed for 2015. The 2017 ICES advice for the Porcupine Bank Nephrops has recommended an out-take from the area for 2017 of no more than 3100 tonnes, this is a 68% increase on the 2016 advice of 1850 tonnes. Furthermore the harvest rate calculated by ICES is

estimated to be well below the Fmsy. EAPO and Européche are of the firm view that the 'Of Which Restriction' should be removed for 2017 and that closure remains.

b/ Nephrops VIIIabde

ICES has just delivered an advice at the end of November on Nephrops in the Bay of Biscay, incorporating data from an underwater video survey. This new methodology makes it possible to confirm the exploitation trends of this stock observed over several years, allowing to fix a quantified value of the exploitation rate. If no proposal from the European Commission is yet available, the TAC 2017 for Norway Lobster must be set at the level recommended by ICES, i.e. 4160 tonnes.

8. Pollack

Both for Areas VII and VIII the Commission proposes to cut the TAC by 20%. There is no new advice from ICES on this therefore the logical assumption would be a roll over TAC. The available data show clearly that the landings of these species remain stable and that there is no immediate risk of moving away from sustainable fishing activities. However the Commission propose this significant cut purely based on the so-called precautionary approach with no scientific justification. This stock is of major economic importance to both many gill-net, hand-line and other vessels across Areas VII and VII. EAPO and Européche therefore recommend a rollover of these TACs.

9. Skates & Rays

Although last year there was a halt to the non-scientific and nonsensical year on year reductions to Skates & Rays TACs the Council of Ministers agreed some specific measures like the imposition of a prohibition of landing small-eyed ray in Area VII (partially removed mid-year). As many measures applied to Skates & Rays, again this did nothing but increase discards of this species.

In the meantime EAPO and Européche took note of the Commission's update of COM(2016) 698 proposing – mostly so in Area VI,VII – to disaggregate the individual species. This is at best premature. Much more thought about the consequences of this approach is required. Unfortunately there is historic and wide spread misidentification of ray species on markets across the EU and therefore there is no sound evidence base for disaggregation without full and proper analysis.

In general terms there is an increase in abundance of the most common species which are most frequently caught. EAPO and Européche consider that the protection of the less common species will not be achieved by precautionary reductions of overall TACs. Avoidance should be the basis of a management tool aiming for this target. It is therefore recommended to avoid wasteful regulatory discarding by increasing the combined TACs in the different areas.

10. Sole

a/ Sole IIa,IV

With surprise EAPO and Européche have concluded that a Commission proposal for Sole in Area IV is still lacking. Our surprise is even bigger as this is not a shared stock with Norway and was not even discussed during EU-Norway negotiation. A proposal is therefore long overdue.

ICES in its advice has concluded that, using Fmsy the Sole TAC for area IV can sustain an increase of 34 %. If a TAC proposal were to be based on the Sole/Plaice management plan dating back to 2007 this TAC would only increase by 15 % (because of limiting the in between years fluctuations). The European Commission is of the opinion that TAC setting from 2017 should be based on the Fmsy-approach. Therefore, EAPO and Européche are of the opinion that the Sole Area IV TAC should be increased by 34%.

b/ Sole VIId

The NWWAC has produced advice on a management strategy for this stock which was evaluated by STECF to be in line with the objectives of the CFP. EAPO and Européche recommend applying the NWWAC advice which would lead to a reduction of the TAC by 15% instead of the 34% as proposed by the Commission.

c/ Sole VIIfg

The Commission proposes a roll-over of this TAC. However fishermen see an abundance of the Sole in the Celtic Sea with which the current TAC is not in line. In an adjacent ICES area such a condition led to a first case of the dreaded choke situation that comes with the landing obligation already applied to this stock. Although targeted by some fisheries, Sole VIIfg is a by-catch of many mixed fisheries in these areas. Scientific evaluations exist indicating that a TAC increase more in line with the perceived abundance will not jeopardize the CFP objectives for this stock. Therefore EAPO and Européche recommend applying such an increase.

d/ Sole VIIhjk

Fisheries on Sole and Plaice in this area are not targeted fisheries and the very small TACs do not even cover by-catch. For these stocks it is proposed by the Commission to maintain the 2016 TAC for the following year unless the perception of the status of the stock changes significantly. It should be noted that Sole VIIhjk is under the landings obligation for the second year and some fleets have already encountered problems with this stock. In addition skippers have been reporting significant increase in catches of plaice of all sizes in the area over the last few months. It would be timely and appropriate to explore the possibility of some scientific work on these stocks.

11. Whiting VIII

The Commission proposes to cut the TAC by 20%. There is no new advice from ICES on this therefore the logical assumption would be a roll over TAC. The available data show clearly that the landings of these species remain stable and that there is no immediate risk of moving away from sustainable fishing activities. However the Commission propose this significant cut purely based on the so-called precautionary approach with no scientific justification. This stock is of major economic importance for costal vessels in the Bay of Biscay. EAPO and Européche therefore recommend a rollover of this TAC.

12. Associated Species North Sea

The North Sea quota for associated species such as Turbot, Brill, Dab, Flounder, Lemon Sole and Witch have been halved in recent years. Due to the 50% reduction in fisheries pressure the LPUE figures from recent years shows a sharp upward trend. For Turbot & Brill POs had to take measures in order to

prevent prematurely full utilization of the annual quota and these measures have failed to prevent wasteful regulatory discarding of Turbot & Brill. Against this background EAPO and Europêche urge to agree on a 30% increase of these TACs, in line with the perceived abundance.

D/ Pelagic Stocks

EAPO and Europêche provide an opinion on some stocks in this position paper, whilst for others we refer to the recommendations brought forward by the Pelagic AC that have been agreed on a consensus basis.

1. Blue Whiting

Blue Whiting is jointly managed since 2005 by four coastal states (EU, Norway, Faroe Islands and Iceland). The allocation of the TAC for Blue Whiting between these coastal states in 2005 – at the initiative of the EU industry – came about after years of overfishing by Norway, Faroe Islands and Iceland. The EU therefore had to accept in 2005 a share of 30% in the TAC. Since then, the Blue Whiting almost completely disappeared from the waters of both Iceland and Norway and the stock concentrated itself for a very large part in EU waters (and in lesser degree in Faroe waters).

Only after a scientific study by the North East Atlantic Fisheries Commission (NEAFC) in 2013 confirmed this situation, the European Commission finally took the initiative to put on the agenda the need to review the sharing arrangement among the coastal states. All this resulted in the impossibility to agree for 2015 on a coastal states agreement to jointly manage and share the Blue Whiting stock. However, the coastal states agreed on a NEAFC recommendation for the 2015 Blue Whiting TAC. It was therefore very disappointing that subsequently both Norway and Faeroe Islands decided to increase their share unilaterally by 35-40%. The EU nevertheless decided to stick for 2015 to its old share of 30% of the TAC recommended by NEAFC. This all to the frustration of the European pelagic industry, of course.

Also for 2016 it has been proven to be impossible to come to a coastal states agreement. After the EU and Norway made a bilateral agreement at the latest possible moment (during the December Council) in a manner that did not very well show which percentage share of which TAC the EU and Norway had agreed upon. After the fog lifted it became clear that the Commission and subsequently the EU Council had accepted that Norway based their share on a higher TAC than the EU had. This 'solution' was not accepted by EAPO and Europêche which we have made clear to the Commissioner and his services.

For 2017 the October Blue Whiting negotiations in October this year again yielded no result among all coastal states. Yet all parties agreed that the TAC as advised by ICES is the common basis on which to decide everyone's share. This is an improvement compared to last year's situation. It is clear that the EU and Norway have to agree on a bilateral sharing agreement. It has been the industry's position that the share for the EU should amount to 45% of the TAC and we are happy that the EC and member states support this approach. At the same time the share for Norway should remain unchanged. The scientific evidence on the distribution and presence of the Blue Whiting stock in EU waters are there to underpin this position.

We therefore hope and plea that an agreement with Norway will be reached based on this position. There is some leniency however regarding allowing some extra access (i.e. on top of the reciprocal access agreement reached in 2005) for Norwegian vessels to catch their Blue Whiting share in EU waters. What is important is that in a bilateral agreement the TAC base and the respective shares are clearly stipulated and cause no confusion, as they did last year. If in the unlikely event no bilateral agreement

between EU and Norway is reached the Council should decide to set a unilateral quota at 45% of the TAC advised by ICES.

2. Atlanto Scandian Herring (AS Herring)

Negotiations on AS Herring are usually done by five coastal states (EU, Norway, Faroes, Iceland and Russia). Because EU claimed 2 years ago to open the negotiations on the Blue Whiting sharing arrangement, Norway linked immediately the AS Herring sharing arrangement to the Blue Whiting with the announcement that Norway aimed at a higher share in the AS Herring TAC. The result of no agreement on Blue Whiting therefore also meant no agreement on AS Herring for 2015. A consequence of this situation was that the usual access for the EU fleet to catch its AS Herring in Norwegian waters was not granted for 2015.

Which of course was directly in breach with the AS Herring sharing agreement decided in 2007, when the EU accepted a reduction of its share by 25% to 'buy access' into Norwegian waters (a reduction in the share from 8.67% to 6.50%). Also last year Norway has linked the negotiations on Blue Whiting to those for AS Herring, but in the end and at a very late stage agreed on both a bilateral agreement on Blue Whiting and on AS Herring, including bilateral access arrangements. Therefore, 2016 has been a more or less normal year for our AS Herring fishery.

This year the coastal states have discussed AS Herring but have (again) not reached an agreement on the sharing arrangement. It is now up to EU and Norway to conclude a bilateral AS Herring agreement together with a Blue Whiting agreement. The industry appreciates that this year well in advance of the December Council the EC has reached an agreement with Norway on WHB and ASH.

For the EU industry it is of all importance in this respect that:

- The EU share for AS Herring will be kept at 6.5% of the agreed TAC.
- That the EU maintains 90% access into Norwegian waters for AS Herring fisheries. In the unlikely absence of a bilateral agreement on AS Herring, the Council has to establish a quota for 2017 based on a TAC. We agree to establish the TAC to the level advised by ICES. Because the negotiation on AS Herring are still on-going at this point in time, it seems opportune to set the quota on the basis of our current share of 6,50% (i.e. share with access).

However, it should also be agreed in the Council that in case no bilateral agreement is reached with Norway on AS Herring for 2017, the EU will immediately increase its share for 2017 of the TAC to 8.67% because no agreement would mean no access. No access means an EU-share of 8.67%.

3. Argentines

Silversmelt is a data-limited stock. This is why in recent years the European Commission, almost by default, has proposed the Council to reduce the TAC for Silversmelt for precautionary reasons. Although ICES has changed the TAC areas for Silversmelt and also the advice methodology, Silversmelt knows no full stock assessment. The reference values for SSB and F are unknown. This may be the reason why the Commission proposes – again – a reduction for the 2017 TAC.

Also this year the Commission proposal seems to be rather arbitrary. Last year the Council in the end decided for a roll-over of the TAC. EAPO and Européche therefore once again call for a rollover of the Silvermelt TAC from 2016 to 2017.

E/ Crab Fishery Svalbard

Crabbing in the Barents Sea started in 2013, when the amendments and some changes in NEAFC came into force. Twelve EU vessels are involved in crabbing as of October 2015. Norway and Russia have declared that the crab must be considered as a sedentary species and therefore it belongs to their continental shelf. While the EC has agreed with this interpretation, the UN has not yet endorsed it and therefore the Baltic countries do not accept the Norwegian and Russian opinion. Furthermore, the latter countries have banned the crab fishery in their waters and therefore stopped the activity all together for the EU fishing vessels operating in these areas.

However, a new window of opportunity was opened when Norway issued fishing licenses to its own fishing fleet to catch snow crab in Svalbard waters. EAPO and Européche demand the right to sustainably exploit the Snow Crab Fishery in Svalbard FPZ by the European Union fleet in equal terms of access as the Norwegian and other non-EU vessels that are currently operating in the area. This should be done in compliance with the non-discriminatory clause laid down in the Paris Treaty.

Therefore, in line with the LDAC recommendation, we urge the Council of the EU to issue a unilateral declaration, following a proposal by the Commission on setting fishing opportunities, to exercise its legitimate rights to permit the issuing of fishing authorisations by Member States for EU snow crab vessels operating in the area. This subject must be entirely separated from the annual bilateral negotiations with Norway on the management of shared stocks and the exchange of fishing opportunities.

The EU objection on the limited access to the fishery in the Svalbard FPZ to those flags already fishing the stock inside the Norwegian EEZ is a first positive step in the right direction. However, in order for this stance to be solid and legally sound, this strategy must be extended to all the fisheries in similar situations, such as Haddock (exactly the same case), Greenland Halibut and Redfish (similar case). If not, the European position will be inconsistent and incoherent under international practice and therefore prejudicial to the interests of the EU. Therefore, the EU must claim its right to sustainably exploit, in line with the best available scientific advice, other species in the area such as Cod, Haddock, Redfish, Atlanto Scandian Herring or Greenland Halibut, amongst others, on a non-discriminatory manner similarly to the other signatory parties' fleets (mainly Norway and Russia).

(EAPO & Européche - 8th December 2016)