

**Annex 1: On the Commission Proposal for a Council Regulation fixing for 2010 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required**

At the upcoming meeting on 14–16 December, the Fisheries Council will agree on fishing possibilities for 2010, based on the European Commission's proposal (COM(2009)0553).

Due to the large number of stocks covered by this Proposal, we only present recommendations on some of the stocks whose status we consider problematic, summarised in a table (Annex II). In addition, we provide detailed recommendations on a few species which in our opinion require particular attention.

#### SUMMARY OF RECOMMENDATIONS

When fixing fishing opportunities, we urge you to base your decisions on the following general principles:

- follow scientific recommendations from ICES at all times.
- ensure that fishing possibilities are in line with recovering and rebuilding stocks to sustainable levels, with an ultimate target beyond MSY.
- apply existing long-term management plans, when evaluated to be in line with the precautionary approach, and aim for the establishment of long-term management plans for all stocks in the near future.

Regarding specific species, we would like to make the following recommendations:

- For 2010, we urge you to agree on a zero catch of Kattegat cod (area IIIa East) and Irish Sea cod (area VIIa).
- We ask you to consider efforts to improve assessment of Celtic Sea cod (area VIIe-k). With the available information, we also recommend that you support the Commission proposal and agree on a 25% reduction of the TAC for this stock.
- We ask you to support the Commission proposal to increase the TAC with a maximum of 16.5% for cod in the North Sea, Eastern Channel and Skagerrak.
- We recommend that the cod fisheries in divisions VIa and Vb<sub>1 & 2</sub> are closed and that a recovery plan for the Faroe Plateau cod stock is developed.
- We urge you to support the Commission Proposal, which is in line with scientific advice, and keep the anchovy fishery in the Bay of Biscay closed until there is further data indicating that the stock has recovered.

- We advise you to apply a precautionary approach and support a 40% reduction in TAC for the Southern hake stock, and thus not to follow the Commission proposal on this stock.
- We strongly recommend that the Council follows its earlier conclusions on the Action Plan for sharks and that the negotiations on TAC:s and quotas for sharks, skates and rays (cartilaginous fishes) will be in line with the objectives set out in the Plan.
- Many species of shark, skate and ray are hovering on the brink of extinction. We therefore also urge you to ban any landings of porbeagle, spurdog, angel shark, common skate, white skate and undulate ray in 2010.
- We also ask you to reduce the TACs on other species of skates and rays and make sure that there are no targeted fisheries on these species until measures are in place to ensure long-term sustainability.
- For species-specific recommendations for other problematic stocks we refer you to the table in Annex II.

## DETAILED RECOMMENDATIONS

### **Cod (*Gadus morhua*)**

The Spawning Stock Biomass (SSB) of all cod stocks covered by this proposal is below the limit for “risk of depletion”. These stocks are harvested at rates above what is considered precautionary by ICES and substantial cuts in both TACs and effort are advised for all except the North Sea stocks. In its proposal, the Commission is only adhering to scientific advice for some of the cod stocks. The situation for the stocks in the Kattegat, West of Scotland, the Faroe Plateau and the Faroe Bank, as well as the Irish Sea is dire, and the Commission proposal is not going far enough to safeguard these stocks.

Cod is targeted directly in fisheries using fixed gears, as well as by towed gears in mixed demersal fisheries. Immediate challenges are the high levels of by-catch of juveniles and of discarding. Urgently needed measures to reduce by-catch levels include gear adaptations that lead to a greater consistency between catch and minimum landing size. Other options such as landing quotas, real-time closures and discard bans should also be considered.

### ***Division IIIa East (Kattegat)***

This stock has seen a fivefold reduction in SSB since the 1970s and has remained at a historical low since the early 2000s, despite the existence of a management plan since 2005. According to the management plan, fishing mortality shall be reduced by 25% per year unless the target has been reached<sup>1</sup>. A 25% reduction for 2010 corresponds to a TAC of 379 tonnes, as proposed by the Commission.

The current fishing mortality for this stock is unknown, as according to ICES it cannot be reliably estimated. ICES considers the SSB to be far below the limit for risk of depletion and classifies the stock as suffering from reduced reproductive capacity. ICES is also of the opinion

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<sup>1</sup>Council Regulation (EC) No 1342/2008, article 7

that the measures in the management plan are insufficient to guarantee recovery, as unaccounted removals may be up to five times the TAC<sup>2</sup>. Instead, ICES insists that fishing at any level involves a risk that the stock will remain depleted and states that there should be no catches in 2010.

Moreover, tagging studies conducted in 2006 suggest that the Kattegat may function as a nursery area for North Sea cod, adding further reasons to drastically cut fishing mortality in this area<sup>3</sup>.

*At the December Fisheries Council meeting, we therefore urge you to ensure that there will be no catch of Kattegat cod (area IIIa East) in 2010.*

### ***Division VIIa (Irish Sea)***

According to ICES this stock has been harvested unsustainably since the late 1980s, with a tenfold reduction in SSB. ICES has classified the stock as suffering from reduced reproductive capacity since the mid-1990s. The SSB is about four times lower than the estimated limit for risk of depletion.

Since 2000, ICES has advised that this fishery should be closed until a substantial improvement in SSB has been documented. The Commission's proposal of reducing the TAC of 25% is in line with the long-term management plan<sup>4</sup>. However, when evaluating the management plan, ICES found it to be inconsistent with the precautionary approach. In the light of the alarming state of the stock, ICES considers any catch from this stock in 2010 to be inconsistent with the precautionary approach<sup>5</sup>.

*We therefore urge you to ensure a zero catch of Irish Sea cod (area VIIa) in 2010.*

### ***Division VIIe-k (Celtic Sea)***

For cod in the Celtic Sea, there is not enough scientific information to assess or estimate the current status of the stock. However, according to ICES, it is mostly composed of young individuals. ICES also reports that its geographic distribution appears to be shrinking.

ICES advice, based on these observations and the precautionary approach, is that fishing effort should be reduced. The Commission proposal is in line with this, suggesting a 25% cut of the TAC.

*We therefore ask you to consider efforts to improve assessment of Celtic Sea cod (area VIIe-k). With the available information, we also recommend that you support the Commission proposal and agree on a 25% reduction of the TAC for this stock.*

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<sup>2</sup>ICES Advice 2009, book 6, pg 1.

<sup>3</sup>Svedäng, H., Righton, D., and Jonsson, P. 2006. Return migrations of Atlantic cod (*Gadus morhua* L.) to the North Sea evidenced by archival tagging of cod off the eastern Skagerrak coast. ICES CM 2006/Q: 06.

<sup>4</sup>Council Regulation (EC) No 1342/2008, article 7.

<sup>5</sup>ICES advice 2009, book 5, pg 1.

### *Subarea IV (North Sea), Division VIIId (Eastern Channel) and IIIa West (Skagerrak)*

According to ICES, this stock is suffering from reduced reproductive capacity, it is overfished in relation to high, long-term yield and at risk of being harvested unsustainably. The SSB is increasing but is still below the limit for risk of depletion.

ICES considers the management plan to be consistent with the precautionary approach<sup>6</sup>. The plan stipulates that a fishing mortality of 0.4 should be reached by continuously decreasing the fishing mortality<sup>7</sup>. In 2010, fishing mortality should be 65% of the fishing mortality in 2008, which corresponds with a total TAC of 40,300 tonnes. For the EC TAC, the catch allocated to Norway has to be deducted. This means a 16.5% increase in the TAC compared with 2009, which is what the Commission is proposing.

*We therefore ask you to support the Commission proposal to increase the TAC with a maximum of 16.5% for cod in the North Sea, Eastern Channel and Skagerrak.*

### *Division VIa (West of Scotland) and Vb<sub>1&2</sub> (Faroe Plateau and Faroe Bank)*

For this area, ICES provides separate advice for each of the three stocks, but classifies all of them as suffering reduced reproductive capacity.

For **VIa (West of Scotland)**, current fishing mortality has not been estimated but is reported to be high. The SSB has increased from an all time low in recent years, but is still well below the limit for risk of depletion.

The management plan stipulates that the TAC shall be reduced by 25%<sup>8</sup> until the target for biomass has been reached, which is what the Commission is proposing. ICES has not been able to evaluate if the plan is consistent with the precautionary approach and its advice is “no catches” as the stock is suffering from impaired recruitment<sup>9</sup>. All sources of fishing mortality should be reduced in order for this stock to recover and reach a SSB above the limit for risk of depletion, according to ICES.

For **Vb<sub>1</sub> (Faroe Plateau)**, ICES states that the stock is overfished in relation to maximum yield and that the fishing mortality is higher than the target set in the management plan.

The management plan stipulates a reduction in fishing mortality of 25% for 2010, which is what the Commission is proposing. ICES considers the management plan to be inconsistent with the precautionary approach, as it sets a target for fishing mortality that is above the limit for precautionary exploitation<sup>10</sup>. ICES therefore advises that this fishery should be closed and that a recovery plan is developed, aimed at rapidly rebuilding the stock to more sustainable levels.

For **Vb<sub>2</sub> (Faroe Bank)**, ICES states that it is at a very low stock size and advises that the fishery should be closed.

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<sup>6</sup>ICES advice 2009, book 6, pg 9.

<sup>7</sup>Council Regulation (EC) No 1342/2008, article 8.

<sup>8</sup>Council Regulation (EC) No 1342/2008, article 7.

<sup>9</sup>ICES advice 2009, book 5.

<sup>10</sup>ICES advice 2009, book 4, pg 1.

*We therefore recommend that the cod fisheries in divisions VIa and Vb<sub>1</sub> & 2 are closed and that a recovery plan for the Faroe Plateau cod stock is developed.*

### **Hake (*Merluccius merluccius*) in divisions VIIIc and IXa (Southern stock)**

The southern hake stock is managed under a recovery plan since 2006<sup>11</sup>, which aims for a SSB above 35,000 tonnes by 2016 and a reduction of fishing mortality to 0.27. This is supposed to be achieved by annual reductions in fishing mortality of 10% and by limiting annual fluctuation in the TAC to 15%. The plan has not been effectively implemented, as fishing mortality has been increasing and the TAC has been overshot every year since it was agreed<sup>12</sup>.

ICES considers the stock to suffer from reduced reproductive capacity, to be overfished in relation to long-term yield and to be harvested at a rate above the target set in the management plan, as well as being subject to a fishing mortality above precautionary limits. However, it has not evaluated whether the plan is in line with the precautionary approach.

The SSB has increased in recent years but is now just above the limit for risk of depletion and still below the precautionary limit according to ICES. In order to bring the SSB above precautionary limits, the landings should not exceed 4,900 tonnes, which is the advice provided by ICES. This corresponds to a 40% reduction in TAC for 2010.

Because of the estimated increase in SSB, a 10% reduction in fishing mortality in 2010 would lead to an increase in TAC of more than 15%. The Commission's proposal of a 15% increase in TAC for 2010 (corresponds to 9,300 t) is therefore consistent with the management plan, but not with the scientific advice.

*Because this management plan has not been properly evaluated and implementation has been poor, there is currently a huge discrepancy between scientific advice and implementation of the plan. We urge you to apply the precautionary approach and support a 40% reduction in TAC for this stock.*

### **Anchovy (*Engraulis encrasicolus*)**

#### ***Anchovy in the Bay of Biscay (ICES Zone VIII)***

Since 2000, recruitment in the Bay of Biscay is low. It was particularly low in 2004, which eventually led to the collapse of the fishery in 2005. The fishery has remained closed ever since. Recruitment continues to be low and is assumed to be low in 2010 as well. Some preliminary data suggests an increase in stock size, but this has not yet been reviewed by ICES.

ICES classifies the stock as at risk of reduced reproductive capacity<sup>13</sup> and estimates that there is a high risk that the Spawning Stock Biomass (SSB) in 2010 will be below 21,000 tonnes – the level at which the stock's productivity is likely to be seriously impaired. ICES therefore advises that the fishery should remain closed until the stock condition has improved. ICES will re-evaluate the stock's condition in June 2010, and it would be preferable to wait with any changes in management until the evaluation of scientific data and the consequent advice is available.

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<sup>11</sup>Council Regulation (EC) No. 2166/2005

<sup>12</sup> ICES advice 2009, Book 7, pg 3.

<sup>13</sup> ICES advice 2009, Book 7

In its proposal, the Commission follows the ICES advice and suggests that the closure of anchovy fishing in the Bay of Biscay should be maintained. In July 2009, the Commission tabled a proposal for a long-term management plan, which was initially on the Council agenda in November. It is now hoped that it can be adopted by the European Parliament and the Fisheries Council under the Spanish Presidency.

*We therefore urge you to support the Commission Proposal, which is in line with scientific advice, and keep the anchovy fishery in the Bay of Biscay closed until there is further data indicating that the stock has recovered.*

### ***Anchovy in ICES Zones IX, X and CECAF 34.1.1***

The ICES advice only covers area IXa and has remained the same since 2007, when ICES declared that “The available information is inadequate to evaluate the spawning stock or fishing mortality relative to precautionary reference points. Accordingly, the state of the stock is unknown.”

Since then, the advice on maximum TAC has been 4,800 tonnes, which has been repeatedly exceeded by the Council. For 2010, the Commission proposes a 15% TAC reduction for anchovy in this area, corresponding to total landings of 6,800 tonnes.

*For precautionary reasons, we ask you to make sure that the TAC for anchovy in this area, and not including areas X and CECAF 34.1.1, is not exceeding 4,800 tonnes.*

### **SHARKS, SKATES AND RAYS (Elasmobranchs)**

Sharks, skates and rays are generally unsuitable targets for fisheries because their low reproductive rates and other life history traits make them very vulnerable to overexploitation. Many shark and ray species are already hovering on the brink of extinction. Despite the immediate threats facing sharks, there are few limits in Europe on shark fishing, and quotas are routinely set far in excess of scientific advice. According to the International Union for Conservation of Nature (IUCN), in the North East Atlantic more than 25% of shark and ray species are threatened with extinction and another 20% are in the near-threatened category.

EU policy on shark fisheries has a strong influence on global shark policies, as most of the world's regional fisheries management organisations (RFMOs) are heavily influenced by their active EU members, so fishing regulations for international waters are not likely to be any more stringent than those in EU waters.

In April 2009, the Council adopted conclusions on a Community Action Plan for Sharks<sup>14</sup> (hereafter called ‘the Action Plan’), pursuant to the FAO International Plan of Action for the conservation and management of Sharks<sup>15</sup>, which had been adopted ten years earlier in 1999.

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<sup>14</sup>COM(2009)40 On a European Community Action Plan for the Conservation and Management of Sharks. Endorsed by the Council in March 2009 Adopted at April 2009 Council meeting. Press release online at: [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/agricult/107359.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/agricult/107359.pdf). Conclusions available online at: Adopted at April 2009 Council meeting. Press release online at:

[http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/agricult/107359.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/agricult/107359.pdf)

<sup>15</sup>FAO International Plan of Action for the conservation and management of Sharks Available online at: <http://www.fao.org/docrep/006/x3170e/X3170E03.HTM>

The Action Plan states that the Community should assume a leading role in the development of policies, aiming at the rational exploitation of cartilaginous fishes (i.e. sharks, rays, skates and chimaeras). The Action Plan pursues the following three specific objectives:

- To broaden the knowledge on shark fisheries as well as on shark species and their role in the ecosystem;
- To ensure that targeted shark fisheries are sustainable and that by-catches of shark in other fisheries are properly regulated;
- To encourage a coherent approach between the internal and external Community policy for sharks.

*We strongly recommend that the Council follows its earlier conclusions on the Action Plan for sharks and that the negotiations on TAC:s and quotas for cartilaginous fishes will be in line with the objectives set out in the Plan.*

### **Spurdog (*Squalus acanthias*)**

The European population of this species is classified as Critically Endangered under the IUCN Red List and ICES has warned of spurdog population collapse for a long time. For the North East Atlantic (area I-IX), ICES states “The stock is depleted and may be in danger of collapse. Targeted fisheries should not be permitted to continue, and by-catch in mixed fisheries should be reduced to the lowest possible level. The TAC should cover all areas where spurdog are caught in the north-east Atlantic and should be set at zero (...).”<sup>16</sup>

The European Commission last year proposed a 2009 TAC of zero for spurdog and has since pledged in the Action Plan to adhere to scientific advice for sharks. Despite this, the Commission is only proposing a 90% decrease of the TAC for spurdog for 2010. A zero catch for this species is the only proposal that would be in line with the Action Plan.

*We urge you to follow ICES advice and the agreed Community Plan of Action for Sharks by adopting a zero TAC for spurdog, with no by-catch allowance.*

### **Porbeagle (*Lamna nasus*)**

The European porbeagle population is classified as Critically Endangered in the IUCN Red List and ICES states that the population productivity is low as the species is long-lived, slow growing, has low fecundity and reaches its maturity at a very late age. These factors make porbeagle particularly vulnerable to overfishing. ICES scientists have also noted that porbeagle sharks have a relatively good chance of surviving capture on longlines if carefully and promptly released. Last year, ICES heightened its warnings about porbeagle depletion, recommending a ban on any landings of this species.

We are deeply concerned that the Commission attempted to use a re-building projection from the 2009 joint ICES/ICCAT porbeagle assessment to push a 200 tonnes EU porbeagle TAC through ICCAT last month. Since that irresponsible proposal was made, ICES has clarified that its “advice for 2009 is biennial and valid for 2009 and 2010”.

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<sup>16</sup>ICES Advice 2009, book 9, pg 345.

Despite a Commission proposal of a zero catch for porbeagle last year, the Council agreed on TAC of 436 tonnes. This year, the Commission has still not come up with a proposal for 2010. It is, however, clear that the obligation to follow scientific advice dictates a prohibition of landings of porbeagle or, at the very least, a TAC of zero.

*We urge you to implement the ICES advice and the agreed Community Plan of Action for Sharks by setting a zero TAC, with no by-catch allowance.*

### **Skates and rays (*Rajidae*)**

Like sharks, skates and rays are particularly sensitive to fishing. The status of different species varies greatly; some are stable and others vulnerable, severely depleted or even locally extinct. It is also important to note that scientific knowledge of many of these species is insufficient and their status cannot yet be properly assessed.

ICES has not provided species-specific advice for skates and rays in 2009, but did so in their 2008 advice, which was rather clear; strict protection for common skate, white skate and undulate ray as well as angel shark was advised. Common skate and white skate are classified by the IUCN as “Critically Endangered” in the North East Atlantic, while undulate ray is categorized as “Endangered”. The angel shark – a demersal species examined along with the skates and rays – is considered Critically Endangered throughout Europe and locally extinct in some areas.

In December last year, the Council decided to ban retention of these species. This year, there was a Commission proposal to strengthen this rule under technical measures<sup>17</sup> to make these species fully prohibited. However, the November Council did not agree on the Technical Measures Regulation, which will now be redrafted during the Spanish Presidency.

The Commission proposal is a general TAC for skates and rays in each area, with a 15% decrease compared to 2009. Decreasing the fisheries on skates and rays is a step in the right direction but it is not in line with the advice provided by scientific bodies, such as ICES. Given the vulnerability of the species and the general lack of data of these fisheries, a precautionary approach should be taken. There should be no targeted fisheries for these species unless and until measures are in place that ensure long-term sustainability. These measures should include species- and area-specific TACs and quotas, as well as sound management plans, based on scientific advice and the precautionary approach – as dictated by the Community Plan of Action for sharks.

*We therefore ask you to ensure that the bans on retention of common skate, white skate, undulate ray and angel shark are maintained in 2010 and that these exceptionally vulnerable species are granted full protection.*

*We also ask you to reduce the TACs on other species of skates and rays and make sure that there are no targeted fisheries on these species until measures are in place to ensure long-term sustainability.*

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<sup>17</sup>Proposal for a Council Regulation concerning the conservation of fisheries resources through technical measures, Working Document 28.09.2009.