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Feedback on the European Commission's Inception Impact Assessment for the Proposals for Regulations establishing multi- annual plans for the management of demersal fisheries in western EU waters

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The Pew Charitable Trusts is an independent non-profit, non-governmental organization, founded in 1948. Pew's mission is to serve the public interest by improving public policy, informing the public and invigorating civic life. Its work in the European Union focuses on enhancing fisheries management and ocean conservation.

Summary

A robust impact assessment is essential to determine whether the policy options under consideration will deliver on the desired policy objectives and legal requirements.

The language used in the inception impact assessment for multi-annual plans (MAPs) in western EU waters does not reflect the objectives and requirements of the Common Fisheries Policy (CFP). It fails to assess the policy options against the specific objective of rebuilding biomass of all harvested stocks to levels above those capable of producing Maximum Sustainable Yield (MSY) and suggests that management objectives would not apply equally to all populations of harvested species, in contravention of the provisions of the CFP.

With the first deadline for ending overfishing where possible having passed in 2015, it is crucial that new MAPs commit to no more unnecessary delays and to making progressive, incremental progress towards achieving MSY exploitation rates by 2020 at the latest. It is essential that MAPs contain stringent provisions to limit mortality to values lower than F_{MSY} as a means to rebuild stocks in line with the objective stated in Article 2.2 of the CFP, and that they contain provisions on monitoring and evaluation of their progress in relation to the B_{MSY} reference point.

Introduction

1. The Pew Charitable Trusts welcomes the opportunity to provide feedback on the Commission's inception impact assessment for the Proposals for Regulations of the European Parliament and of the Council establishing multi-annual plans for the management of demersal fisheries in western EU waters.
2. We note that the reformed Common Fisheries Policy (CFP)¹ requires the adoption of multiannual plans (MAPs) as a means to effectively pursue the sustainable exploitation of marine biological resources², and that such plans be adopted as a priority³.
3. The Commission proposal for a first multiannual plan, regarding the Baltic, was not in line with the requirements of the reformed CFP as it included fishing mortality levels above the MSY limit, resulting in protracted and difficult negotiations between the European Parliament and the Council. The final agreement on the Baltic MAP, while more consistent with CFP requirements than the initial Commission proposal, still retains elements that threaten the achievement of the CFP objectives.
4. In order to secure, in a timely fashion, future MAPs that lead to the attainment of the objectives of the CFP, it is crucial that future Commission proposals rectify the shortcomings of the Baltic MAP. A robust impact assessment exercise is necessary in this regard.

Overall comments

5. We broadly agree with the Commission's analysis of the current situation: large parts of demersal stocks are overfished and some stocks are depleted. We agree that the current

¹ Regulation 1380/2013 of the European Parliament and of the Council of 11 December 2013

² Idem, recital 23

³ Idem, Article 9.1

management plans are inadequate and will not lead to the attainment of the objectives set out in the CFP.

6. In order to develop MAPs that will rectify these shortcomings, it is necessary that the main policy objectives of the proposed plans fully reflect the CFP's objectives. The current wording does not fully reflect the CFP's objectives, which stipulates in particular (Article 2.2) that:
 - a. MSY fishing mortality rates shall be achieved by 2015 where possible, and on a progressive, incremental basis at the latest by 2020 for all stocks.
 - b. It should be aimed to ensure that populations of harvested species are restored and maintained above levels which can produce the MSY.
7. In order to develop MAPs that achieve the CFP objectives, it is necessary to assess whether the policy options under consideration will deliver on the policy objectives and legal requirements of the CFP. The inception impact assessment made available by the Commission fails to assess the policy options against the specific objective of rebuilding biomass of all harvested stocks to levels above those capable of producing Maximum Sustainable Yield (MSY)⁴.
8. Nevertheless, of the options considered, option 4 ("replace the existing plans with mixed fisheries, multi-annual plans covering wide areas") is in our view the most likely to provide a suitable framework for the attainment of the CFP's objectives if the right content is included. The impact assessment considers various administrative approaches and structures but does not elaborate on the benefits likely to be achieved by ending overfishing and restoring stocks above levels that can produce maximum sustainable yield, as the CFP requires.
9. More detailed comments on specific elements to be included in this option are specified in points 10-17 below.

Scope

10. The inception impact assessment suggests the possibility that only the main target species would be managed according to CFP objectives, as long as the remaining species affected by the MAP remained above precautionary biomass levels. Such an approach does not comply with the CFP, whose objectives apply to all populations of harvested species.
11. It is important that management be on the basis of stocks, and not of fisheries. North-western waters species that should be incorporated in the multi-annual plan include:
 - a. Demersal TAC species, particularly hake, sole, plaice, haddock, whiting, cod, megrims, anglerfish, Norway lobster, pollack, and saithe;
 - b. Deep-water TAC species, including blue ling, ling, great silver smelt, and tusk;
 - c. Pelagic TAC species such as boarfish, herring, horse mackerel, mackerel, blue whiting, sprat, anchovy;
 - d. Elasmobranchs, particularly porbeagle, skates & rays, and dogfish; and
 - e. Non-TAC species, including sardine, seabass, lemon sole.

⁴ Idem, article 2.2

Objectives

12. The objectives of any multi-annual plan must fully reflect the objectives of the CFP, stated in its Article 2. Developing a new MAP which does not reflect those objectives will not improve on the current situation of multiple MAPs with inadequate and obsolete objectives, which this proposal seeks to replace and improve on.
13. Article 2 contains a multitude of objectives, which the implementation of the MAP should deliver on. In particular:
 - a. Article 2.2 requires that a precautionary approach be applied to fisheries management. As defined in Article 4.8, this means “an approach according to which the absence of adequate scientific information should not justify postponing or failing to take management measures to conserve target species, associate or dependent species and non-target species and their environment”;
 - b. Article 2.2 further requires that “in order to reach the objective of progressively restoring and maintaining populations of fish stocks above biomass levels capable of producing maximum sustainable yield, the maximum sustainable yield exploitation rate shall be achieved by 2015 where possible, and on a progressive, incremental basis at the latest by 2020 for all stocks”. We are concerned that the language used in the inception impact assessment truncates this objective by removing the temporal references. We would also like to emphasise that Recital 7 of the CFP regulation specifies that derogations from the 2015 deadline should only be allowed in case of serious jeopardy to the social and economic sustainability of the fleet.
 - c. Article 2.3 requires the implementation of an ecosystem-based approach to fisheries management.
 - d. Article 2.5 (a) requires the gradual elimination of discards “by avoiding and reducing, as far as possible, unwanted catches, and by gradually ensuring that catches are landed”.
 - e. Article 2.5 (j) requires coherence with environmental legislation, in particular the objective of reaching a good environmental status by 2020 under the marine Strategy Framework Directive.⁵
14. With the 2015 deadline having passed, it is essential that the new MAP commits to no more unnecessary delays and to making progressive, incremental progress towards achieving MSY exploitation rates by 2020. It is essential that the MAP contains stringent provisions to limit mortality to values lower than F_{MSY} as a means to rebuild stocks in line with the objective stated in Article 2.2.
15. Statements in the inception impact assessment imply that for some stocks, the Commission is considering that maintenance within safe biological limits is a sufficient management objective, without clearly defining “Safe Biological Limits”. A recovery targeted at or below population levels capable of producing the MSY would be in contravention of the CFP.
16. Furthermore, while some argue that continuing to overfish certain stocks in mixed fisheries will help with choke problems, the reality is that if those stocks remain overfished they will never recover beyond the point where they cease to be a choke species.

⁵ Directive 2008/56/EC of the European Parliament and the Council

17. For the purposes of monitoring and evaluation, any MAP should be assessed against achieving the aim of restoring and maintaining stocks above levels capable of producing MSY. In order to evaluate progress effectively, the Commission should request the International Council for the Exploration of the Sea (ICES) to assess biomass against the B_{MSY} level, rather than against any lower reference point such as $MSY B_{TRIGGER}$ or B_{PA} .