

ClientEarth's response to the Commission's communication concerning a consultation on fishing opportunities for 2017 under the CFP

ClientEarth is a public interest European environmental law organisation founded in 2006, with offices in London, Brussels and Warsaw. We aim to create practical solutions to key environmental challenges by supporting and promoting the development, implementation and enforcement of effective European Union (EU), and where appropriate international, regional or local environmental law and policy.

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ClientEarth welcomes the European Commission's Communication concerning a consultation on fishing opportunities for 2017 under the Common Fisheries Policy (CFP). We particularly support:

- The Commission's intention to propose Total Allowable Catches (TACs) in line with achieving maximum sustainable yield (MSY) in 2017;
- The Commission's intention to adopt proposals for TACs on the basis of MSY where multiannual plans have become incompatible with the CFP;
- The Commission's aspiration to follow the precautionary approach in a "*systematic, predefined and transparent way*" in the absence of MSY assessment and proxies;
- The Commission's recognition that fishing opportunities for stocks falling under the landing obligation are to be set taking into account catches rather than landings, based on biological advice and on the understanding that any increases in fishing opportunities as a result of this change should not jeopardise the MSY objective or increase fishing mortality;
- Improvements in the Commission's report on the progress on achieving MSY and on the situation of fish stocks (required under Article 50 of the CFP Basic Regulation), which included clearer referencing of data sources and the provision of time series instead of only point values;
- The Commission's explicit reference to the need for tangible evidence of socio-economic reasons for delaying the achievement of MSY, and the clear acknowledgement of the link between more sustainable fishing and economic benefits.

Despite a number of improvements compared to last year's Communication, several concerns we raised in our response last year have not been sufficiently addressed in the present Communication, and a few new ones have emerged. We have particular concerns about:

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- The F_{MSY} ranges contained within the Baltic multiannual plan. These risk TACs being set above the F_{MSY} point value in particular circumstances, which in turn puts the achievement of the MSY objective in jeopardy. This also has the potential to result in inconsistencies in reporting between years, with reporting in previous years having been against the F_{MSY} point values;
- The continuing lack of clarity about the Commission's intended approach for proposing TACs for stocks without MSY assessment;
- The lack of information regarding the type and format of socio-economic evidence required to justify delaying the achievement of MSY and how such information will be taken into account;
- The continued shortcomings in the Commission's Article 50 report, which we highlighted last year and which have not been addressed in this year's report. These include the limitations of reporting only on data-rich stocks, the often selective and inconsistent presentation of information and a lack of clarity in MSY- and sustainability-related wording. This means that the information can sometimes be misleading and difficult to assess;
- The lack of detail and quantitative analysis in the report on the implementation of the landing obligation, with the methodology and data requirements for reporting on the landing obligation currently inadequately defined.

We will discuss these and other issues in more detail below.

State of Stocks

We acknowledge the positive developments that have been made in some areas of fisheries management in the EU. These include, for example, the generally increasing number of stocks with full MSY assessments and quantitative advice, and the generally decreasing proportion of assessed stocks that are overfished throughout the overall time-series from 2003 to 2014. We are pleased to see in the Commission's Communication that fishing has generally progressed towards MSY in the Northeast Atlantic, North Sea and Baltic Sea since 2006.

Unfortunately, the most recent years' assessments by STECF¹ (for 2013 and 2014) show that the number of stocks within safe biological limits decreased from 22 to 20, and the number of stocks where fishing mortality does not exceed F_{MSY} decreased from 35 to 31. We note that the presentation of information in the Communication that focuses on long term progress does not accurately reflect these recent backwards steps, as we discuss below in relation to the Commission's Article 50 report.

Like last year, it is evident from the Communication that the state of the stocks in the Mediterranean remains dire. The Commission states that, in the Mediterranean Sea, '*the overall level of overfishing is broadly between 2 and 3 times F_{MSY}* '. This demonstrates the need for further measures in this area, and we welcome the Commission's commitment to addressing this situation by working with Member States, the GFCM and stakeholders, as outlined in its Communication.

¹ Scientific, Technical and Economic Committee for Fisheries (STECF) - Monitoring the performance of the Common Fisheries Policy (STECF-16-05) - Corrigendum to STECF-16-03. 2016. Publications office of the European Union, Luxembourg, EUR 27758 EN, JRC 100945, 60 pp.

The European Commission's approach to MSY

Article 2(2) of the CFP Basic Regulation (the "Basic Regulation")² sets a clear objective for EU fisheries management.³ The first paragraph of Article 2(2) contains a clear legal obligation for those acting under the CFP framework as a whole: that fisheries management shall aim to restore and maintain fish populations above biomass levels capable of producing MSY— what we refer to as the MSY objective. Such actors include the EU institutions. The second paragraph explains the tool through which the MSY objective is to be achieved: the requirement to adopt MSY-based exploitation rates, which are to be achieved by 2015 where possible and on a progressive, incremental basis by 2020 at the latest. Articles 16(3) and 16(4) of the Basic Regulation establish a clear legal obligation to set fishing opportunities (TACs and effort limits) in line with Article 2(2). This means that the Commission's proposals for fishing opportunities must also be in line with Article 2(2).

We welcome the Commission's intention to propose TACs *'in line with achieving MSY in 2017'*, as well as its explicit recognition of the economic benefits of moving towards MSY. Unfortunately, like last year, there is still a lack of clarity in some parts of the Commission's communication regarding their approach to the achievement of that objective and the accompanying requirement in Article 2(2). On a basic level, the Commission's references to MSY continue to be vague. It is largely unclear throughout the Communication whether the Commission is referring to MSY in terms of fishing mortality, biomass or yield, which in turn results in a lack of clarity as to what the Commission means by 'MSY objective' or 'achieving MSY', i.e. whether it refers to the first or second paragraph of Article 2(2). It is also notable that the Commission refers to MSY 'targets', wording which is not in line with the clear legal obligation contained in Article 2(2). The Commission should take into account that the lack of clarity regarding references to MSY inevitably poses difficulties in responding in a detailed way to the Commission's approach as outlined in the Communication.

We also highlight that the Commission's intention to *'use the available point values for MSY'* for the 2017 TAC proposals, i.e. to propose TACs corresponding to the F_{MSY} point values for all stocks where such values are available, will not meet the requirements of Article 2(2). Article 2(2) actually says that the CFP *'shall aim to ensure that exploitation of living marine biological resources restores and maintains populations of harvested species **above** levels which can produce the maximum sustainable yield'* (emphasis added).

The word 'above' in the objective is fundamental, since this means setting exploitation levels **below** F_{MSY} , the fishing mortality that should lead to the biomass that enables a stock to deliver the maximum sustainable yield (B_{MSY}), including when ranges of exploitation (F_{MSY} ranges) are used. Fishing **at** F_{MSY} would, as a matter of scientific reality, only lead to biomass being above B_{MSY} 50% of the time⁴ (and then only for stocks which have recovered to levels very close to B_{MSY}). So, consistently fishing **at** F_{MSY} will not fulfil the MSY objective in Article 2(2). F_{MSY} is a limit, not a target exploitation rate and the 2017 TACs must reflect this (though note the potential for the time-related derogation and our associated recommendations considered below).

² Regulation (EU) 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC

³ See our legal briefing on MSY in the CFP for a detailed analysis, <http://documents.clientearth.org/wp-content/uploads/library/2015-09-08-maximum-sustainable-yield-in-the-common-fisheries-policy-ce-en.pdf>

⁴ ICES Advice Basis 2015, ICES Advice 2015, Book 1

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It is clear that, in line with Article 2(2) of the Basic Regulation, the Commission must ensure that its proposals this year do not exceed scientific advice which allows for the restoration and maintenance of populations of harvested species above levels which can produce MSY.

The timeframe for achieving MSY

As the 2015 deadline set out in Article 2(2) has already passed there must be a clear focus on ensuring the 2017 TACs are set in line with MSY-based exploitation rates.

Article 2(2) requires that in order to meet the objective set out in the first paragraph – that fisheries management shall aim to restore and maintain fish populations above MSY levels – *'the [MSY] exploitation rate shall be achieved by 2015 where possible and on a progressive, incremental basis at the latest by 2020 for all stocks'*. It is questionable whether this is reflected strongly enough in the Commission's statement that *'the fishing pressure on stocks concerned should be aligned as soon as possible'* (emphasis added) to the MSY objective under Article 2(2). We reiterate that there are no biological or ecological reasons that exploitation rates that would put stocks on the path to recovery could not be achieved almost immediately with the adjustment of fishing mortality, although there may be short-term social and economic impacts in some fisheries. We would therefore recommend that the Commission commits to working with the Council of Ministers to agree a clear timeframe for achieving the MSY exploitation rates by the 2020 deadline stipulated by the Basic Regulation.

Social and economic reasons for delay

The Commission's communication states that a delay in achieving the objective beyond 2017 would only be acceptable where achieving MSY-based exploitation rates in 2017 would imply *'very large'* annual reductions of fishing opportunities that *'seriously jeopardise the social and economic sustainability of the fleets involved'*.⁵

While we welcome that the Commission refers to such situations as *'exceptional cases'* where the anticipated socio-economic impacts are *'well-substantiated'*, and states that Member States need to provide *'tangible evidence'*, our concerns raised in our consultation response last year remain. The Commission still does not attempt to clarify how a *'very large'* reduction would be quantified, and when such a reduction would be seen to *'seriously jeopardise'* social and economic sustainability. This language implies a situation that goes beyond fluctuations in the social and economic conditions of the fishing fleet that could, at least initially, be expected to be associated with a shift to MSY-based exploitation rates. It requires, rather, a significant risk to the future of the fleet, which a delay will help mitigate or prevent. Any evidence submitted to justify a delay must demonstrate this and should also be made publicly available, allowing for consideration by other stakeholders. Yet the Commission has still not provided a quantitative interpretation of the criteria which would justify a delay. Such guidance would allow for a common understanding amongst all stakeholders in relation to these criteria. Its absence could result in variable and possibly wide application of the derogation from achieving MSY exploitation rates by 2015 (by setting TACs above F_{MSY} levels) and an unlevel playing field across EU waters. ClientEarth recommends that the Commission provides clarification on this issue as a matter of priority.

⁵ As per Recital 7 Regulation of the Basic Regulation

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Progressive and incremental achievement of MSY-based exploitation rates

Article 2(2) stipulates that if the MSY-based exploitation rate is not achieved by 2015, it must be achieved '*on a progressive, incremental basis at the latest by 2020*'. The 2015 deadline has already passed and, as noted, the Commission's general intention is now to propose TACs in line with achieving MSY in 2017. If the Commission is to propose fishing opportunities for 2017 that are not based on MSY-based exploitation rates, it should give a concrete and evidence-based explanation as to why it has done so and give a timeline showing how these exploitation rates will be achieved progressively and incrementally by 2020 at the latest. The explanation and timeline must show that the delay caused by the proposal will not result in a breach of Articles 2(2) and 16(4). This in turn would help to show that the Commission is respecting the principle of sincere cooperation, something it would fail to do if it proposed a Regulation that contravenes these articles. Such a justification was not provided by the Commission in its 2016 TAC proposal or by the Council in the final regulation. In addition to providing its own justification where proposing TACs that do not meet the required timescale, the Commission should also request justification from the Council should the 2017 fishing opportunities not meet this timescale.

If there are to be delays, as discussed above, ClientEarth recommends that the European Commission issues guidelines regarding what reasons and evidence would be required to justify a delay. This should make clear who is to provide evidence of serious jeopardy to social and economic sustainability and in what form.

Overall, the use of any derogation from the 2015 deadline should be limited so that the vast majority, if not all, of 2017 TACs are set in line with MSY.

MSY and the interplay with multiannual plans

The points set out above apply whether the stock for which the TAC is proposed is covered by a multiannual plan or not. Where stocks are covered by existing management plans agreed under the previous CFP, the requirements of Article 2(2) must take precedence over any other objectives set out in those plans. These plans must not provide an obstacle to proposing TACs in line with MSY-based exploitation rates on the timescale set out in Article 2(2). On this basis ClientEarth welcomes the Commission's intention to adopt proposals for TACs on the basis of MSY where multiannual plans have become incompatible with the CFP.

However, the Commission refers in its Communication to the Baltic MAP, which it states '*introduces fishing mortality ranges consistent with achieving MSY (F_{MSY})*'. In fact, these ranges have the potential to conflict with the achievement of the MSY objective by allowing TACs to be set above the point value consistent with F_{MSY} and therefore we do not agree with the Commission's assessment of the ranges in the Baltic MAP. We welcome the Commission's statement that '*under normal circumstances fishing opportunities should be fixed within the part of the range with the lower values of F_{MSY}* ' and that scientific advice or evidence is needed to justify using the higher values of the range, which should only happen under specific circumstances. However, we would have preferred the Commission to be even clearer that using the upper end of the range for TAC-setting remains the exception rather than the rule. As discussed above, F_{MSY} must be the limit, not the target and the Commission should follow the ICES MSY advice rule, proposing TACs not exceeding the F_{MSY} point estimates. In addition, reporting should still be against the F_{MSY} point value, even where TACs are proposed or set

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based on F_{MSY} ranges. This is important to ensure consistency and comparability with previous years, where reporting has been against this point value.

The Communication itself does not provide clarity regarding the criteria for allowing TACs to be fixed in accordance with the higher ranges. It is clear that the stocks must be above the MSY $B_{trigger}$ reference point, but it is unclear when setting TACs in line with the higher values will be '*necessary to achieve CFP objectives in mixed fisheries situations*' or '*necessary to avoid serious harm to a stock caused by intra- or inter-species stock dynamics*'. The Commission should request advice from STECF to confirm that at least one of these criteria is met before proposing TACs that are in line with the higher range values, and this evidence and analysis must be made publicly available.

Additionally, we welcome the Commission's intention to continue to seek agreement regarding stocks shared with third countries based on the same MSY-based approach. Where plans covering these stocks fall short of the CFP's objectives the Commission should maintain its ambition in negotiations with the aim of ensuring that fishing mortality is brought below F_{MSY} and restoring and maintaining populations above levels capable of producing MSY.

Stocks without an MSY assessment

It is important that where approximate parameters (proxies) are used the TAC proposals are still in line with Article 2(2). However, ClientEarth recommends that continued effort be made to increase the number of stocks with MSY-based reference points as this will allow sustainable catch limits to be derived with a high level of certainty through quantitative assessments. This approach may require the expansion of data collection programmes, which is essential in order to achieve the MSY objective for all harvested stocks and not just for those stocks for which MSY-based reference points are currently available.

We again welcome the statement by the Commission that the precautionary approach will be taken into account for stocks where there is an absence of MSY assessment and proxies cannot be developed. In addition, the aspiration to follow the precautionary approach in a '*systematic, predefined and transparent way*' in line with Article 2(2) of the Basic Regulation, where no biological advice is available, is something ClientEarth welcomes. However, the lack of definitions and information as to how this method will be developed, what it will be based on and when it will be available is a concern raised in our consultation responses in the two previous years, and one that still does not appear to have been addressed. We recommend that the Commission develops a communication or a guidance document on how to implement the precautionary approach to fisheries management in line with Article 4(1)(8) of the CFP Regulation and Article 6 and Annex II of the UN Fish Stocks Agreement.

Like last year, the Commission's Communication refers to an agreement in earlier years to maintain TACs unchanged for 26 stocks unless biological advice calls for adjustment, and the Commission's intention to continue with this approach. As we highlighted last year, this blanket approach is not in line with the MSY objective in the CFP or with the precautionary approach to fisheries management. Stocks with a presumption of stability should only have their TAC maintained at the level set in previous years if this is in accordance with the best available scientific advice. TACs for stocks in this category that had TACs set higher than scientific advice should be reduced so that they are in line with the best evidence of sustainable catch levels. Despite our concerns, we welcome the Commission's statement that it intends to propose adjustments to these TACs where ICES' advice indicates a need for review. Furthermore, we

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recommend that the Commission include the list of stocks in this category in future Communications to allow stakeholders to better access this information.

It is important to note that the requirements under Article 2(2) of the Basic Regulation apply to all harvested species. Where stocks are data-limited, the Commission needs to provide more information about what is being done to monitor these stocks. Greater transparency with regards to the steps that are being taken to ensure that the management of these stocks is in line with Article 2(2) is necessary to show that this legal obligation is being met for both data-limited and data-rich stocks. The opportunity to address this in detail in this year's Communication was not taken by the Commission (see comments on the report below). However, further information on this subject should be provided by the Commission, including in future Communications.

TACs and the obligation to land all catches

ClientEarth wholly supports the Commission's recognition that TAC adjustments are needed to take into account the change from reflecting catches instead of landings, that this needs to remain compatible with achieving MSY and that these adjustments should not increase fishing mortality. However, we reiterate that TAC adjustments must be based on previous discards of only those parts of the fleet which will have to land their catches of the respective stocks in 2017, taking into account that discarding by some fleet segments will continue. There is a real risk that unless the entire stock is under the landing obligation, the combination of additional quota (quota top-ups) and continued discarding could mean that fishing mortality is higher than that permitted by Article 2(2).

The risk of overfishing by giving quota top-ups to stocks not fully covered by the landing obligation could be compounded by the use of exemptions from the landing obligation. We recommend that the Commission provides clarification on how these risks will be accounted for in its proposal for fishing opportunities. In this context, we welcome the Commission's intention to submit the method used to calculate TAC adjustments for 2017 to STECF for advice. We recommend that STECF also evaluates the risk posed by proposing TAC adjustments on the basis of data extrapolations when *'no validated or complete discard data are available'* (as suggested in the Communication) for increasing fishing mortality above the allowable threshold. Where this risk is considered high, a precautionary approach to proposing TAC adjustments should be taken, with smaller (or no) adjustments if there is a high level of uncertainty about discard rates.

Report on the state of the stocks

ClientEarth welcomes the Commission's request to STECF to report on the performance of the CFP. This forms the basis of the Commission's report on the progress of achieving MSY and on the situation of fish stocks, as required under Article 50 of the Basic Regulation. We note several improvements in this report compared to that in last year's Communication, including clearer referencing of data and the provision of full time-series. However, the Communication in its present form is somewhat misleading at times and in our view is still not sufficient to qualify as a report on the progress of achieving MSY and on the situation of fish stocks.

Most strikingly, the report generates the impression that progress towards achieving MSY has continued in 2014 (although it admits it has *'slowed down'*). The Commission reports that, in 2014, 31 out of 59 stocks (52.5%) were fished in accordance with MSY, comparing this to the 32

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out of 62 stocks (51.6%) fished in accordance with MSY for 2013. However, STECF's most recent analysis⁶ corrected the number for 2013 (reported in last year's Communication) upwards to **35** out of 62 (56.5%). This means that instead of the slight increase in the percentage of stocks fished in line with MSY suggested by the current report, there has actually been a decrease from 2013 to 2014.⁷

The Commission's overall conclusion that '*with continued reduction of fishing mortality across the board there are no indications that progress towards achieving the MSY 2020 target is being jeopardized*' is therefore not in line with STECF's assessment. We recommend that the Commission is consistent in using values taken from the most up to date assessments to more accurately reflect the situation. In addition, it should report explicitly both on long-term trends and changes in the most recent years. This would avoid the presentation of individual values from specific years out of context, which runs the risk of misrepresenting the situation in relation to MSY.

There are a number of further shortcomings in the Commission's report, some of which we highlighted in our consultation response last year.

Firstly, the sampling frame set by STECF in its 16-03 report⁸ is limited to data-rich stocks with MSY estimates. However, as referred to above, Article 2(2) of the Basic Regulation covers all harvested species. The Commission's report should reflect this to the extent possible by reporting on progress in relation to other reference points, for example precautionary or limit reference points, where no MSY estimates are available.

There is no concrete information on where stocks are in relation to biomass levels that can produce MSY as the Commission did not request this information from STECF. This information is essential for assessing whether the Article 2(2) objective of restoring and maintaining populations of fish stocks above biomass levels capable of producing the MSY is being met; the evaluation is inherently incomplete without this. Whilst we acknowledge that B_{MSY} reference points are not available for most stocks, we recommend that progress of the spawning stock biomass (SSB) towards other relevant reference points such as MSY $B_{trigger}$ or B_{pa} , or at least trends in relation to B_{lim} where no other reference points are available, are included in the Commission's report.

The Commission requested calculations based on only a limited selection of the indicators recommended by STECF as useful and/or necessary. In turn, the Commission then selected a further limited number of these indicators in its report. One particular indicator of note that was not reported upon by the Commission, although STECF had recommended it, was an '*indicator for the difference between agreed TACs and advised catches*',⁹ to show the overshoot (or undershoot) of agreed TACs compared to the best available scientific advice¹⁰ regarding sustainable catch limits. We agree that such an indicator is an essential element of any assessment of '*progress on achieving maximum sustainable yield and on the situation of fish stocks*', which is required by Article 50 of the Basic Regulation and should therefore be included

6 Scientific, Technical and Economic Committee for Fisheries (STECF) - Monitoring the performance of the Common Fisheries Policy (STECF-16-05) - Corrigendum to STECF-16-03. 2016. Publications office of the European Union, Luxembourg, EUR 27758 EN, JRC 100945, 60 pp.

7 Moreover, the annual mean value of F/F_{MSY} increased from 2013 to 2014 (1.18 to 1.27 for the arithmetic mean, 0.95 to 1.04 for the model-based ratio) indicating that the average level of overfishing actually increased as well despite the long-term progress made since 2003.

8 *Ibid.*

9 STECF report "Reporting needs under the new Common Fisheries Policy" (STECF-14-23) page 7, http://stecf.jrc.ec.europa.eu/documents/43805/850765/2014-12_STECF+14-23+++Reporting+needs+under+new+CFP_JRC93936.pdf

10 A principle of good governance in the Basic Regulation Article 3(c)

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in the Commission's report. However, in order for this to be fully considered, the continuing mismatches between the geographic areas for which scientific advice is provided and the areas for which the actual TACs are set will need to be addressed. We urge the Commission to do so as a matter of priority.

We welcome the Commission's decision to include the model-based mean of F/F_{MSY} in this year's Communication as an indicator of compliance with the requirement in paragraph 2 of Article 2(2). However, we highlight that a median exploitation rate close to F_{MSY} does not mean that F_{MSY} has been reached for all stocks, and solely reporting on this model-based indicator could be misleading. We therefore recommend that the Commission also includes the arithmetic mean of F/F_{MSY} in future Communications, to allow for a more comprehensive assessment of progress towards the Article 2(2) requirement F_{MSY} .

Additionally, the decision to request information on the number of stocks inside/outside safe biological limits is insufficient to determine whether the objective in paragraph 1 of Article 2(2) is being met. '*Stocks within safe biological limits*', as defined in Article 4(1)(18) of the Basic Regulation, means a high probability that the stock's fishing mortality is below F_{lim} and the estimated stock biomass above B_{lim} . While a stock needs to satisfy both of these criteria to prevent recruitment failure, they are inadequate indicators for whether one of the main objectives of the CFP - to recover and maintain stocks above levels that can produce MSY - is being met.

The lack of clarity in the Commission's reporting means that what is presented as an Article 50 report does not provide sufficiently detailed information to either constitute an adequate assessment under Article 50 or for stakeholders to evaluate themselves the progress towards achieving the CFP's objectives. Further, the way data have been used in the report to draw conclusions is not sufficiently transparent or easily understandable.

Report on the implementation of the landing obligation

For the first time, the Commission's Communication contains a report on the implementation of the landing obligation as required by Article 15(14) of the CFP Basic Regulation (added by the Omnibus Regulation). Whilst it provides some information on the aspects to be covered according to this provision, the report as it currently stands does not allow for thorough monitoring of the implementation of the landing obligation, including progress made and challenges encountered.

A key implementation issue is the piecemeal phasing of the landing obligation, which raises difficulties relating to the calculation of TAC adjustments, monitoring and enforcement issues and delays that risk a 'big bang' rather than the progressive phasing envisaged by the CFP. These issues are not at this point adequately reflected in the Commission's report. In addition, there are a number of outstanding questions regarding quota allocation and swaps which should also be reflected in this reporting process.

Future reports on the implementation of the landing obligation should also address a number of shortcomings regarding the level of detail and the clarity of the information upon which the report is based. The report contains a range of general statements, such as '*generally compliance started in January 2015*', without specific reference to detail or quantitative information.¹¹ As

¹¹ Commission's communication, p. 8.

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pointed out in the recent STECF-16-13 report,¹² the deficiencies of this year's report can to a large extent be attributed to weaknesses in the information submitted to the Commission by stakeholders, including Member States and Advisory Councils. We welcome the Commission's request to STECF to examine the methodology and data requirements for reporting on the landing obligation.

In order for stakeholders to collect and submit the necessary information, the Commission needs to specify and request this information in a meaningful and consistent format. Following the detailed questions and templates developed by STECF¹³ would allow the Commission to report more comprehensively on the implementation of the landing obligation. Although the legal requirements for the report are detailed in Article 15(4) of the Basic Regulation, we support STECF's recommendation that a range of other aspects also need to be monitored and reported on. This is important to allow for a comprehensive and reliable assessment of how the landing obligation is working. As STECF highlights, Article 15(14) '*focuses on certain aspects of the landing obligation and its potential impacts mostly ashore at port level*', whereas '*impacts on catch and catch profiles, compliance, selectivity, spatial and temporal changes in fishing operations, longer term socio-economic and environmental effects are not covered*' by these provisions.¹⁴ For example, detailed information on monitoring of catches and the uptake of exemptions (both *de minimis* and high survival exemptions) is necessary to determine how the landing obligation is affecting catch levels and whether these are sustainable or not.

On this basis we recommend that the Commission extends the scope of future reports on the implementation of the landing obligation to include the additional metrics suggested by STECF.¹⁵ Requesting that stakeholders provide information following questions and templates developed by STECF will allow for consistency in the reporting process. Overall, we recommend that future reports should be more comprehensive and provide clearer references to the supporting evidence, as well as making the supporting information publicly available. This is in line with the transparency requirements enshrined in the CFP.¹⁶

12 Scientific, Technical and Economic Committee for Fisheries (STECF) - Methodology and data requirements for reporting on the Landing Obligation (STECF-16-13). 2016. Publications Office of the European Union, Luxembourg, EUR XXXX EN, JRC XXXX, 93 pp.

13 *Ibid.*

14 *Ibid.*, p. 5.

15 *Ibid.*, pp. 28-72.

16 ClientEarth (2014). Transparency in the Common Fisheries Policy. November 2014, Version 2 (updated in August 2015). <http://www.documents.clientearth.org/library/download-info/transparency-in-the-common-fisheries-policy/>

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ClientEarth is a non-profit environmental law organisation based in London, Brussels and Warsaw. We are activist lawyers working at the interface of law, science and policy. Using the power of the law, we develop legal strategies and tools to address major environmental issues.

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