

Ask the right question, get the right answer: Scientific advice for bycatch or non-targeted stocks that have zero catch advice

There are several fish stocks managed by the EU for which the official scientific catch advice provided by the International Council for the Exploration of the Sea (ICES) for 2020 was zero tonnes. Many of these stocks were once commercially viable. These stocks have been depleted to dangerously low levels following years or even decades of overfishing and are now primarily caught as bycatch¹ or non-targeted stocks in mixed or target fisheries by fishers targeting other stocks. Examples include:

- [Irish Sea whiting](#) (bycatch in the Norway lobster fishery);
- [West of Scotland cod](#) (bycatch in fisheries for Northern shelf haddock, saithe and anglerfish); and
- [Celtic Sea cod](#) (caught alongside haddock and whiting in the Celtic Sea mixed gadoid fishery).

Zero catch advice makes things difficult: for example, if scientific advice is followed and fishers catch any Irish Sea whiting, then it is no longer possible to fish for Norway lobster. So the European Commission has been sending 'Special Requests' to ICES to provide a 'technical service': additional catch scenarios for these stocks subject to zero-catch advice.² To put it simply, the Commission is asking: if we follow the stock-specific advice for the target stocks (e.g. Norway lobster), how much of the bycatch stocks (e.g. Irish Sea whiting) would we end up catching? The response provided by ICES gives a different figure than the zero catch advice presented in the official scientific catch advice.

¹ Unwanted species (in this paper, fish) caught in fishing gear used when fishers are trying to catch another species or group of species.

² ICES provided such 'technical service' documents in response to requests from the EU for example for West of Scotland cod, Irish Sea whiting.

https://www.ices.dk/sites/pub/Publication%20Reports/Advice/2020/Special_Requests/eu.2020.05d.pdf

If you have a nut allergy, your doctor will advise you not to eat any pralines. You can ask the doctor how sick you will get based on how many you eat. You can even call it a 'technical service', instead of advice. But you know that you should stay off the pralines.

In the end, the availability to decision-makers of two different scientific documents – the official stock-specific ICES advice, and ICES's technical service response to these Special Requests from the Commission – can cause confusion about which figure to use to set the Total Allowable Catches (TACs) for these bycatch or non-targeted stocks. The law (the EU's Common Fisheries Policy)³ requires the Commission to secure and use the '*best available scientific advice*'. But having these two documents makes decision-makers scratch their heads.

When deciding which of the figures to follow to meet the CFP's sustainability requirements, **the main consideration has to be: which advice actually reflects these requirements? In particular, which advice scenario answers the key question: what is the maximum catch that can be taken for a specific stock to ensure that the CFP's legally binding sustainability requirement is met** (in technical language, to ensure that all harvested stocks, including the stock in question, are restored above levels capable of producing the Maximum Sustainable Yield, or MSY)?⁴

The answer to this question is: the official stock-specific catch advice that ICES provides in the first place, based on its MSY approach, or, where data are limited, based on the precautionary approach. For 2021, this includes zero-catch advice for Irish Sea whiting and West of Scotland cod. The new advice for Celtic Sea cod has not been published yet, but last year's zero-catch advice for this stock already indicated it is in a historically bad state.⁵

The figures presented in ICES's response to the Special Request (the 'EU standing request on catch scenarios for zero TAC stocks 2020') are not the official ICES advice, and thus not an ICES recommendation for sustainable catch levels. They are merely the response to a question that does not reflect the sustainability requirements in EU law (the CFP). Taking any of these fish out of the sea is bad for the ocean; just like a nut-allergy sufferer eating any pralines is bad for her body.

The request made by the Commission to ICES contains the wrong question. It means prioritising the target stocks: allowing fishers in mixed fisheries (i.e. fisheries where you cannot just take one kind of fish out of the sea at a time) to continue fishing for their target species even though this would mean overfishing the bycatch stocks, such as Irish Sea whiting (where Norway lobster is the target) or West of Scotland cod (which is caught alongside haddock, saithe and anglerfish). That means failing to manage these vulnerable bycatch stocks in line with EU law.

The question that should have been asked is: how much of the target stock can we catch so that we do not overfish the bycatch stocks?

The official single-species ICES advice provides that answer: none, because there is no catch level other than zero tonnes that would be sustainable for these bycatch stocks – and even then these stocks might not automatically bounce back and additional measures will be needed to restore them in line with the CFP's requirements. Among the different answers provided by ICES in response to different requests, it is the only one that actually reflects the CFP's sustainability (MSY) objective. Concretely, continuing business as usual in the target fishery is not an option if we are to stop overfishing the bycatch stocks. Effective steps must be taken to minimise bycatch and rebuild these stocks.

Overfishing bycatch stocks to keep the target fisheries open flies in the face of an ecosystem-based approach to fisheries management, something also enshrined in the CFP. Moreover, some of these now

³ Art. 3(c) of the CFP Basic Regulation (Regulation (EU) No 1380/2013)

⁴ Art. 2(2) of the CFP Basic Regulation.

⁵ <http://ices.dk/sites/pub/Publication%20Reports/Advice/2019/2019/cod.27.7e-k.pdf>

depleted stocks were historically commercially viable stocks. Once restored, they have the potential once again to sustain profitable fisheries. Rebuilding them, rather than perpetuating 'choke' issues⁶ year on year by failing to take action, is therefore in the interest of the industry and consumers, as well as the environment.

In addition to asking ICES the right question and sticking to the CFP's sustainability requirements, decision-makers need to urgently take the following actions to restore these vulnerable stocks above sustainable levels:

- Cut the TAC of the target stock(s) by a sufficient amount to allow the bycatch stock to recover;
- Implement full catch documentation, including Remote Electronic Monitoring (REM), to improve data collection, monitoring and control for these stocks; and
- Develop rebuilding plans with concrete, effectively implemented and monitored measures for these stocks; including, for example, seasonal or spatial closures and measures to optimise the selectivity of fishing gear, so fishers only catch what they want.

⁶ A 'choke' in a fisheries context refers to a situation where a target or mixed fishery is forced to close prematurely (i.e. while quota for the target stocks is still available) because there is no quota left to cover the bycatch, i.e. the bycatch stock 'chokes' the target or mixed fishery.

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