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COMMUNICATION FROM THE COMMISSION

**Fishing Opportunities for 2009
Policy Statement from the European Commission**

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1. INTRODUCTION

Each year, the European Union decides on the fishing opportunities – the quotas of fish and the allowable days-at-sea - for European fishermen and in European waters. These decisions are made on the basis of a proposal from the European Commission.

The Commission's proposal must be formulated in accordance with a number of guiding principles. First, in accordance with the main objectives of the Common Fisheries Policy (CFP)¹, annual fishing opportunities must be set at a level which ensures sustainable exploitation of resources in environmental, economic and social terms. Secondly, taking into account the need to ensure a stable and predictable framework for operators depending from fisheries, annual variations should be kept within pre-determined limits. Thirdly, international commitments must be respected, including the commitment to rebuild stocks so that they reach their maximum productivity². Finally, in line with the approach agreed in the Communication on "Improving consultation on Community fisheries management" of 2006, stakeholders must be involved at an early stage in the discussion of fishing opportunities.

In line with the new working method proposed in 2006, this Communication sets out the Commission intentions with regard to the preparation of its proposals for total allowable catches (TACs) and fishing effort for 2009 to meet its commitment to sustainable fisheries. In 2009, this exercise takes place against a background of urgent challenges facing the CFP. Despite several years of implementation of the CFP, the state of resources remains worrying. Several stocks are exploited beyond sustainability. Fishing opportunities have been set at levels too high for stocks to be sustainable. Effort management systems have not worked as expected. There are serious problems in the enforcement of fishing opportunities, and implementation problems need to be addressed. Improvements in technical measures are also needed.

In setting out its views on fishing opportunities in 2009, the Commission will therefore propose measures to address these challenges. This includes revising the constraints in setting annual adjustments in TACs and quotas. Improvements to technical measures will also be presented in a separate proposal. During 2008 the Commission will also begin work on a more regional approach to fisheries management. Closer attention will be paid to making the various elements of the CFP work together to reinforce fisheries sustainability in the most appropriate way in each region. Other policy areas will gradually become more closely linked to the long-term sustainable exploitation of fish stocks.

The Commission is committed to seek the views of stakeholders on the policy statement set out in this Communication and invite Member States and the industry sector to discuss how its working methods for presenting annual fishing opportunities

¹ Article 2 of Council Regulation (EC) No. 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy. OJ L 358 of 31.12.2002, p. 59.

² Implementing sustainability in EU fisheries through maximum sustainable yield. Communication from the commission to the council and the European parliament. COM (2006) 360 final.

can be improved. Further consultations will be planned concerning the improvement of the other aspects of fisheries management during 2008.

2. STATE OF RESOURCES

In many sectors, conservation policy is not delivering sustainability. Most demersal stocks have declined and are not sustainable, being exploited outside safe biological limits. Species such as capelin and sandeel that are used to make fish meal have been scarce. Bluefin tuna are overexploited and there is a serious control problem. However swordfish stocks are healthier. Many other pelagic stocks are fished sustainably. In the Mediterranean, only two demersal and two small pelagic species are monitored. The demersal stocks are outside safe biological limits, but the two pelagic stocks are not fully exploited.

Scientific agencies assess each year whether the stocks are at risk that their future reproduction will be compromised, *i.e.* whether they are outside "safe biological limits". Largely because of inaccurate catch reports, the state of some 57% of stocks is unknown. Of those stocks for which the state is known 68% are at high risk of depletion, and only some 32% of stocks are known to be fished sustainably. In 88% of stocks, overfishing is so serious that more fish would be caught if there was less fishing. This number is way above the situation outside the EU where the global average is 25% of stocks being overfished³. Some 19% of stocks are in such bad state that scientists advise that there should be no fishing (See tables in Annex I).

Seen in a longer term perspective, overfishing has led to a situation where the fish stocks in EU waters contribute much less to the European economy and to the food supply than they did in the past. The demersal stocks in the North Sea now only produce one fifth of what was harvested from them 25 years ago. Similar trends are seen in most areas where information is available (see Figure 1).

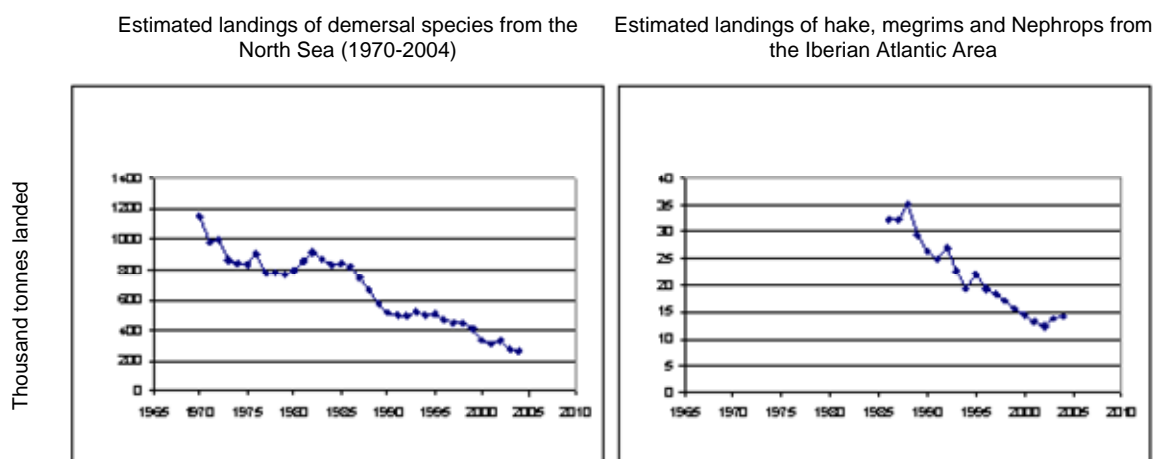


Figure 1. Left panel, estimated landings in the North Sea, 1970 - 2004. Right panel, estimated landings of the main demersal species (hake, megrims, monkfish and Nephrops) in the Iberian Atlantic area. Data from ICES (2005) in both cases.

³ The state of world fisheries and aquaculture 2006. Food and Agriculture Organization of the United Nations. Rome, 2007

This reduction in productivity has led to increased dependence on imported raw materials for the European food industry and for the European market. While 75% of fish products for the European market originated from domestic resources in the early 1970's, domestic products now only contributes some 40% (see Figure 2).

Relation between EU15's fish production and imports 1961-2001
(in %) (Source: Eurostat)

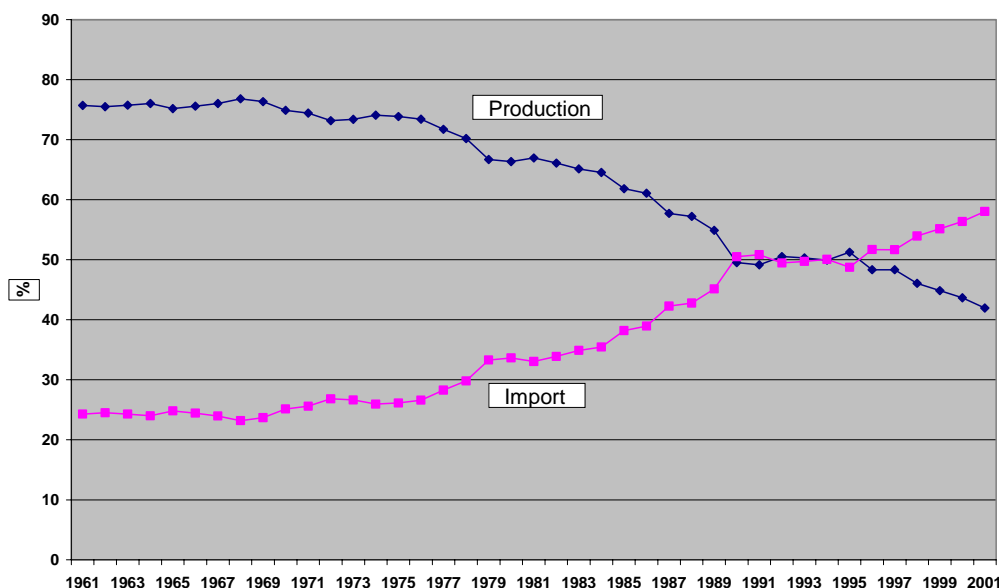


Figure 2. The balance between production and imports of fish products (food and non-food) in the EU.

Despite substantial efforts, there are no significant signs of stock recovery nor of reductions in overfishing since 2003. Fisheries management in the European Union is not working as it should and the objective of achieving long-term sustainability is not being reached.

3. PRINCIPLES FOR 2008

Against this background of stock depletion and excessively high fishing opportunities compared to scientific advice, the Commission remains committed to fishing opportunities that are sustainable according to scientific advice and, for depleted stocks, will allow a high chance of stock recovery.

Fishing opportunities should be set:

- according to long-term plans;
- respecting relevant international agreements;
- and respecting the objectives of the Common Fisheries Policy, and especially respecting the need to reduce fishing on overexploited stocks and to rebuild depleted stocks.

- The Commission attaches the highest importance to the respect of these principles. These are explained in more detail below.

4. FISHING OPPORTUNITIES DECIDED UNDER THE CFP

4.1. Setting TACs

Overfishing and stock depletion is due in part to setting too high levels of TACs and effort. The TACs decided by Council have been on average about 48% higher than the catches that, according to scientific agencies, would be sustainable in accordance with the precautionary approach⁴. In addition to known problems about enforcement, setting quotas too high has contributed to keeping marine resources at low levels. This Communication addresses new methods of setting TACs to avoid these problems.

4.2. Setting fishing effort

Fishing effort has been managed alongside TACs in order to reduce discarding and to reduce the opportunity for illegal, unreported and unregulated (IUU) catches. Effort management is also a conservation measure where the forecasts used to propose TACs are unavailable. It has been a part of the long-term plans for cod, North Sea plaice and sole, Eastern Channel sole, and southern hake stocks.

Fishing effort and fishing mortality affecting cod is still too high. Between 2004 and 2006, effort decreased by only 12 % in the Kattegat, 9 % in the Skagerrak, the North Sea and the Eastern Channel, 24 % to the West of Scotland, and 17 % in the Irish Sea.

Similar situations apply for the other stocks concerned by the days-at-sea regime.

The existing regime cannot deliver the necessary further reductions, because the current system allows offsetting the decrease in the days at sea by complex derogations. The system even allocates fishing rights to inactive vessels, which can be transferred to active vessels. Reducing days-at-sea has not been very effective in reducing the effort actually deployed. Consequently realistic effort reduction targets cannot be met only by reducing days-at-sea.

A possible effort management system based on kW-day ceilings has been discussed. This method would let Member States decide on a balance between fleet capacity and fishing opportunities. It would also let Member States fine-tune allocations of kW-days to encourage the low-discard fishing and cod avoidance. The Council and Commission agreed a statement on this topic at the 2007 December Council:

"The Council and the Commission agree that a kW-days approach would be better adapted to the management of fishing effort in the areas covered by the multi-annual regimes for cod, flatfish and southern hake. They endeavour to discuss during 2008 such an approach on the basis of the ideas advanced by the Commission in the

⁴ For this calculation, a TAC set when scientific advice is for a zero catch has been counted as a 100% excess.

context of the preparation of the 2008 TAC and Quota package. They shall aim at the implementation of such an approach in 2009."

The Council also approved the early and voluntary use of the kW-day system to ease the transition to the fully-fledged kW-day system under the revised cod recovery plan in 2009.

The new system will be proposed in the context of the revision of the cod recovery plan for the coming years and, for its immediate implementation in 2009, in the 2009 TAC proposal.

5. CHALLENGES TO PROFITABILITY

Fuel prices reached a high level at the end of 2007 and will probably stay high or increase further. This poses the highest challenges to vessels using fuel-intensive fishing methods such as trawlers, and especially beam trawlers. High fuel prices will reinforce the need to reduce the amount of fishing to that needed to take the highest catches. Setting unrealistically high fishing opportunities in the short term will be counterproductive.

6. FOLLOW-UP OF ISSUES TO BE MANAGED BY MEMBER STATES

In 2008 the "Fishing Opportunities" Regulation provides Member States with more opportunities for taking initiatives to reduce discarding of whiting and cod, to determine enforcement methods concerning "Natura 2000" protected areas, and to reallocate fishing days among groups of fishing gear in order to reduce the fishing mortality on cod. The Commission requests Member States to report on the outcome of these initiatives, and will review the results before proposing their continuation.

7. MANAGEMENT BY LONG-TERM PLANNING

Fisheries management works well when it is planned properly. The productive potential of the fish stocks must be understood, and their exploitation must be thought out for the long term. Good biological data and scientific assessments are needed. Ways to increase fish production, to improve the efficiency, and to reduce discards and unnecessary impacts on the marine environment must be found. These methods should be practical and provide as much stability for income and employment as possible.

Priority must be given to bringing stocks under proper long-term management, and where stocks are depleted, recovery plans are necessary. Much progress has been made since the reform of 2002, and plans have been developed for many stocks (33% of catches and 28% of stocks of pelagic fish, 45% of catches and 32% of stocks of demersal fish are managed under long-term plans), but more is still to be done in establishing long-term plans.

Long-term plans remain at the core of the Commission's policy in 2008. Existing plans must be implemented. More plans will be proposed in 2008 for Baltic Salmon, herring west of Scotland and for Northern hake. The cod recovery plan will be

revised. Account will be taken of the stakeholder consultations held in 2007 and of new scientific advice. Work will continue on bringing more stocks under long-term management (including Baltic sprat and herring), and these should achieve maximum sustainable yield, a reduction in discards and a reduced impact on the marine environment. Long-term management plans will also be used in developing the ecosystem approach to fisheries.

8. WORKING METHOD WHERE LONG-TERM PLANS ARE NOT YET IN FORCE

Where long-term plans are not yet in place, TAC decisions are taken on the basis of annual scientific advice from ICES and STECF. Rules have been developed^{5,6} for TAC setting so that fair treatment is assured and as much stability as possible is provided to industry. These rules will continue, but with some changes as required by the latest scientific advice.

In 2007 STECF reported on the likely outcome of the rules in the Commission's Policy Statements⁷. The advice was broadly supportive, but pointed to two serious shortcomings.

The first is that the rules often prevented depleted stocks from recovering. Although the rules set the rate of fishing on a stock at a precautionary rate when the stock is at a normal level, they did not provide for reducing the rate of fishing for stocks which have already become depleted. In these situations the stocks become less resistant to fishing and the rate of fishing must be reduced if the stock is to recover. For example, the stock of cod west of Scotland declined at a rate of faster than 15% per year. TAC reductions of less than 15% per year failed to protect this stock.

The second shortcoming is that the rules could prevent industry from taking advantage of increases in available catches from stocks that have recovered. Stocks may be able to recover faster than 15% per year, but the rules limit TAC increases to this figure. Stocks of herring, for example, have recovered from low levels at much faster rates than 15% annually.

Changes to the rules are necessary and new rules have been developed at Annex II. For stocks that are depleted to a low level of biomass, it is now proposed to reduce fishing mortality by up to 30% per year, while not changing the TAC by more than 20%. The reductions should be kept until the fishing mortality has been successfully reduced to the level where STECF advises that the highest yields can be taken in the long term. For stocks that have recovered above the level that will let the highest yields be taken, the 15% limit on TAC increases will be widened to 25%. Also, where STECF advises a zero catch, TACs should be reduced by at least 25%. Widening the interval through which TACs can be changed means that larger decreases can be taken when needed, but also that larger increases can be made if stocks increase adequately.

⁵ Communications from the Commission to the Council. Fishing Opportunities for 2007. Policy Statement from the European Commission. COM(2006) 499 final.

⁶ Communications from the Commission to the Council.. Fishing Opportunities for 2008. Policy Statement from the European Commission. COM(2007) 295 final.

⁷ Reference to STECF HCR report 2007

STECF will be asked to evaluate the effects of these changes. More adaptations may be made if necessary.

9. IMPROVEMENT OF CATCH REPORTING, DATA AND ASSESSMENTS

Major weaknesses have been identified in the CFP control system⁸, such that recent efforts made to reach sustainable exploitation of stocks cannot bear fruit. In the absence of an effective control system, overfishing persists and stocks decline further, leading to lower TACs which are, in turn, not respected.

For good quota management the landings reporting system must be effective and must include automatic crosschecking so that quota overruns can be avoided and inconsistencies can be detected. This is not currently the case. Scientific agencies have only been able to forecast the size of fish stocks, fishing mortality rates and catch levels for about 27% of stocks (Annex I), because of inaccurate data from the fishing sector on landings, as well as problems in obtaining discards and effort data. This problem seems to be getting worse: poor data leads to poor decisions, which in turn means poor conservation status and depleted stocks. Member States are reminded to implement data cross-checking and to improve data delivery.

To address these shortcomings, an urgent reform of the CFP control system is needed. The Commission will propose in October 2008 a revision of the control regulation, which will also provide for the improvement of the VMS system and faster implementation of the electronic logbook.

10. DISCARD REDUCTION

During 2008 Member States will study ways to reduce discards of whiting and cod. The Commission will, after considering STECF advice and Member States' experience propose additional measures to implement the measures that have proven successful.

However, the best way to reduce discards is to fish stocks at low fishing mortality rates so that stocks of bigger fish can be exploited without discarding smaller fish.

The Commission will also review incentives for low-discard fishing practices. Member States will also be able to use the new kW-days system to encourage such practices.

Proposals will also be presented for reducing discards and unwanted by-catches in certain fisheries as foreseen in the 2007 Communication on a policy to reduce unwanted by-catches and eliminate discards in European water⁹.

Apart from these initiatives, the European Fisheries Fund provides Member States with possibilities to support discard reduction through their operational programmes.

⁸ European Court of Auditors, Special Report No 7/2007 on the control, inspection and sanction systems relating to the rules on conservation of Community fisheries resources (OJ C 317/1 of 28.12.2007)

⁹ Communication from the Commission to the Council and the European Parliament - A policy to reduce unwanted by-catches and eliminate discards in European fisheries (COM (2007)136).

The Data Collection Regulation provides for measuring discards using on-board observer programmes co-financed from the Community budget.

Member States are strongly encouraged to develop and implement these initiatives.

11. DEEP SEA SPECIES

The Commission will present its proposal concerning the 2009 and 2010 TACs for deep-sea species in September 2008. Stakeholders will be invited to contact scientific bodies (notably ICES) in June 2008 concerning the advised fishing opportunities. STECF advice will be published on 4th July. Advice from the RACs to the Commission should be forwarded by 8th July in order that stakeholders' point of view can be considered. Council will be invited to adopt the proposal at its November meeting.

The rule given in Annex II will also apply to deep-sea species. However, as the proposal concerns TACs for two years the rules will be applied for two years in succession.

The Commission will base its considerations at the autumn meeting of the Northeast Atlantic Fisheries Commission on the FAO International guidelines for the management of deep-sea fisheries in the high seas. Decisions concerning closed areas or fishing effort will be implemented in the main annual Fishing Opportunities regulation for 2009.

12. MEDITERRANEAN SEA AND THE BLACK SEA

TACs and Quotas for the Black Sea were fixed for the first time for the year 2008. The TAC setting for 2009 will follow the rules in Annex I, and additional species may be included. Scientific preparatory meetings will take place in April and June of 2008 and their results will be assessed by STECF in July. In the Mediterranean Sea the only TAC at present is that for Bluefin tuna. In 2008 work will focus on the implementation of the Mediterranean Regulation (1967/2006) especially concerning the establishment of long term management plans and the designation of fisheries protected areas. It is worrying that the Member States have accumulated considerable delays in implementing this Regulation. Serious shortcomings in compliance must be overcome urgently. The Commission will follow up these matters closely during 2008.

Scientific advice concerning stocks and fisheries assessments will be sought from STECF. This will help improve scientific capability, for example in the GFCM (General Fisheries Commission for the Mediterranean) context. Both for the Black Sea and the Mediterranean assessments scientists from third countries will be invited.

13. BALTIC SEA

It is essential that the Baltic cod TACs established for 2008 be respected. The Commission will follow this matter closely.

The Commission will present its proposal concerning 2009 TACs for Baltic stocks in September 2008. The Council will be invited to adopt the proposal in October. Following the ICES advice on the 23rd of May, Member States will be consulted about outstanding scientific questions to be raised with STECF. Advice from the RAC to the Commission should be given by the end of June.

14. TECHNICAL MEASURES

The Commission will propose in 2008 a new Regulation concerning technical measures for the Atlantic areas, which should take up many of the rules now set in Annex III of the Fishing Opportunities Regulation.

15. TIMETABLING OF PROPOSALS

Scientific advice concerning most demersal stocks will be available from STECF in early July, and an earlier start to discussions on fishing opportunities can then be made. Advancing the autumn round of decision-making by more than a few weeks is impossible because the advice for the large pelagic shared stocks will only be available in October. This will be needed before a full package of fishing opportunities can be negotiated.

The timetable foreseen is as follows:

Fishing Opportunities Regulation	Date of Commission Proposal	Possible date of adoption
Black Sea	September	October Council
Baltic Sea	September	October Council
Deep-sea species	September	November Council
All other areas	October/November	December Council

As the scientific advice will be provided earlier than in previous years, the main proposal can be published by the Commission in October. However, at that time many elements relevant to Norway bilateral consultations and other international consultations will not have been decided yet. The proposal will thus contain many elements on which decisions have not yet been taken and no specific figures can be presented.

Scientific advice should be provided in mid-2009 for all stocks. This will allow more time for extended considerations and discussions. Views are invited concerning preferences for changes in the timing of proposals and decisions during 2009.

16. CONCLUSION

The Commission solicits the views of Member States and stakeholders on the approach set out above.

It will highly value the advice of the Regional Advisory Councils and the Advisory Committee for Fisheries and Aquaculture. Taking account of this advice will help the Commission meet its responsibility to manage for sustainability according to the Common Fisheries Policy's objectives.

The Commission takes a responsible approach to management for sustainability: absence of evidence is not evidence of sustainability.

Stakeholders' advice can only be used by the Commission when it is developed using an evidence-based approach to sustainable fishing; i.e. data are needed to support stakeholders' advice.

Good information about the fishery and the stocks is needed in order to provide credible advice. Stakeholders are encouraged to ensure full and effective implementation of the existing systems of catch reporting and data collection. These are essential to make fisheries management work. With a sound basis in information, stakeholders will also be better able to advise the Commission concerning sustainable fishing practices.

The Commission will continue specific technical follow-up (and especially concerning effort management systems) with Member States and stakeholders from the second quarter of 2008.

In order that the results of consultations can be used in time, the Commission requests that contributions concerning this Communication be finalised by 30 June 2008.

During 2008 the Commission will develop further consultation procedures for improving conservation policy, notably concerning improved compliance.

ANNEX I

Table 1. Scientific advice about the state of the stock	Number of stocks					
	2003	2004	2005	2006	2007	2008
Outside safe biological limits	30	29	26	26	26	28
Inside safe biological limits	12	10	14	11	12	13
The state of the stock is unknown due to poor data	48	53	53	57	58	55

Table 2. Scientific advice about overfishing	Number of stocks					
	2003	2004	2005	2006	2007	2008
The rate of fishing on the stock is known compared to maximum sustainable yield rate			34	23	32	33
The stock is overfished ¹⁰			32	21	30	29
The stock is fished at the maximum sustainable yield rate			2	2	2	4

Table 3. "Emergency" scientific advice	Number of stocks					
	2003	2004	2005	2006	2007	2008
Scientific advice to stop fishing	24	13	12	14	20	18

Table 4. Difference between TACs and sustainable catches	2003	2004	2005	2006	2007	2008
	Excess of TAC over sustainable catch (%)	43%	48%	57%	47%	44%

Table 5. Summary of the scientific advice about fishing opportunities	Number of fish stocks					
	2003	2004	2005	2006	2007	2008
Stocks where stock size and fishing mortality can be forecast	40	34	40	31	29	30
Stocks where a scientific advice concerning fishing opportunities is available	59	52	54	65	61	59
Stocks where no scientific advice is available	31	40	39	29	35	37

¹⁰ also termed "overexploited"

ANNEX II

Rules for TACs

TAC decisions must be made on the basis of scientific advice as provided by STECF.

Different rules should apply according to the level of risk concerning each stock. Stocks are at high risk when they fall below the "precautionary level (B_{pa})"- the level where the future productivity of the stock risks becoming lower. Another marker of high risk is when the fishing mortality rate is higher than the "precautionary rate" (F_{pa}). Fishing mortality rate is the annual catch divided by the average size of the stock over the year.

If a stock is smaller than B_{pa} or is fished at a higher rate than F_{pa} it is "outside safe biological limits", and *vice versa*.

Scientific advice	Action to take in setting TAC
Stock exploited at the maximum sustainable yield rate.	Aim to set the TAC to the forecast catch corresponding to the fishing mortality that will deliver the highest yield in the long term, but do not change the TAC by more than 25%.
Stock overexploited compared to maximum sustainable yield but inside safe biological limits.	Aim to set the TAC to the higher value of (a) to the forecast catch corresponding to taking the highest yield in the long term ¹¹ , or (b) fishing at an unchanged mortality rate, but do not change the TAC by more than 15%.
Stock outside safe biological limits	Aim to set the TAC to the forecast catch that will result in a 30% reduction in fishing mortality rate, but do not decrease the fishing mortality so far as to prejudice long-term yields ¹¹ and do not reduce the TAC by more than 20%.
Stock is subject to long-term plan and scientists advise on the catch that corresponds to the plan.	The TAC must be set by following the relevant plan.
Stock is short-lived and a one-year forecast cannot be provided.	A provisional TAC is set and will be changed when new information is available during the year.
State of the stock not known precisely and STECF advises on an appropriate catch level.	Aim to set the TAC according to STECF advice but do not change the TAC by more than 15%.

¹¹ As measured by the fishing mortality corresponding to a marginal yield of 10% of the marginal yield at fishing mortality close to zero ($F_{0.1}$).

State of the stock not known precisely and STECF advises to reduce fishing effort.	The TAC should be reduced by up to 15% and STECF should be asked to advise on the appropriate level of effort.
State of the stock not known precisely and STECF advises the stock is increasing.	The TAC should be increased by up to 15%.
State of the stock not known precisely and STECF advises the stock is decreasing.	The TAC should be decreased by up to 15%.
STECF advises a zero catch, a reduction to the lowest possible level or similar advice.	The TAC should be reduced by at least 25%. Recovery measures should be implemented including effort reductions and introduction of more selective fishing gear.
There is no STECF advice.	TACs should be adjusted towards recent real catch levels but should not be changed by more than 15% per year or Member States should develop an implementation plan to provide advice within a short time.