Ms. Charlina Vitcheva
Director General
Directorate General Maritime Affairs & Fisheries
Rue de la Loi 200
1049 Brussels
BELGIUM

Pelagic AC
Louis Braillelaan 80
2719 EK Zoetermeer
The Netherlands

Tel: +31 (0)63 375 6324
E-mail: info@pelagic-ac.org
http://www.pelagic-ac.org

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Dear Ms. Charlina Vitcheva,

Thank you very much for the opportunity to share our commentary to the Commission's consultation on the Action Plan to conserve fisheries resources and protect marine ecosystems. I am pleased to submit in Annex I the Pelagic AC recommendations which have been unanimously endorsed by the Executive Committee.

In case you have any questions, please do not hesitate to contact the Secretariat. Looking forward to your response,

Kind regards,

Jesper Raakjaer
Pelagic AC Chairman

Annex I
Recommendations on the Commission consultation on the Action Plan to conserve fisheries resources and protect marine ecosystems

December 2021

Introduction

The Pelagic AC (PelAC) welcomes the opportunity to comment on the Commission's consultation on the Action plan to conserve fisheries resources and protect marine ecosystems. The PelAC Ecosystem Focus Group convened on 29 November 2021 to discuss the consultation questionnaire and to develop an agreed response. This recommendation is the result of this interaction.

The Pelagic AC submits its unanimous views taking a pelagic fisheries perspective. As such, the response is based on a selection of sections and questions in the consultation questionnaire considered most relevant for this sector. The PelAC hopes that this advice will help to inform the Commission consultation and provide useful material for further reflection.

General remarks

The Pelagic AC has a number of general remarks as regards the consultation and its format:

Bearing in mind the scale of pelagic fisheries, the PelAC found the issues brought forward through the questionnaire to be trivial against the wider context of the sustainable management of pelagic stocks in the Northeast Atlantic. Whilst agreeing that the issues raised in the questionnaire are relevant, the PelAC is of the opinion that the ongoing disagreements at the level of the Coastal States, and particularly the unliteral quota setting resulting in continuous fishing well above scientific advice, is an issue that far exceeds in importance. The PelAC was surprised there was no mention of this issue in the consultation, which considering its impact, should be the primary conservation issue to address. As a first remark, the PelAC recommends the Commission to include this issue in the Action Plan to conserve fisheries resources, and to prioritize its efforts to ensure it is duly addressed. The PelAC reiterates its previous recommendation, requesting the Commission to take immediate action to urge Norway and the Faroe Islands to stop the unilateral quota setting, jeopardizing the sustainable management of pelagic stocks, notably of Northeast Atlantic mackerel, by using adapted instruments at its disposal. The PelAC stresses once more the urgent need for the European Commission and the Coastal States to adopt sharing arrangements for shared stocks to respect catch levels that allow compliance with MSY[1].

Secondly, as was the case with the consultation on the review of the Marine Strategy Framework Directive, the PelAC often found the questions in the questionnaire to be too generic to enable the provision of meaningful answers. For instance, "question 2" regarding 'size selectivity' can be answered by the PelAC in various ways depending on the fishing area. While size selectivity can be an issue in the Adriatic sea, it may be less so in the Bay of Biscay. The current questionnaire format is appropriate for collecting views from individual stakeholder organisations, but limits the ability of broader stakeholder groups to provide

[1] https://www.pelagicac.org/media/pdf/2122PAC07%20PelAC%20Consultation%20on%20fish%20opport%202022.pdf

meaningful and precise input. This raises the question how ACs fit into such a consultation format. We would recommend the Commission to reflect on the extent to which targeting ACs is useful in this form.

Furthermore, the PelAC noticed that many questions in the questionnaire request submission of factual/scientific evidence to support an opinion. The PelAC questions how scientifically sound this approach is and feels this type of consultation would benefit more from conducting meta-analyses of ongoing scientific work carried out by different institutions on a common topic. Such an analysis would give a more scientifically robust understanding of the extent to which an opinion is scientifically supported. It would help in identifying overall trends as well as knowledge gaps. In our view, such an approach would form a much stronger basis for policy development.

Finally, in a recent methodological paper on the state of nature in the EU (2020), the European Environment Agency Paper estimates that: *"For the Habitats Directive habitats and species, only around 20% of numerical estimates or trends originate from complete or robust surveys, while more than 20 % of the information reported by Member States is based on expert judgement, and for some 10 % the available knowledge is insufficient (see Table 7.1 page 37).[2]"*

This finding underlines the needs for more robust and precise data collection methods on impacts, in order to determine the state of the ecosystem with more precision. In response to questions 6, 17 & 30 of the consultation questionnaire, the PelAC members strongly agree that increased data collection efforts should be prioritised, followed by improving the accessibility of existing data.

In general terms, the Pelagic AC would like to underline that healthy stocks and marine ecosystems are essential to ensure the short, medium and long term sustainability of pelagic fisheries. Therefore, the members share the Commission's aspirations through the Action Plan to conserve fisheries resources. PelAC members also agreed that the efforts and advice generated through the initiative of its Ecosystem Focus Group can be considered as contributions to the objectives set out by the Action Plan.

Detailed recommendations

Part IV: Selectivity

Overall, the questions in this section apply to a far lesser extent to pelagic fisheries than it does to demersal fisheries, given that pelagic vessels do not use bottom-trawling fishing gears. As such, the PelAC has limited its responses to questions on selectivity and bottom-impacts.

Question 4: *Beyond the ones identified in the ICES advice on innovative gear[1], and projects like "Discardless" and "Minouw", are you aware of innovative fishing techniques and/or gears that allow juveniles of particular species to escape and survive without other negative environmental impacts, e.g. on sensitive species or habitats?*

[2] ETC/BD Technical paper 2/2020: State of Nature in the EU - Methodological paper Methodologies under the Nature Directives reporting 2013-2018 and analysis for the State of Nature 2000

In terms of selectivity, one of the key differences between demersal and pelagic fisheries is that pelagic vessels possess the acoustic technology onboard to identify fish from the vessel before deciding on a haul. Most of the selectivity therefore takes place onboard. The PelAC believes optimising acoustic technologies are useful innovations to better distinguish between fish species present in an area, thereby enhancing selectively.

In addition, the PelAC strongly recommends the Commission to consider genetic research as a prime example of innovation in the context of selectivity. The Pelagic AC, and particularly its industry members, have a long track record of involvement and investment in genetic stock-ID research conducted to identify stocks, such as work involving 6a 7bc herring[3] and Atlantic horse mackerel[4]. The PelAC believes that expanding on this existing work, especially through genome sequencing of new species, can in the future play an important role in distinguishing between populations to a very fine level and ultimately serve as a tool for pelagic fishermen to target areas and species more selectively.

Part V: Sensitive Habitats

When taking into account the nature of pelagic fisheries which excludes the use of bottom trawling gears, the Pelagic AC feel it is not appropriate to comment on the questions relating to bottom impacts as laid down in the questionnaire.

As a general remark, the PelAC recommends the Commission to further develop the Ecosystem-based approach to fisheries management (EBAFM) when addressing issues around protection of sensitive habitats. While the applicability of the EBAFM has proven challenging in Europe, the ICES WKIRISH workshops[5] aim to incorporate ecosystem information into the ICES single-species stock assessment process for the Irish Sea, and are producing promising results. The PelAC believes the Commission should take this work into consideration as it may serve as an example of how the Ecosystem approach could be further operationalised and applied to other European fisheries as well.

Addressing the interlinkages between North Sea and Western Baltic spring spawning herring, serves as another example that would benefit from taking a broader ecosystem approach to management. The PelAC reiterates its previous recommendation on North Sea and Western Baltic spring spawning herring, reminding the Commission that a substantial part of WBSS herring is by-caught in fisheries under the remit of the PelAC. The PelAC recommends the Commission, Member States and ICES evaluate the effects of special management measures introduced in both herring and industrial fisheries in 3A in 2021 in order to minimize the risk of unavoidable bycatches of WBSS herring.[6]

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[3] Farrell, E. D. et al. Farrell, E. D., N. Campbell, J. Carlsson, A. Egan, M. Gras, S. M. Lusseau, C. P. Nolan, S. O'Connell, M. O' Malley and E. White (2021). Herring in Divisions 6.a, 7.b and 7.c: Scientific Assessment of the Identity of the Southern and Northern Stocks through Genetic and Morphometric Analysis. Final Report European Commission. Service Contract EASME/EMFF/2017/1.3.2.1/SI2.767459: 251 pp.

[4] Fuentes-Pardo, A. P., M. Pettersson, C. G. Sprehn, L. Andersson and E. D. Farrell (2020). Population structure of the Atlantic horse mackerel (Trachurus trachurus) revealed by whole-genome sequencing, EDF, July 2020.

[5] https://www.ices.dk/sites/pub/Publication%20Reports/Expert%20Group%20Report/Fisheries%20Resources%20Steering%20Group/2020/WKIrish6_2019.pdf?ID=36524

[6] https://www.pelagic-ac.org/media/pdf/2122PAC07%20PelAC%20Consultation%20on%20fish%20opport%202022.pdf

***Question 13**: Do you have factual/scientific evidence or other structured information indicating that that there is a need for further protecting specific sensitive habitats as a priority?*

The latest ICES advice for North Sea herring[7] calls for measures to protect the stock's spawning habitats. The PelAC underlines the importance of protecting essential spawning grounds for pelagic species, and reiterates its previous recommendation, encouraging the EU-Commission to request from ICES an overview of possible further temporal and spatial management measures options for the directed herring fisheries in the North Sea and 3A and related fisheries with unavoidable by-catches of WBSS herring, in order to reduce critical and unwanted pressure on these stocks[8].

In addition, the PelAC reminds the Commission of two recommendations issued by the Pelagic AC in 2020 (references 1920PAC87 and 2021PAC06) requesting non-reccurrent advice from ICES on the impacts of seismic[9] and marine wind energy[10] activities on fish stocks and spawning areas. The ICES advice on NS herring further strengthens the need for increasing the knowledge base for this field, based on which appropriate management measures can be developped that protect essential spawning areas.

Part VI: Sensitive Species

Question 28: *Beyond the ones identified in the ICES advice on innovative gear [1], are you aware of other alternative or innovative fishing gears and/or techniques that could be used to better protect specific sensitive species?*

The PelAC refers to its previous recommendation issued January 2021 (reference 2021PAC13) and reiterates its comments on the Technical Measures regulation (EU) 2020/967, of 3 July 2020, laying down detailed rules on the signal and implementation characteristics of acoustic deterrent devices as referred to in Part A of Annex XIII of said Regulation. This implementing regulation repeats an older Council Regulation (EC) No. 812/2004, which specifies the technical characteristics of pingers as bycatch mitigation measures. Whilst it is acknowledged that this previous Council Regulation established the possibility of a two-year derogation to allow the temporary use of acoustic deterrent devices that do not fulfil the specifications as outlined in Annex II of the Regulation, provided that they have been proven successful in reducing incidental catches of cetaceans, the PelAC believes that this implementing regulation should be updated. Updating the implementing regulation would allow for the consideration and inclusion of technical progress in the area of acoustic deterrent design and implementation.

The PelAC also suggests that specifications for acoustic deterrents may be included in separate tables for bottom-set gillnets, entangling gears, pelagic trawl gears and any other relevant gears[11].

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[7] https://www.ices.dk/sites/pub/Publication%20Reports/Advice/2021/2021/her.27.3a47d.pdf

[8] https://www.pelagicac.org/media/pdf/2122PAC07%20PelAC%20Consultation%20on%20fish%20opport%202022.pdf

[9] https://www.pelagic-ac.org/media/pdf/1920PAC87%20NWWAC-PELAC%20submission%20for%20ICES%20NR%20request%20Seismic.pdf

[10] https://www.pelagic-ac.org/media/pdf/2021PAC06%20NWWAC-PELAC-NSAC%20submission%20for%20ICES%20NR%20request%20Wind%20Energy%20developments.pdf

[11] https://www.pelagic-ac.org/media/pdf/2021PAC13%20Letter%20to%20COM%20Technical%20Measures%20Regulation%20Questionnaire.pdf

Separately, in the context of preserving sensitive species, the PelAC recommends further developing reporting requirements on sensitive species bycatches. Current legislative provisions (EU 2019/1241 article 11.2) set out the requirements for fishermen to immediately release, unharmed, any sensitive species bycatch back to the sea[12]. If bycatches are caught dead, no reporting requirement applies. Stricter reporting requirements could help improve the collection of bycatch data.

Finally, bycatch of sensitive species has been identified as a core theme by the PelAC Ecosystem Focus Group and will pursue further work on this arena. In part through involvement in the stakeholder advisory board of the recently submitted proposal to EU-LIFE for the CIBBRiNA bycatch project. The PelAC believes this project will generate useful data to progress its efforts on this theme. The PelAC further plans to undertake an exercise to gain further insight into the population status of key sensitive species, in order to help determine the extent of the impact of pelagic fisheries on these species.

[12] "When caught, species referred to in paragraph 1 shall not be harmed and specimens shall be promptly released."