Joint feedback on EU consultation (as of 27th July 2023)

Sustainable fishing in the EU: state of play and orientations for 2024

Pro Wildlife and Sharkproject congratulate the EU and its Member States on the progress made in the state of fish stocks managed by EU or in partnership with other states, resulting in "*far fewer fish stocks are now overfished*"[1]. This demonstrates that fish stocks can recover when managed sustainably and the increased yields and profits already experienced in some areas should be seen as strong arguments for staying on course and making further improvements. **Only if the European Union succeeds in restoring commercially valuable fish stocks to healthy pre-industrial levels and combining the rebuilding of these stocks with an overall restoration of healthy marine ecosystems, full of biodiversity, will commercial fishing have a long-term future.** This is especially important in view of the increasing effects of global warming on the distribution and abundance of marine species. **The Communication from the Commission to the European Parliament and the Council on June 14th, 2023, indeed highlights several important points to consider and strong recommendations directed to the EU Member States. However, from our point of view, the following aspects are so far missing or must be addressed more rigorously:**

1. Ecological aspects

- **Long-term sustainability of fishing quotas:** The EU and its Member States must fully implement the precautionary principle and an ecosystem-based management approach. Maximum Sustainable Yield (MSY) as currently applied for setting of quotas is not sufficient to maintain fish stocks long term at healthy levels and even more in view of additional stressors, such as the climate crisis, marine pollution or invasive species. It has been demonstrated that "*exploitation levels of 50–80% of the maximum will rebuild stocks and lead to higher catches than currently obtained, with substantially higher profits for the fishers*"[2]. An Ecosystem-Based Management of Fisheries (EBMF) should therefore be approached for setting of quotas, for individual species and in multi-species fisheries. Especially predators and low trophic species are in urgent need of fishing pressure being lower than MSY as demonstrated for the Western Baltic Sea (see below) as EBMF confers resilience to the food web. It results in lower levels of uncertainty for future predictions on catches, a desirable condition to plan management actions. Top predators such as sharks and rays demand an even more precautionary approach due to their role in the larger ecosystem, their life history and relative to other fish much lower productiveness.[3,4]
- **Restriction of fishing areas:** Fishing activities in ecologically highly sensitive or protected areas should be limited in time or location or banned altogether. For instance, the fact that the beach seine fishery in Portugal is carried out in areas of great ecological sensitivity, such as nursery areas, results in the capture of large numbers of juveniles, removing them before any reproduction. Hence, stricter regulations for fishing conditions are needed – see e.g. https://onlinelibrary.wiley.com/doi/abs/10.1111/fog.12470 and

[1] COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL Sustainable fishing in the EU: state of play and orientations for 2024 {SWD(2023) 172 final}

[2] https://www.sciencedirect.com/science/article/pii/S0308597X17307364

[3] https://www.science.org/doi/10.1126/science.abj0211

[4] https://www.nature.com/articles/s41467-022-35091-x

https://www.sciencedirect.com/science/article/abs/pii/S0165783603000043. The Commission admits that "*today, Marine Protected Areas (MPAs) cover only 12% of EU seas, and not all of them are effectively managed. Less than 1% are strictly protected*". We agree that this is not enough in face of the widespread biodiversity loss and welcome the target to effectively protect 30% of EU seas by 2030. However, this means that less than eight years remain to accomplish this target. Hence a clear roadmap and designation of areas to be protected and effectively managed in each Member State are urgently needed prior to the end of this legislature.

- **Restriction and phase out of destructive fishing gear:** Specifically, the use of destructive fishing methods such as bottom trawling and dredging must be ended immediately in all MPAs and should be phased out completely ensuring a socio-economically just transition. We welcome the EU's Action Plan aiming for protecting and restoring marine ecosystems for sustainable and resilient fisheries[5] that foresees to ban bottom trawling in MPAs by 2030, but also note that this is far too long a time for such a destructive method to continue. In view of the massive opposition of Member States to this phase-out the Commission must now take a leadership role in offering solutions rather than leaving these decisions to the Member States alone.

- **Vulnerable marine habitats in the Deep Sea at 400-800 m** depth should have been protected from all types of bottom fishing including bottom long lines since 2018 as part of the EU's Deep Sea Access Regulation[6]. However, the closure had been delayed until late 2022 and the 87 sensitive areas now closed to all bottom gear represent only 17% of the area between 400 - 800 m depth of EU waters of the North-East Atlantic[7], still leaving many vulnerable areas in urgent need of protection. We therefore recommend the Commission to take a precautionary approach when deciding which scenario of the 2023 ICES proposal to adopt. Scenario E of the ICES advice[8] will provide the biggest number of newly protected areas of VMEs and includes protection of important VME elements. Allowing closed areas to be reopened again based on updated information that they have been exposed to bottom trawling in the past ignores the potential of recovery of deteriorated areas while such recovery will obviously take longer in the sensitive habitats of the Deep Sea.

- **Fishing in the Baltic Sea** must be drastically reduced (e.g., by means of seasonal and geographical catch restrictions) or even locally suspended. Catch quotas of 0.5 MSY for forage fish and 0.8 MSY for other fish would have avoided today's catastrophic situation in the Baltic Sea, where all major species such as cod and herring have been heavily overfished for decades[9] and where bycatch of critically endangered harbour porpoises is still not being tackled with sufficient consistency (see Pro Wildlife contribution to EU Consultation on selective devices for fishing in the Baltic Sea).[10] For example, a halt of set gillnet fishing in the Baltic Sea would be desirable to minimize unintended bycatch of both cod and harbour porpoises, but at least further significant restrictions and regional closures are overdue.[11, 12]

- **Sustainable management of previously overfished stocks:** We are concerned seeing that the Commission continues setting Total Allowable Catch (TAC) limits for previously overexploited shark stocks at MSY instead of applying a precautionary EBMF approach. Spurdog (*Squalus*

---

5 https://ec.europa.eu/commission/presscorner/detail/en/qanda_23_832

6 https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:32016R2336

7 https://oceans-and-fisheries.ec.europa.eu/news/fisheries-end-bottom-fishing-protected-deep-sea-ecosystems-eu-waters-2022-09-15_en

8 ICES. 2023. Advice on areas where Vulnerable Marine Ecosystems (VMEs) are known to occur or are likely to occur in EU waters. In Report of the ICES Advisory Committee, 2023. ICES Advice 2023, vme.eu https://doi.org/10.17895/ices.advice.22643356

9 https://www.frontiersin.org/articles/10.3389/fmars.2022.879998/full

10 https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13449-Selektive-Vorrichtungen-fur-die-Fischerei-in-der-Ostsee-neue-Durchfuhrungsbestimmungen-/F3426921_de

11 https://helcom.fi/wp-content/uploads/2021/11/Bycatch-in-Baltic-Sea-commercial-fisheries.pdf

12 https://www.fishsec.org/app/uploads/2022/07/FINAL-NGO-BSR-TAC-PAPER-with-WBSS-JULY-2022.pdf

acanthias) had been massively overfished in the past with reported annual landings of 30,000-50,000 tonnes until the stock had collapsed in EU waters of the North-East Atlantic in the 2000s. From 2010 to 2022, spurdog has therefore been listed as a prohibited species in EU waters with a TAC of zero. Now, however, the targeted fishery for spurdog has been reopened, based on an ICES advice, setting a TAC at an almost 20-fold increase over the reported fishing mortality in 2021 and without further evidence of stock recovery, while suggesting to discourage targeting of mature females above 100 cm.[13] This approach is in contradiction to a precautionary approach and may easily result once again in its overfishing, especially in light of the poor compliance with the landing obligation and discard reporting by bottom trawl fisheries, responsible for the majority of catches of spurdog in European waters managed jointly with the United Kingdom.

- **Sustainable shark fisheries in RFMO waters and the High Sea:** The EU's longlining fleet is responsible for most catches of blue sharks (*Prionace glauca*) and shortfin mako (*Isurus oxyrinchus*) in the four big Regional Fishery Management Organisations (RFMOs) for tuna (ICCAT, IOTC, WCPFC and IATTC[14]). So far only ICCAT has adopted some management measures for sharks. New stock status for blue sharks is expected for both parts of the Atlantic later this year but we note that in the past the adopted precautionary TAC has been overrun substantially for the South Atlantic with the EU being the main contributor to blue shark catches in both parts of the Atlantic.[15] All other RFMOs don't even have TACs in place for near threatened blue sharks, or endangered shortfin mako, or any other pelagic shark species. Nevertheless, the EU continues calling its shark fisheries to operate sustainably.[16]

  Shark fishing without catch limits, without established reference points and often even without confirmed stock status should no longer be acceptable to the EU, which should therefore advocate at all RFMOs for the adoption of effective and precautionary management strategies for sharks. Establishing at least precautionary TACs for all commercial shark fisheries with full quota allocation and starting to establish reference points for all shark populations in order to rebuild populations to preindustrial levels as soon as possible should be aimed in all RFMOs.

- **More engagement at RFMO level for a precautionary approach:** The EU is already an active player in various RFMOs. However, it should take a more proactive role to better regulate both directed and incidental catches. In its long-distance longline fisheries, the EU targets blue shark, swordfish, and tuna but has so far been staying behind in effectively reducing the bycatch and mortality of sensitive species such as oceanic white tip sharks and silky sharks. Gear modifications like banning shark lines, replacing wire traces by monofilament leaders, and the use of large circle hooks have demonstrated to reduce elasmobranch bycatch and its mortality.[17, 18, 19, 20, 21] However, the EU delegation has rejected such gear modifications repeatedly in the past and again during the 2023 IOTC Commission Meeting, claiming a lack of scientific advice.

- **Drifting Fish Aggregating Devices (dFADs):** Juvenile silky sharks and oceanic whitetip sharks are the main shark bycatch in the purse seine fishery setting on dFADs and subject to an overall

[13] https://oceans-and-fisheries.ec.europa.eu/system/files/2022-12/2023-eu-uk-fisheries-consultations_en.pdf

[14] ICCAT = International Commission for the Conservation of Atlantic Tunas; IOTC = Indian Ocean Tuna Commission; WCPFC = Western & Central Pacific Fisheries Commission; IATTC = Inter-American Tropical Tuna Commission

[15] https://www.sharkproject.org/media/htyfukm3/opening-statement-for-iccat-plenary-november-2022.pdf

[16] https://oceans-and-fisheries.ec.europa.eu/publications/communication-commission-european-citizens-initiative-eci-stop-finning-stop-trade_en

[17] https://www.sciencedirect.com/science/article/abs/pii/S0165783607002512?via%3Dihub

[18] https://www.sciencedirect.com/science/article/abs/pii/S0165783609000678

[19] https://www.iccat.int/Documents/CVSP/CV077_2020/n_4/CV077040127.pdf

[20] https://www.int-res.com/articles/meps2009/396/m396p157.pdf

mortality of 50-95% even if bycatch is released alive.[22] Therefore, the currently applied best handling release practices are far from providing adequate bycatch mitigation. The EU operates the largest dFAD purse seine fleet in the Indian Ocean and also fishes tuna setting on dFADs in the Atlantic and in the Pacific. Noting that about 40% of all tuna today is caught using dFADs, both the avoidance of bycatch and reducing bycatch mortality are urgently needed. Reducing catch efforts by establishing time and spatial dFAD closures and the mandatory installation of technical measures, such as double conveyor belts and manta grids, are essential to improve post release survival of released elasmobranchs. In view of at least 100,000 juvenile silky sharks caught in the IOTC area of competence[23] as bycatch in EU owned or operated vessels in 2018, the EU should be on the forefront of driving improvements but continues opposing the adoption of a time closure for dFADs in the Indian Ocean. During a Special Session of the Commission in 2023 a two third majority of member states of the IOTC adopted an annual time closure for dFADs to help stock rebuilding of overfished yellowfin tuna. This measure could also help reducing fishing pressure on juvenile silky sharks. However, the EU opposed to the closure, claiming lack of scientific advice, and officially objected against the conservation measure after the meeting so that it will not be bound by it. Many NGOs were shocked by this objection of the EU against a duly adopted conservation measure as this also undermines the mandate of RFMOs.[24]

The EU should also propose and promote the adoption of a **Fins Naturally Attached (FNA) policy** at all RFMOs, prohibiting the removal, retention and trans-shipment of shark fins on board of all vessels and requiring all sharks to be landed with all their fins naturally attached – without exceptions. Having recognised itself that FNA is the only enforceable policy to prevent shark finning from happening, the EU has been at the forefront when implementing an FNA policy for all EU waters and on board of all EU vessels in 2013. However, till today none of the four big tuna RFMOs has adopted an FNA policy and the EU as a contracting party has so far only actively promoted an FNA policy at ICCAT, but not at the other RFMOs. At this year's IOTC Commission Meeting, the EU even failed to initially support conservation measures proposed by the Maldives including FNA without exceptions. This sends a wrong signal to long-time opposing Parties like Japan and China.

Specifically, for the **ICCAT negotiations in November 2023**, the EU should propose effective measures to reduce total mortality of shortfin makos, including but not limited to gear changes that have demonstrated to improve survival of pelagic sharks. In Rec 21/9 the ICCAT Commission has agreed to ensure that total mortality of shortfin mako does not exceed 250 t per year in the North Atlantic but the EU's mortality rate for shortfin mako in 2021 has exceeded this objective by far with 202 tonnes landed by Portugal and 837 tonnes discarded dead by Spain[25], demonstrating the urgent need to increase live releases.

- For **blue sharks** being the most heavily targeted shark species globally the EU should also follow the scientific advice from the SCRS, based on the recent stock assessment for blue sharks in the North and in the South Atlantic. In the absence of a clear advice the EU should nevertheless advocate for a precautionary approach and as a minimum defining TACs as total mortality limits (including all dead discards and a mortality estimate for live releases) not to exceed the amounts set in Rec 19/07[26] and Rec 19/08[27], respectively and require full quota allocation in the North and in the South.

[22] https://iotc.org/documents/carcharhinus-falciformis-massive-bycatch-industrial-purse-seine-industry-systematically

[23] https://iotc.org/documents/carcharhinus-falciformis-massive-bycatch-industrial-purse-seine-industry-systematically

[24] https://www.bluemarinefoundation.com/2023/04/12/statement-following-the-eus-objection-to-iotc-resolution-23-02/

[25] https://www.iccat.int/Documents/Meetings/Docs/2022/REPORTS/2022_SCRS_ENG.pdf

[26] https://www.iccat.int/Documents/Recs/compendiopdf-e/2019-07-e.pdf

[27] https://www.iccat.int/Documents/Recs/compendiopdf-e/2019-08-e.pdf

2. Monitoring and enforcement

- **Monitoring:** The landing obligation under EU law must be monitored more closely, as must the accurate weighing and reporting of landed fish. Monitoring must take place at sea and in port to prevent discards. We welcome the EU's plans to intensify the use of REMs (Remote Electronic Monitoring) systems mandatory[28]. However, in our view, this firstly requires adoption of agreed gear specific and harmonised standards for REM and secondly relying only on REM is not sufficient, specifically not for high-risk fisheries and for fisheries operating also in the High Seas. The presence of independent human observers on board of vessels results in better data and a higher degree of full documentation.[29,30] We therefore recommend a two-level, risk-based monitoring regime:

  a) For boats and vessels that, according to the EFCA, have a **lower or medium risk** of landing violations or other violations, REMs with closed-circuit television (CCTV) may be sufficient but a certain coverage (e.g. 10%) by human observers is still recommended to ensure sufficient biological sampling of species that must not be retained according to EU law or RFMO regulations.

  c) For **vessels with a high risk or a history of non-compliance**, a minimum of 20% of total catch efforts should be verified by independent human observers in addition to 100% REM with CCTV. Mandatory implementation of REM for such vessels should be made a priority.

- **Exemptions:** Previous exemptions for vessels under 12 metres should be repealed (see https://academic.oup.com/icesjms/article/75/1/270/3953901 for better implementation of landing obligations).

- **Penalties:** Violations of fishing rules and regulations should be punished more frequently and more severely (e.g., through blacklisting, quota reduction, withdrawal of subsidies). We therefore highly welcome the infringement proceedings that were launched in 2021 against Spain, France, Belgium, Ireland, and the Netherlands for failing to take appropriate measures to ensure control and enforcement of the landing obligation.

- **Fishing under foreign flags** (regardless, whether this is the flag of a non-EU or an EU member state) o fish on quotas of another state should be prohibited.

3. Socio-economic aspects

- **Fossil fuels**: The EU fishing industry is energy-intensive and highly dependent on fossil fuels. Not only for ecological concerns, but also for economic and social considerations, the EU and its member states should create incentives to convert fishing fleets from fossil to renewable energies by means of targeted support programmes - see e.g. https://www.frontiersin.org/articles/10.3389/fmars.2022.817335/full). We therefore welcome the establishment of the Energy Transition Partnership for EU fisheries and aquaculture[31]. Subsidisation of fuels should be phased-out in a timely manner, in line with the WTO Agreement on Fisheries Subsidies of June 2022[32], which was formally accepted by the EU on 7th June 2023.

[28] https://orbit.dtu.dk/en/publications/final-report-on-development-and-usage-of-rem-systems-along-with-e
[29] https://www.sciencedirect.com/science/article/pii/S0308597X16306030
[30] https://www.sciencedirect.com/science/article/pii/S0308597X19305913
[31] https://ec.europa.eu/commission/presscorner/detail/en/qanda_23_829
[32] https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/MIN22/33.pdf&Open=True

- **Social standards:** Recent incidents in EU fisheries[33, 34] show once again: no fishermen should be allowed to be employed on ships of the EU fleet at dumping prices and without social insurance; minimum wages and labour protection regulations must also apply to seafarers from other countries. Member States in breach of contract must be punished with reduced fishing quotas and the cancellation of subsidies.
- **Global responsibility:** While overfishing of many stocks has already been reduced in EU waters, EU fishing vessels overseas still play a central role in the unsustainable exploitation of fish stocks, such as in West Africa.[35 36 37] The argument that "*if we don't catch it, others will*" must no longer apply if the Green Deal and the EU Biodiversity Strategy 2030 are to be credible.
- **Food security**: In agreements with third countries on fishing opportunities by the EU fleet, but also in the industrial catch of small fish species to produce fishmeal, the EU must in future take even greater account of food security in third countries. EU fishing fleets, especially long-distance fleets, as well as fish and seafood imports into the EU must not affect local supplies in coastal countries, especially in developing countries and emerging economies – see the example of West Africa.[38, 39, 40] Therefore, existing SFPAs should and future SFPAs must be reviewed in terms of ecological sustainability and food security.
- **Equal obligations for all:** Stricter EU regulations to ensure sustainable fishing must apply not only to the own EU fishing fleet, but also to joint venture fleets of EU member states with third countries[41, 42, 43] or external companies, as well as to EU imports.[44, 45]

Dr. Sandra Altherr
Sandra.altherr@prowildlife.de
Pro Wildlife
Engelhardstrasse 10, D-81369 Munich
EU Transparency Register: 285805825014-46

Dr. Iris Ziegler
i.ziegler@sharkproject.org
Sharkproject Germany e.V.
Ottostrasse 13, D-63150 Heusenstamm
EU Transparency Register: 698640946439-96

[33] https://www.theguardian.com/global-development/2023/jun/14/massive-strike-pits-african-fishers-against-superprofitable-eu-firms
[34] https://daserste.ndr.de/panorama/archiv/2023/Lohndumping-kein-mindestlohn-auf-deutschen-fischereischiffen,fischerei240.html
[35] https://www.sciencedirect.com/science/article/abs/pii/S0964569119301620?via%3Dihub
[36] https://lejournaldelafrique.com/en/how-europe-participates-in-overfishing-in-west-africa/
[37] https://theconversation.com/african-countries-must-protect-their-fish-stocks-from-the-european-union-heres-how-177095
[38] https://www.fao.org/3/cb7990en/cb7990en.pdf
[39] https://www.amnesty.org/en/wp-content/uploads/2023/05/AFR-27_6644_2023-Gambia-The-Human-Cost-of-Overfishing_-How-the-overuse-of-fisheries-resources-in-Sanyang-threatens-human-rights.pdf
[40] https://www.greenpeace.org/africa/en/press/13778/major-european-companies-linked-to-food-insecurity-in-west-africa/
[41] https://theconversation.com/african-marine-rules-favour-big-industry-leaving-small-scale-fishers-in-the-lurch-171829
[42] https://www.wwf.eu/?355880/Unclear-EU-fishing-deals-compromise-food-security-and-sustainable-seafood
[43] https://www.jstor.org/stable/resrep20057.10
[44] https://www.clientearth.org/latest/latest-updates/stories/trade-in-troubled-waters-for-the-octopus/
[45] https://www.clientearth.org/latest/latest-updates/stories/dangerous-dives-for-caribbean-spiny-lobster/