

MSC's contribution to the call for Feedback by the Platform on Sustainable Finance on the proposed draft technical screening criteria for fisheries (TSCF) under the EU taxonomy

The MSC has responded to the consultation through the platform's online submission form (see copy of text in Annex 3). This document provides additional general remarks to supplement our responses on the platform and includes some preliminary analysis on how the Technical Screening criteria for fisheries would apply to EU fisheries.

General remarks

The Platform on Sustainable Finance presented a draft report on the technical screening criteria for fishing. The expert group had representation from the processing sector and a select few environmental NGOs. There were no mechanisms for other stakeholder or fisheries experts to contribute to the work of the expert group and there was a total lack of transparency on the procedure followed for developing the technical screening criteria. It didn't for example follow ISO 17067 standard setting procedures, or ISEAL codes of good practice. This has resulted in draft criteria that are incomplete, unworkable, unverifiable and incoherent with EU scientific advice and fisheries legislation. It also is poorly aligned with existing best practice approaches offered by credible 3rd party standard setting and verification and assurance mechanisms. The application of the suggested framework in practice is therefore believed to add complexity and costs whilst also having negligible positive impacts in and on the water.

The MSC recommends the work of the expert group be re-evaluated and re-drafted, in an open and transparent process with the active participation and collaboration of other stakeholders, including EU fisheries advisory bodies, representatives of the catching sector and the MSC. The MSC is keen to share its 25 years' experience developing a credible assurance standard for sustainable fisheries that is internationally recognised, GSSI benchmarked and ISEAL compliant.

Table 1 (annex 1) includes example of fisheries/stocks that are compliant or not with the proposed technical screening criteria (highlights in green compliant and red not compliant). The MSC has done some further analysis to benchmark the criteria against the MSC standard and would

be happy to provide further technical expertise to the expert group, especially on the feasibility to audit the proposed criteria in line with international guidelines and standardisation. The MSC has also analysed how many stocks managed under the CFP would meet sub criteria 1.1.1 (Annex 2).

It worth noting that according to STECF (2021 CFP Monitoring Report), ICES provides scientific advice for 247 biological stocks included in EU waters (at least in part). Of these, 147 stocks (60%) are data limited, without an estimate of MSY (or proxy) reference points, and advice is provided based on the precautionary approach. As the TSCF does not explicitly consider the precautionary approach as a basis to provide advice on stock status, these stocks are automatically excluded from the TSCF. The MSC criteria gives the possibility for these stocks to be considered through a Risk-Base Framework (part of the MSC fisheries standard).

The MSC is concerned to see a set of criteria that undermines the sustainability objectives of the CFP and exclude most of the EU fleet; either because criteria are not applicable to specific management systems (e.g. fisheries not managed by catch limits) or because criteria are simply not operable (e.g. 100% observers onboard automatically excludes a large proportion of small scale vessels).

Finally, assuming the EU checks for compliance with the finance sector in line with TSCF, the impartiality and transparency will be missing. The EU sets and operationalises the CFP, sets criteria on the taxonomy, runs the auditing scheme for compliance by the finance sector for companies fishing under its own rules. This is riddled with conflicts of interests and needs to be clarified before the adoption of criteria that are to guide sustainable investments in the fishing sector.

Specific comments on criteria

The following points highlight some of the inaccuracies and incoherences underlying the draft criteria, for example:

- 1.1.1 : footnote 4 refers to STECF stock assessment report that only covers the Mediterranean – does this mean only Mediterranean stocks are considered?
- 1.2.2 : mortality rates for cetaceans refer to seabird bycatch. *“For cetaceans: the threshold mortality rate from incidental seabird bycatch should be $\leq 1\%$ of relevant sea basin population of the affected species.* Does this mean cetacean mortality is irrelevant?
- 1.2.4 : purpose should be replaced with porpoise.
- 3.1 : mentions invasive species when talking about bait sourcing. MSC see no correlation between the two elements grouped into a single indicator

Criteria 1.1.1

- Does not lend itself to the wide range of fisheries management systems and tools used in the EU. Fisheries not subject to catch limits are not included in the harvest control criteria. For example fleets/fisheries managed with effort control regimes and technical measures are by default excluded from the harvest control criteria (this would imply that the criteria is not applicable to the majority of Mediterranean and black sea fisheries)
- The progress on achieving maximum sustainable yield is monitored using the MSY indicator for biomass and fishing mortality by stock which are in line with sub-criteria 1.1.1. However, this criteria goes beyond requirements under the current CFP, being in general more precautionary. Catch limits set at Maximum Sustainable Yield (MSY) with at least 50% of spawning biomass unfished are not always reflected in the EU management system. Usually the trigger point is set at MSY Btrigger which is considered the lower bound of spawning–stock biomass fluctuation when a stock is fished at FMSY and is used in ICES advice rule to trigger a precautionary response. In general, MSY Btrigger is smaller than 50% of spawning biomass of unfished population (B_0).

The MSC would like to see the following points clarified:

- MSY usually hovers between 35-50% of virgin biomass; if MSY is estimated around (say) 40% of B_0 , would the criterion be met if it is below the 50% 'criterion'?
- Alternatively, some long lived species may have an MSY >50% B_0 , if the stock is 60% below a (say) 70% MSY level, could this stock meet the criterion even if it is not sustainable?
- It is also unclear how, if stocks that are exploited below FMSY but still outside safe biological limits (i.e. in this case, $B < B_{pa}$) meet the criteria and stocks inside safe biological limits but exploited above FMSY, (i.e. $B > B_{pa}$ but $FMSY < F < F_{pa}$) meet the criteria?
- It appears that stocks with unknown status with regards to safe biological limits are not even considered – could this be clarified?
- For year on year fluctuations
If one year a stock is at MSY and mortality below MSY, but the next season the biomass decreases for natural reasons and F turns out slightly above MSY, then how would this impact the benchmarking by a company or financial provider against the criteria? Would that mean in yr1 it meets the criteria, in yr 2 not? How would that be verified and how would this impact the investment of assessment of that fishery?

Annex 1

Table 1 Example of fisheries/stocks that are compliant or not with the Technical Screening Criteria for fisheries

Criteria	Sub-criteria	Stocks/fisheries
1 – Harvest level	Not overfished or undergoing overfishing	<p>1.1.1 Operating in a fishery which complies with established catch limits set at Maximum Sustainable Yield (MSY) with at least 50% of spawning biomass unfished, based on stock status and fishing mortality below MSY taking into account an ecosystem-based approach</p> <p>According to STECF only 17 stocks in 2019 are not overfished or undergoing overfishing in NEA. This out of a total of 46 MSY assessed, but considering MSYBtrigger which is smaller than 50%Bo the real number of stocks compliant with TSCF is smaller.</p> <p>Ex: Northern hake and North Sea plaice are stocks that have catch limits set below or at MSY (respectively) and have really high biomasses, for sure above 50% Bo, but MSY does not take ecosystem-based approach so they are excluded from TSCF but not from MSC.</p> <p>https://www.ices.dk/sites/pub/Publication%20Reports/Advice/2021/2021/hke.27.3a46-8abd.pdf https://www.ices.dk/sites/pub/Publication%20Reports/Advice/2021/2021/ple.27.420.pdf</p> <p>Southern hake, as at least 147 stocks that ICES gives advice (of a total of 247 stocks), will not be compliant with TSCF as it has no MSY reference points but likely not from MSC (not certified). https://www.ices.dk/sites/pub/Publication%20Reports/Advice/2021/2021/hke.27.8c9a.pdf</p> <p>Baltic sprat is one of a very few stocks that takes ecosystem based approach into account in MSY and may be at 50% Bo but F is above Fmsy so it also excluded from TSCF but not from MSC. https://www.ices.dk/sites/pub/Publication%20Reports/Advice/2021/2021/spr.27.22-32.pdf</p> <p>In summary no or very few EU stocks are likely to be compliant.</p>
		<p>1.1.2. Report data through the EU catch registration system in place on control under the data collection framework (or equivalent outside the EU)</p> <p>Most EU fisheries are compliant</p>
		<p>1.1.3 Not operating in a fishery where targeted species are threatened or endangered</p> <p>All EU fisheries are compliant</p>
1 – Harvest level	2 - Avoid by-catch	<p>1.2.1. Bycatch should be minimised or eliminated - Here the cumulative impacts of multiple fisheries on a population needs to be taken into account (by Implementation/enhancement of science-based measures as defined in fishery management plans to significantly reduce bycatch from the baseline.)</p> <p>All EU fisheries are in principle compliant (avoid bycatch of megafauna), but none are compliant regarding unwanted commercial catch (i.e. the LO is not being implemented).</p>
		<p>1.2.2. Mortality rates:</p> <p>For birds: most European gill & trammel nets fisheries will be excluded.</p>

		<ul style="list-style-type: none"> – For birds: The threshold mortality rate from incidental seabird bycatch should be $\leq 1\%$ of natural annual adult mortality of the species. – For turtles: mandatory use of turtle excluding devices in areas where turtles are present – For cetaceans: the threshold mortality rate from incidental cetacean bycatch should be $\leq 1\%$ of relevant sea basin population of the affected species. – For other species: The threshold mortality rate from incidental catches of other marine mammals, sharks & rays should be close to non-existent with mandatory measures reducing mortality prohibiting wire leaders and shark lines in longline fisheries and other catch mitigation techniques, and minimum standards for safe handling and release. – For sharks: a need to implement a “fins naturally attached” policy as the only method to ensure both proper catch accounting as well as compliance with shark retention measures. 	<p>For turtles: all European fisheries will be excluded (see comment).</p> <p>For cetacean: most fisheries will likely be compliant, except in the Baltic Sea gill & trammel nets, but considering that if there is no population estimates the fisheries will still be compliant. Otherwise, most fisheries will be excluded as several marine mammal populations have no population estimates.</p> <p>For other species: mortality rate close to non-existence for sharks & rays exclude almost all demersal gears, but for sure trawls and longlines as they frequently catch sharks & rays. To my best knowledge, there are also no mandatory measures to protect marine mammals, sharks and rays, so under this aspect all European fisheries will be non-compliant.</p>
		<p>1.2.3. Only truly selective methods / gear that has published research showing high selectivity and low impact on the ecosystem are used</p>	<p>All or none? What are highly selective gear only trap fisheries? Longlines, gill nets, trawls and seiners all have some level of bycatch. Currently not possible to evaluate compliance as it is unclear what truly selective methods means. Even being selective can have a high impact, for example if overexploiting a species and/or size that has an effect in the ecosystem. No European fishery will be compliant therefore, as all fisheries have a degree of being non-selective.</p>
		<p>1.2.4. Release bycatch when species have known survival possibility. This especially applies to marine mammals (cetaceans, harbour porpoise, etc.)</p>	<p>Most European fisheries are compliant</p>
		<p>1.2.5. Report data through the EU catch registration system in place on control, under the data collection framework (or equivalent outside the EU)</p>	<p>Most European fisheries are compliant</p>

		1.2.6 Operating in a fishery that is fully documented with 100% observers' coverage (human or electronic).	All European fisheries will be excluded. European observers' programmes, mostly under DCF, cover around 1% of fishing activity. REM systems are still in pilot stage phase, i.e. have not being implemented to the fishery scale.
2. Other species and habitat impacts	2.1 No take zones	2.1.1. Fishing in a fishery with an established and maintained 10% no take zone, prioritising sensitive habitats and ecosystem connectivity, EU Biodiversity Strategy requirements and the Nature Restoration Law. This should be evidenced in a fisheries management plan.	Most or none compliant? Natura 2000 obliges sensitive habitats to be protected, while the objective of 10% of MPAs obliged by the Aichi Target 11 of CBD has been reached in the EU ¹ . However, what is a fishery with an established no take zone? In its EEZ? In its vicinity?
		2.1.2. Restricting fishing areas in case of essential fish habitats (EFB) and sensitive habitats (SB), as assessed by STECF	Most European fisheries are compliant as STECF continues to work on these issues.
	2.2 No wildlife persecution	In some areas fishers kill species perceived as competitors for fish or causing damage to nets (e.g., seals, dolphins, sharks etc.). No killing of non-target species should be allowed when claiming SC to biodiversity.	Most European fisheries are compliant
	2.3 No harm on marine or freshwater habitats	Fishing gear can cause extreme damage to habitats such as coral reefs, oyster reefs, sea grass beds, kelp forests, marine phanerogams etc. Such damage can degrade habitats and can sometimes be irreversible on a human lifespan scale. Operators must take care to avoid any such damage by refraining from the use of gear that can come into direct contact with sensitive habitats or has high risk of entanglement. Examples of harmful gear are bottom trawling, dredging, nets posed directly on reefs etc.	Most European fisheries are compliant since present trawled or dredge areas no longer have these physical characteristics, while most operators would not move into areas where they can damage the gear.
	2.4. Minimise litter	No discarded gear and minimised gear loss. All gear must have a tagging (ID), reporting, recovery and recycling, use of biodegradable materials and no single use equipment. Abandoned, lost or otherwise discarded fishing gear (ALDFG) represents a significant, yet ultimately unknown amount of global marine	Most European fisheries are non-compliant. Gears are obliged to be identified and use biodegradable material, and fishers are obliged to report and recover lost gear also, but only a few fishers do it, while recycling of lost gear and single use are not obliged (yet²) in European legislation.

¹¹ https://ec.europa.eu/environment/marine/eu-coast-and-marine-policy/marine-strategy-framework-directive/index_en.htm

² <https://ec.europa.eu/newsroom/mare/items/628060>

		debris, with serious environmental and socioeconomic impacts.	
3. Other	3.1 Bait sourcing	No use of wild origin bait that is not itself extracted in a taxonomy compliant fishery. Invasive species are capable of causing extinctions of native plants and animals, reducing biodiversity, competing with native organisms for limited resources, and altering habitats. This can result in huge economic impacts and fundamental disruptions of coastal and marine ecosystems.	Most bait used in European fisheries are from sourced fisheries and not sourced from invasive species, so in this aspect most European fisheries are compliant. However, as there are many aspects of the TSCF that are not met by European fisheries, at the end no (bait) fishery will be compliant.
	3.2. Reporting	3.2.1. No record of illegal, unreported and unregulated (IUU) fishing activity in the last 5 years.	Most European fisheries with large scale vessels are compliant as there is a general level of compliance with the Control reg. However, the opposite is true in small-scale vessels and thus most are non-compliant (most have some level of infringements or do not follow existent legislation on gear or catch limitation-at least in southern countries).
		3.2.2. 100% observers' coverage or Remote Electronic Monitoring (REM) is in place on board vessel to monitor compliance with harvesting criteria and better collection of data on by-catch.	As above, all European fisheries are non-compliant.
	3.3 No Discards or high-grading	Unwanted catches and discards constitute a substantial waste and negatively affect the sustainable exploitation of marine biological resources and marine ecosystems and the financial viability of fisheries.	All EU fisheries are non-compliant as all have discards of un-regulated (not under the LO) and of regulated species (LO not being implemented).

Annex 2: Overview of CFP managed stocks that would meet TSCF (Subcriteria 1.1.1)

Article 50 of the Common Fisheries Policy (CFP; Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013) stipulates: “The Commission shall report annually to the European Parliament and to the Council on the progress on achieving maximum sustainable yield and on the situation of fish stocks, as early as possible following the adoption of the yearly Council Regulation fixing the fishing opportunities available in Union waters and, in certain non-Union waters, to Union vessels.”

The progress on achieving maximum sustainable yield is monitored using the MSY indicator for biomass and fishing mortality by stock which are in line with sub-criteria 1.1.1. However it is important to stress that the criteria goes beyond the requirements under the current CFP, being in general more precautionary. Catch limits set at Maximum Sustainable Yield (MSY) with at least 50% of spawning biomass unfished are not always reflected in the EU management system. Usually the trigger point is set at MSY Btrigger which is considered the lower bound of spawning–stock biomass fluctuation when a stock is fished at FMSY and is used in ICES advice rule to trigger a precautionary response. In general, MSY Btrigger is smaller than 50% of spawning biomass of unfished population (B_0).

The last STECF report on CFP monitoring (STECF 2021³) provides an overview on progress towards achieving the MSY objective in line with the CFP. This report is considered the most reliable reference to evaluate if and how EU stocks meet the Technical Screening Criteria for Fishing and in particular sub-criteria 1.1.1.

The harvest level criteria/reference values used by STECF point to a more optimistic picture of the state of the stocks in EU waters than that drawn if utilising TSC 1.1.1. which could disqualify up to 60% of EU fisheries.

For the purpose of the below analysis, the data sources used, include EU coastal waters in FAO areas 27 (Northeast Atlantic and adjacent Seas) and 37 (Mediterranean and Black Seas). For the Mediterranean GSAs (Geographical Sub Areas) 1, 5, 6, 7, 8, 9, 10, 11, 15, 16, 17, 18, 19, 25 and 29 are considered, however it is important to note that many stocks are shared with non-EU countries and their distribution goes beyond the EU-GSA listed above. For the NE Atlantic included, ICES subareas "III", "IV" (excluding Norwegian waters of division IVa), "VI", "VII", "VIII", "IX"

³ STECF, 2021. Scientific, Technical and Economic Committee for Fisheries (STECF) – Monitoring the performance of the Common Fisheries Policy (STECF-Adhoc-21-01). EUR 28359 EN, Publications Office of the European Union, Luxembourg, 2021, ISBN 978-92-76-36155-8, doi:10.2760/26195, JRC124906.

and "X" as well as NEAFC stocks are included. It is important to stress that the list of the stocks analysed does not include stocks managed under international tuna commissions such as ICCAT and IOTC.

The STECF CFP monitoring report provides together the results from the different sea areas of both EU and non-EU stocks to provide a comparative picture. In this report, "Northeast Atlantic" refers to stocks in FAO Area 27 inside and outside EU waters⁴, and "Mediterranean & Black Seas" refers to stocks in FAO Area 37⁵. For the NE Atlantic (FAO area 27), the information was downloaded from the ICES website comprising the most recent published assessments carried out up to and including 2020. For the Mediterranean & Black Seas (FAO area 37), the information was extracted from the STECF Mediterranean Expert Working Groups repositories comprising the most recently published assessments carried out up to 2020, and from the GFCM stock assessment forms comprising the most recently published assessments carried out up to 2019.

The analysis for the "Mediterranean and Black Seas" represents only a limited number of stocks and small proportion of total EU landings across all species and areas. In addition, there was a reduction of the number of stocks used in the analyses compared to 2020. Only one stock from the Black Sea was available (from 7 in 2020), while the number of Mediterranean Sea stocks available was reduced from 47 to 35. This reduction in the number of stocks is due to several stock assessments not being carried out by STECF anymore at the request of DG MARE, and which were not taken over by GFCM. This was the case in the Black Sea. At the same time, the different calendar for the provision of advice under the GFCM framework means that the latest stock assessments become publicly available only later in the year, and the 2020 GFCM stock assessments were therefore unavailable for the present analysis. Both these examples, highlight how the criteria 1.1.1. would not permit evaluation of these data deficient stocks.

Finally, as the last assessment carried out in 2020 refers to 2019 data, the stocks which would now be in the UK waters exclusively are still included in this EU analysis.

The overview below describes the trends observed in the NE Atlantic and the Mediterranean & Black Sea for the periods 2003 to 2019 and 2003 to 2018 respectively. It applies to the stocks included in the reference list of stocks for these areas.

⁴ The stocks that are included in the NE Atlantic analysis are those stocks in ICES category 1, 2 and 3 for which assessments are available and that were managed through a TAC at EU level in 2017 (based on DG MARE TAC/quotas database). Stocks in EU waters include stocks in/or partially in ICES areas 3, 4, 6, 7, 8 and 9, but excluding Norwegian coastal stocks in area 4 (see list of stocks in section 5; Scott et al., 2017a).

⁵ The combinations of Species/GSA that are included in the Mediterranean & Black Seas analysis are those based on a ranking system approach for which the species having a rank in the first ten positions either in total live weight or total economic values between 2012 and 2014 were chosen (see Mannini et al., 2017).

The indicators provided in STECF 2021 show that in the NE Atlantic (both EU and non-EU waters) stock status has significantly improved since 2003 (Figure 1) but also that many stocks are still overexploited. Among the stocks which are fully assessed (Table 2), the proportion of overexploited stocks (i.e. $F > F_{MSY}$, blue line) has decreased from around 75% to close to 40% over the last ten years. However, in 2019, the proportion of overexploited stocks has increased slightly. The proportion of stocks outside safe biological limits ($F > F_{pa}$ or $B < B_{pa}$, orange line), computed for the 42 stocks for which both reference points are available, follows the same decreasing trend, from 75% in 2003 to around 30% in 2018, but has increased again substantially in 2019.

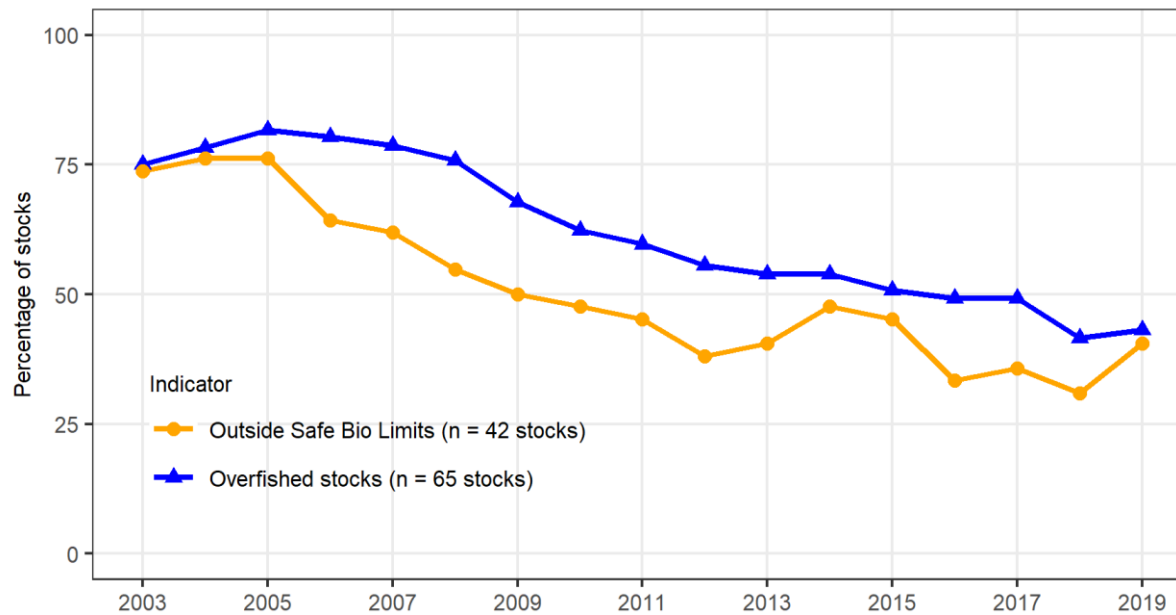


Figure 1 - Trends in stock status in the NE Atlantic (both EU and non-EU waters) 2003-2019. Two indicators are presented: blue line: the proportion of overexploited stocks ($F > F_{MSY}$) within the sampling frame (out of a total of 65 stocks) and orange line: the proportion of stocks outside safe biological limits SBL ($F > F_{pa}$ or $B < B_{pa}$) (out of a total of 42 stocks).

Other indicators showing the percentage of landing values coming from stocks in overfishing ($F > F_{MSY}$ or proxies), sustainable exploited ($F \leq F_{MSY}$ or proxies) and with uncertain status, are presented in Figure 2. **This kind of information would be useful to understand the rate of fishing activities in agreement with sub-criteria 1.1.1.**

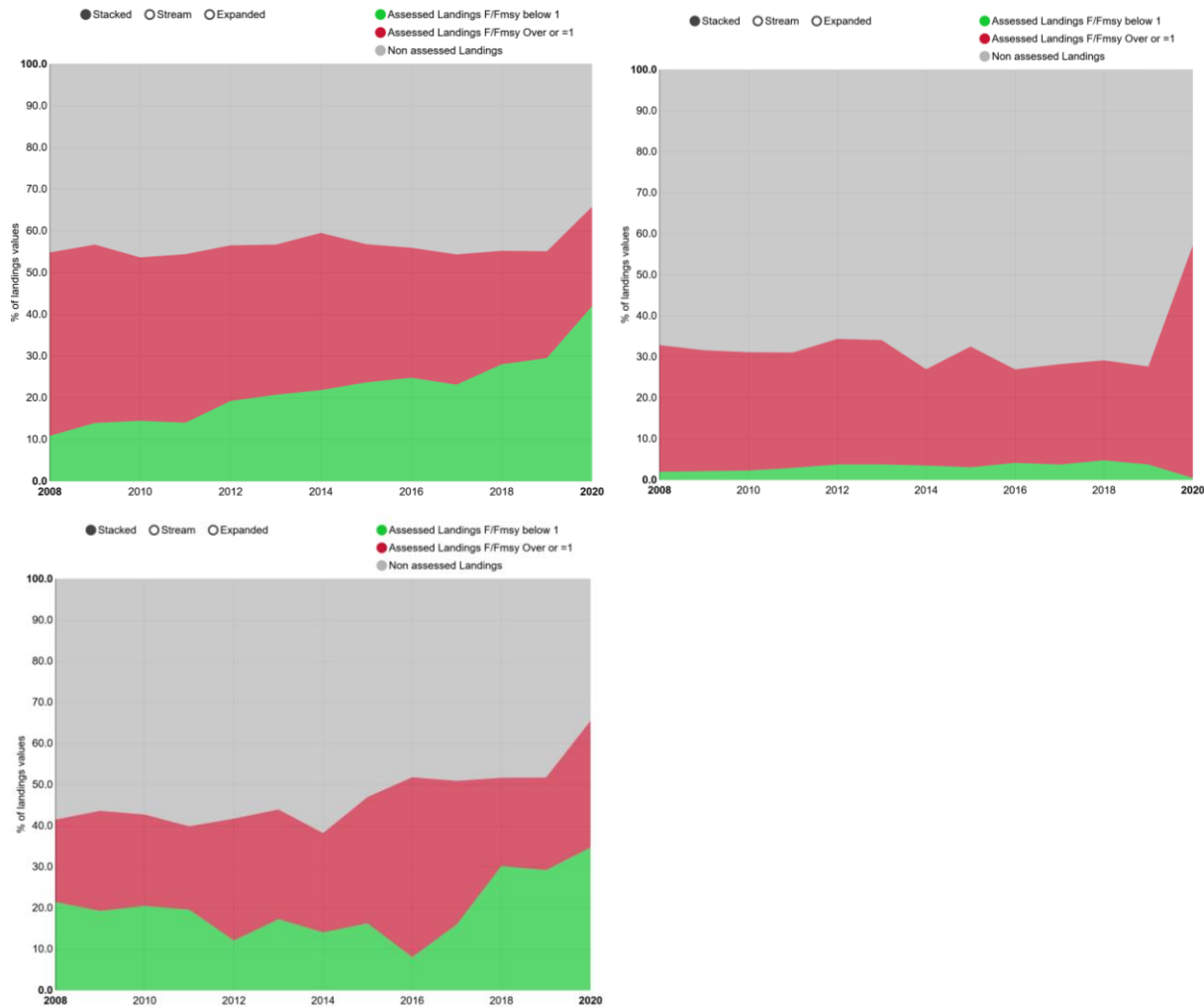


Figure 2 – Trends of percentage of landing values coming from stocks in overfishing ($F > FMSY$ or proxies), sustainable exploited ($F \leq FMSY$ or proxies) and with uncertain status in Area 27 (upper left graph), Area 37 (upper right graph) and other fishing regions (OFR, lower right graph). Source: http://sirs.agrocampus-ouest.fr/stecf_balance_2021/index.php?action=liste.php?&type_code=AR&atl_version=0&idlang=uk

Table 2 - Number of stocks in the ICES area for which estimates of F/FMSY are available by ecoregion and year

EcoRegion	2003	2004	2005	2006	2007	2008	2009	2010	2011
ALL	60	60	60	61	61	62	62	61	62
Baltic Sea	7	7	7	7	7	7	7	7	7
BoBiscay & Iberia	8	8	8	8	8	8	8	8	8
Celtic Seas	18	18	18	19	19	20	20	19	20
Greater North Sea	21	21	21	21	21	21	21	21	21
Widely	6	6	6	6	6	6	6	6	6
	2012	2013	2014	2015	2016	2017	2018	2019	
ALL	63	65	65	65	65	65	65	64	
Baltic Sea	7	7	7	7	7	7	7	7	
BoBiscay & Iberia	8	8	8	8	8	8	8	8	
Celtic Seas	21	23	23	23	23	23	23	22	
Greater North Sea	21	21	21	21	21	21	21	21	
Widely	6	6	6	6	6	6	6	6	

STECF had previously commented on another indicator showing the number of stocks where $F > F_{MSY}$ or $SSB < MSY_{trigger}$ (used as a proxy of $SSB < BMSY$ since by definition $MSY_{trigger}$ is set at or below $BMSY$ and $BMSY$ is not available for the majority of stocks). This indicator is however available for 27 stocks only. The low number of stocks used makes the results unstable from year to year, hence it is not reported in Figure 1 and the trends need to be interpreted with care. However, **such indicator could be useful to understand how far the status of the stocks is from sub-criteria 1.1.1 (Figure 3).**

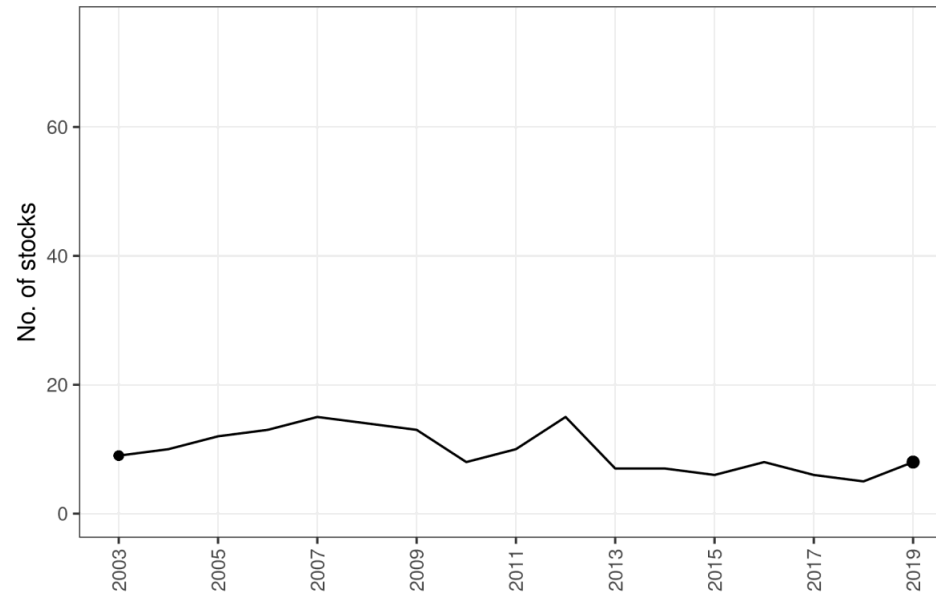


Figure 3 - Number of stocks with F above F_{msy} or SSB below $BMSY$ by year.

It is important to note, however, that in 2019, 4 stocks that are exploited below FMSY are still outside safe biological limits (i.e. in this case, $B < B_{pa}$), while 8 stocks inside safe biological limits are still exploited above FMSY, (i.e. $B > B_{pa}$ but $FMSY < F < F_{pa}$) and 23 have an unknown status with regards to safe biological limits. **This means that for the last known year, among the 42 stocks considered only 40% are simultaneously not overfished and inside safe biological limits.**

STECF continues to observe that the recent slope of the proportion of overexploited stocks (Figure 1) suggests that progress until 2019 has been too slow to allow all populations of fish to be managed at or below FMSY no later than 2020. **Again this would not be in line with sub-criteria 1.1.1 detailed above.**

As explained above, in the Mediterranean & Black Seas, the number of stock assessments for which data is publicly available vary year on year. In addition, not all stock assessments extend back to the early part of the time series. This renders the calculation of a robust indicator difficult and potentially misleading. Out of 35 stocks, 6 (17%) were not overfished in 2018, the other 29 were overfished.

The trends in fishing pressure are computed using a robust statistical model (Generalised Linear Mixed Effects Model, GLMM) accounting for the variability of trends across stocks and including the computation of a confidence interval around the median. A high confidence interval means that different stocks show different trends in $F/FMSY$ over time.

In the NE Atlantic EU waters, the model-based indicator of the fishing pressure ($F/FMSY$) shows an overall downward trend over the period 2003-2019 (Figure 4). In the early 2000s, the median indicator of fishing mortality was more than 1.7 times larger than $FMSY$, but this has reduced and since 2011 stabilised below 1.2, getting close to 1 in 2019; if the line comes closer to 1 this still only means that half of the stocks are fished below $FMSY$.

The same model-based indicator was computed for an additional set of 12 stocks located in the NE Atlantic, but outside EU waters. This indicator follows the same overall decreasing trend in overexploitation levels observed in EU waters until 2014. Since then, however, the indicator has shown an increasing number of stocks being exploited above $FMSY$, especially since 2017 where the indicator has increased to almost twice $FMSY$.

The indicator computed for stocks from the Mediterranean & Black Seas has remained at a very high level during the whole 2003-2018 period. After the observed peak between 2011 and 2013 where $F/FMSY$ has reached its highest historical level, there has been a somewhat decreasing trend in the fishing pressure. Nevertheless, the value of $F/FMSY$ has still been around 2.1 in recent years indicating that the stocks are being exploited on average at rates well above the $FMSY$ objective contained in the CFP.

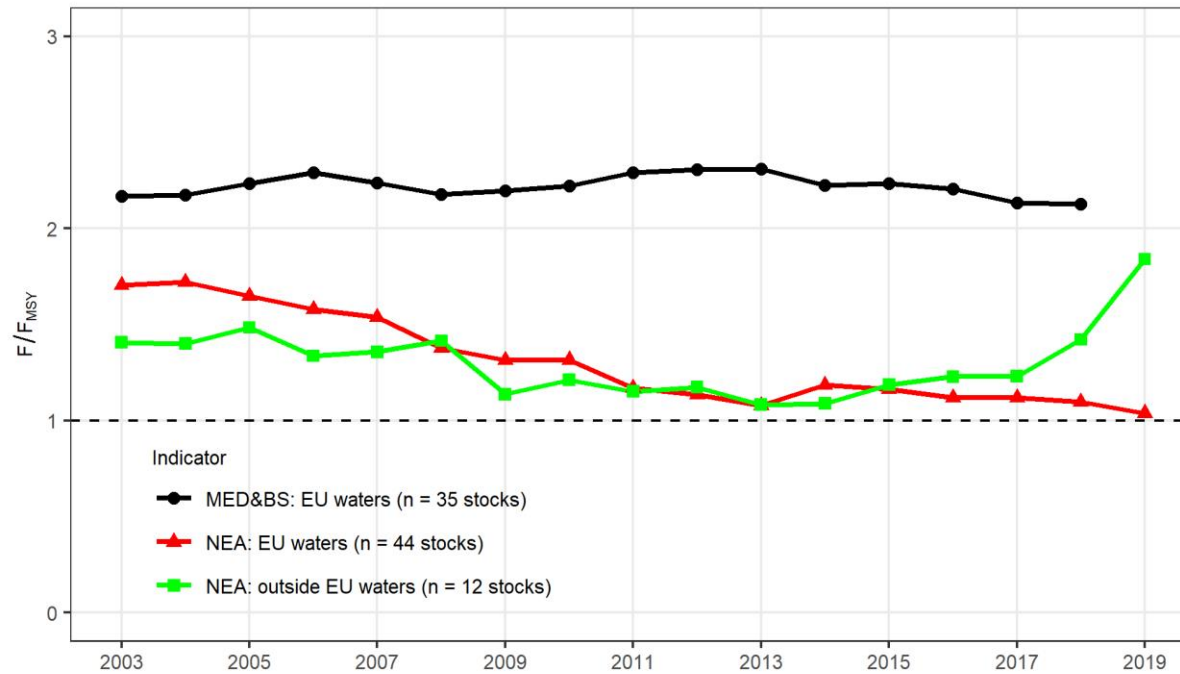


Figure 4 - Trends in fishing pressure 2003-2019. Three model-based indicators F/F_{MSY} are presented (all referring to the median value of the model): one for 44 stocks with appropriate information in the NE Atlantic EU waters (red line); one for an additional set of 12 stocks also located in the NE Atlantic but outside EU waters (green line), and one for the 35 stocks from the Mediterranean Sea & Black Seas (black line).

Biomass indicators

The model-based indicator of the trend in biomass shows improvement in the NE Atlantic (EU waters only), particularly for data limited stocks (ICES category 3 stocks), but not necessarily in the Mediterranean & Black Seas (Figure 5). In the NE Atlantic the biomass has been generally increasing since 2007, and was in 2019 on average around 35% higher than in 2003. In the Mediterranean & Black Seas, biomass increased at the beginning of the time series, but declined after 2006. Since 2015 there has been an increase in biomass.

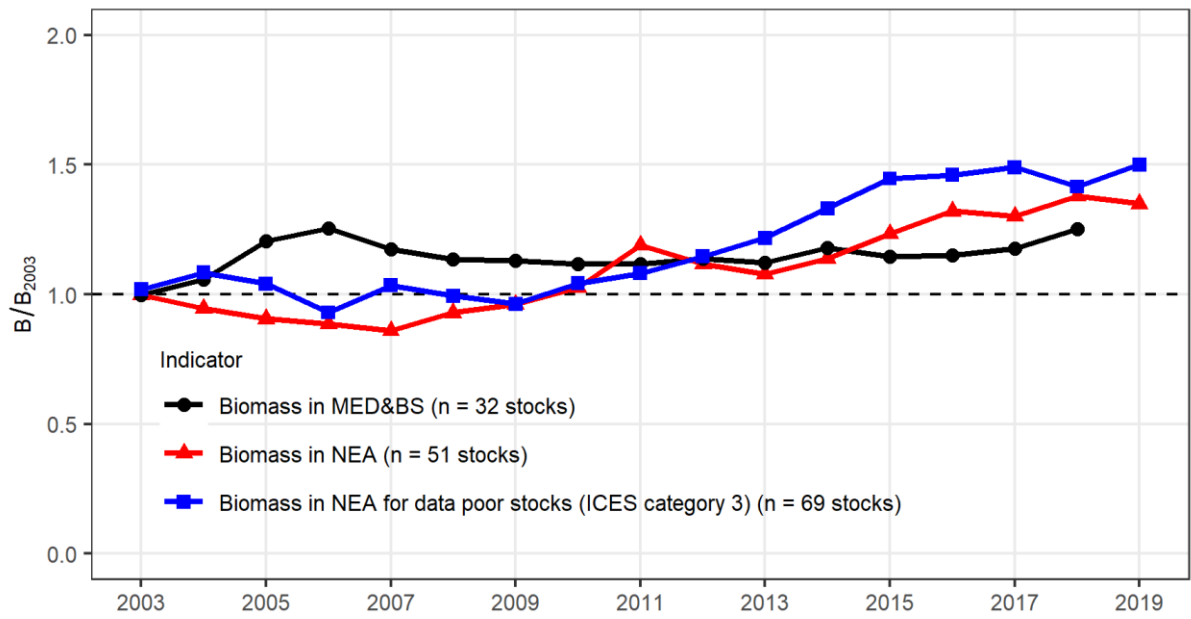


Figure 5 - Trends in the indicators of stock biomass (median values of the model-based estimates relative to 2003). Three indicators are presented: one for the NE Atlantic EU waters (51 stocks considered, red line); one for the Mediterranean & Black Seas (32 stocks, black line); and one for data limited stocks (ICES category 3, 69 stocks, blue line).

Annex3 : Consultation on TSCF: MSC response to questions on the Sustainable Platform Finance

Fishing 1.4

Q1

The MSC would like to comment on the boundary, description of the activity and substantial contribution of the TSC.

Q1b Description of the economic activity?

MSC supporting evidence to support our concerns on the granularity, activity, and clarity of the TSCF

The present draft criteria would exclude most CFP managed fisheries (e.g. stocks for which MSY values are not available, see analysis in annex). In some cases, the criteria are very specific and therefore easier to verify and measure, however they go beyond requirements of the CFP, referring to indicators not enshrined in EU law or scientific advice (e.g. MEY values). In contrast other indicators are not specific enough for the applicant to understand exactly what is expected to meet the criteria and therefore are not specific enough for finance actors to verify compliance with clear objectives.

We strongly recommend reopening the work of the expert group to allow for active and dynamic participation of other stakeholders and fisheries experts to develop criteria that:

- are in line with international and EU legislation
- adhere to international best practice guidelines on sustainable labelling
- provide the right incentives that drive measurable environmental sustainability in fisheries
- refer to transparent, specific, detailed indicators that support independent, third-party verification and assurance systems (i.e. indicators that are auditable).

The current set of criteria fall well below the standards setting delivered by existing private certification schemes. It is essential that these criteria provide clarity to finance actors/investors on how they should be applied and by whom they should be verified.

MSC considers that third-party two-tier verification systems which are supported by documented quality management systems and suitable structures would safeguard impartiality and independence in the evaluation of applications against the criteria. This independent third-party verification needs to be factored into the development of a set of criteria.

In the present form the criteria would likely introduce added complexity, costs, reduce consistency and lower transparency, as well as reduce the effectiveness of existing credible and effective tools. The outcomes would likely be poor for companies, people and nature.

Q2 Do you consider the ambition level to be sufficient?

Please refer to detailed analysis in annex document.

The “ambition level” needs to be evaluated alongside the auditability of the criteria. The annex document provides more detailed analysis.

Criteria 1.1.1 is in part ambitious and very detailed, going beyond the objectives of the CFP, yet it is also incomplete and cannot be applied in a standard manner to all fisheries.

We recommend:

1. that the alignment of this criterion with EU law be verified by EC legal services
2. that the criterion be applicable to all EU fisheries, irrespective of the management systems/tools applied (a standard such as the MSC allows for the evaluation of any fishery not just a subset of EU fisheries managed under the CFP)
3. that to measure if the criterion is met, reference values should be supported by independent scientific advice such as that provided by ICES and STECF.

The ambition level of other criteria cannot not be clearly assessed as they are vague, and lacking the specificity required to verify/audit whether the criteria have in fact been met.

For instance, 3.2.1. requires a clear definition of what is an IUU activity; furthermore compliance with this criteria could likely only be verified by the competent control authority. How would finance institutions be expected to operationalise this? Credible 3rd party verification of the

effectiveness of monitoring, control and surveillance systems, hence the levels of compliance, is already part of best-practice standards and certification systems such as the MSC.

According to our analysis, if all criteria are to be applied in their current form, then no EU fisheries would meet the TSCF. Although we support raising the bar on sustainability, the criteria should be clear, measurable, and consistent with EU legislation, including with criteria in upcoming legislative proposals (revision of the marketing standards, Green claims etc.), and with existing credible environmental standards and assurance mechanisms designed to deliver impacts in and on the water. Credibility in this regard implies such mechanisms at minimum are consistent with the FAO Guidelines for certification and ecolabelling of wild capture fisheries, and with ISEAL codes of good practice.

Q3 Are there any factors that have been omitted from the draft criteria or that need better defining?

See annex document attached.

Q4 Concerns with respect to the ability to implement (technical feasibility)

The annex document highlights specific concerns regarding the applicability of some indicators, especially for data deficient stocks which are managed following the precautionary principle. Although data on fisheries (e.g. state of the stocks, catch data, fleet records, etc) can be extracted from ICES and STECF resources, to evaluate a fishery/company against the criteria would require independent expert analysis, especially for data deficient stocks. There would be considerable interpretational space and the mechanisms to ensure consistency, equity and quality are unclear.

Indicators that require 100% observer coverage or Remote Electronic Monitoring would likely exclude a large proportion of the EU fleet, and almost all small-scale vessels for which this is not easily operable at this point. This would need to be re-drafted to consider new requirements in the control regulation expected in 2022 and to consider what is applicable in practice on the water. The criteria should not exclude a vessel simply because it does not have the capability to meet the criteria, especially not if that vessel/company can demonstrate to have high compliance and therefore represents a low environmental risk operation.

Another concern is how the report frames a fishing activity as sustainable when it is considered low impact. The sustainability of the activity however does not depend on the type of vessel or gear an such, but is defined by the impacts of the operation. Hence, it is a combination of factors including the state of the stock, the habitat fished, the gear interactions that define sustainability. For example, a small scale line fishery (say) that anchors in sensitive habitats, or which targets overfished stocks, may be far less sustainable than a large industrial operation that

harvests from well-managed stocks, and documented low impact on the wider environment (habitat, ETP, bycatch species and so forth). Finally, fishing methods considered harmful for the environment are banned under the recently adopted technical measures framework regulation (EC) 2019/1241.

Q5 Rationale and scientific evidence on which the criteria are based is sufficient and Robust

Considering the current set of criteria do not readily lend themselves to evaluate all EU fisheries and because some criteria lack the specificity required to determine if thresholds are met (e.g. thresholds for biomass level), verification and audits may not be applied in a clear and consistent fashion to a fishery/stock/company. It is paramount that the criteria should lend themselves to a fair, consistent, and transparent assessment procedure, rather than facilitating inconsistent, inequitable or non-transparent application.

To properly evaluate the feasibility of criteria we need to have more guidance on how and by whom criteria will be assessed. Can a company self-assess itself according to the criteria? How can a finance actor, with potentially limited expertise in the field, assess an application? How would environmental performance be monitored and reviewed to confirm continued sustainable performance? Given that most seafood companies handle numerous species from even more stocks, what % of a company portfolio would need to be 'assessed' and how would finance actors then 'qualify' a company if these meet these taxonomy criteria for only a small part of the business. Considering these uncertainties and risks, and major unclarities in the suggested approach, the MSC recommends including a reference to existing best-practice standards and certification systems, which include two-tier third-party verification processes for companies to reliably demonstrate compliance with specific criteria. Reference to such systems would enhance the consistency, transparency, equitability based on robust public assurance, hence would ensure credibility to the taxonomy application vs the suggested approach which contains major shortfall and would (it seems) rely on self-claims.