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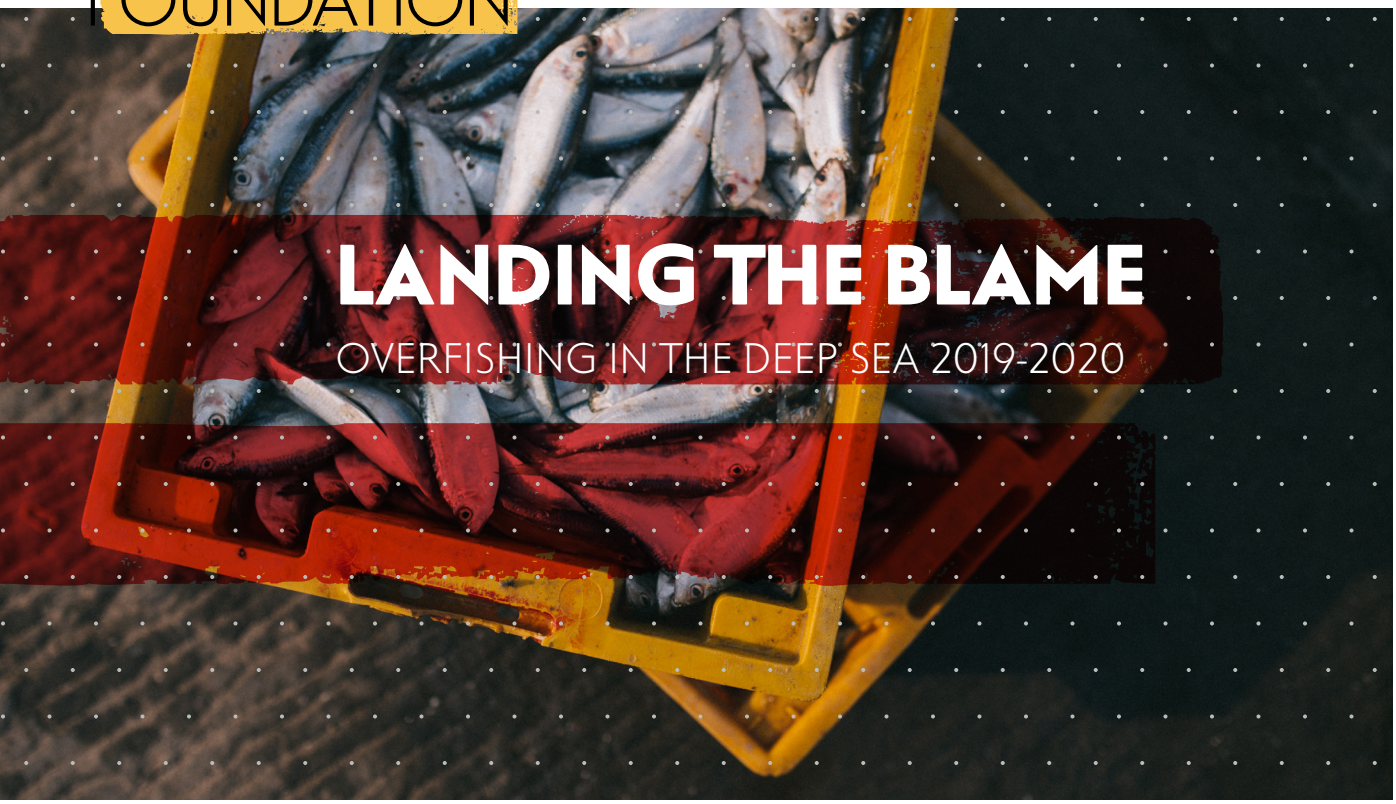


LANDING THE BLAME

OVERFISHING IN THE DEEP SEA 2019-2020

UNCOVERING THE EU MEMBER STATES MOST RESPONSIBLE FOR SETTING FISHING QUOTAS ABOVE SCIENTIFIC ADVICE

Fisheries ministers are risking the sustainability of fish stocks by consistently setting fishing limits above scientific advice. This is our fifth year running a series of briefings to identify which Member States are standing in the way of more fish, more profits, and more jobs for European citizens.

Food for an additional 89 million EU citizens. An extra €1.6 billion in annual revenue. Over 20,000 new jobs across the continent. Far from being a pipe dream, all of this could be a reality, if we paid more attention to one of Europe's most significant natural resources – our seas.[1] If EU waters were properly managed – with damaged fish stocks rebuilt above levels that could support their maximum sustainable yield (MSY) – we could enjoy their full potential within a generation.[2]

FISHING LIMITS VS SCIENTIFIC ADVICE

Every year, fisheries ministers have an opportunity to make this a reality when they agree on a total allowable catch (TAC) for commercial fish stocks. Scientific bodies, predominantly the International Council for the Exploration of the Sea (ICES), are commissioned to provide information about the state of

most stocks and advise on maximum catch levels.[3] Yet overfishing continues as this scientific advice goes unheeded.

Our historical analysis of agreed TACs for EU waters between 2001 and 2018 shows that, on average, two-thirds of TACs were set above scientific advice. While the percentage by which TACs were set above advice declined throughout this period (from 42% to 8% in all EU waters), the proportion of TACs set above advice did not.[4]

The reformed Common Fisheries Policy (CFP) that entered into force in 2014 aims to restore and maintain populations of fish stocks above levels capable of supporting MSY. The corresponding exploitation rate was to be achieved by 2015 where possible and by 2020 at the latest for all stocks.[5] Following scientific advice is essential if we are to achieve this goal, end overfishing, and restore fish stocks to healthy levels.

AGREEMENTS BEHIND CLOSED DOORS

The negotiations over TACs are held by the Agricultural and Fisheries configuration of the EU Council of Ministers. These negotiations are not public, only their outcomes are. This lack of transparency means that ministers are not on the hook when they ignore scientific advice and give priority to short-term interests that risk the health of fish stocks. This briefing, a continuation of the *Landing the Blame* series,[6] reveals which Member States and ministers are behind decisions that go against the EU's long-term interests. This conclusion is reached by analysing the outcomes of the negotiations and calculating which Member States end up with TACs above scientific advice. The key assumption is that these Member States are the main drivers of overfishing, either because they have been actively pushing for fishing limits to be set above scientific advice, or they have failed to prevent such limits being put in place. A Freedom of Information Request revealed that the results of the Landing the Blame series closely corresponded with the Member States' positions heading into the Council negotiations.[7]

THE DEEP-SEA TACS FOR 2019 AND 2020

Unlike the TACs for the Baltic Sea, the North Sea, and the Northeast Atlantic, which are set annually, TACs for the

TABLE 1. THE OVERFISHING LEAGUE TABLE.

MEMBER STATE	MINISTER/ REPRESENTATIVE	EXCESS TAC (TONNES)	EXCESS TAC (%)	TACS (#)
Spain	Luis Planas Puchades	1,611	60.9%	9
Germany	Julia Klöckner	14	14.7%	5
United Kingdom	John Gardiner	33	4.8%	7
Portugal	José Apolinário	245	3.9%	7
Ireland	Michael Creed	12	2.0%	6
France	Didier Guillaume	84	0.8%	7
Denmark	Jakob Ellemann-Jensen	95	∞	1
Sweden	Sven-Erik Bucht	5	∞	1
Poland	Jan Krzysztof Ardanowski	444	68.4%	4
Latvia	Pārsla Rigonda Krieviņa	23	9.4%	2
Lithuania	Giedrius Surplys	3	2.1%	4
Estonia	Clyde Kull	0	0.0%	3

deep sea are set for a two-year period. For this briefing, both years are added together, with full tables available in Annex 1.

Most deep-sea TACs were reduced from previous years, with the exception of two fisheries for which TACs were raised in accordance with scientific advice as stocks are recovering.[8]

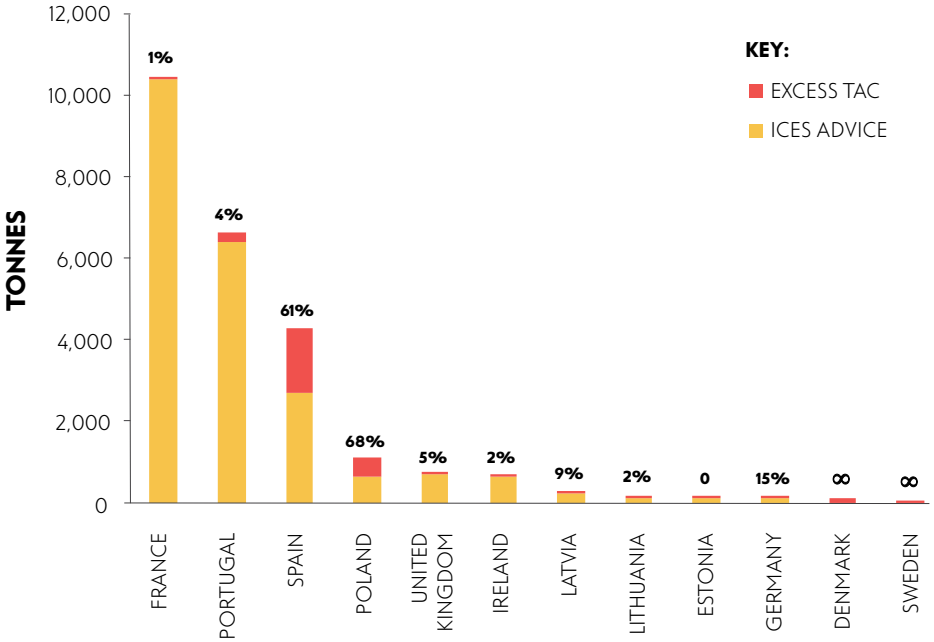
Analysis of the twelve deep-sea TACs shows that eight were set above scientific advice. Some of the excess TAC (TAC set above scientific advice) goes to all eight EU deep-sea nations: Denmark, Germany, Estonia, Finland, Lithuania, Latvia, Poland, and Sweden.

Table 1 allocates the excess TAC to each Member State and the minister/representative present during the TAC negotiations.[9] An extra column has been added to indicate the number of TACs for each Member State, as some are involved in very few TAC decisions (and very small quantities). The table is then split by those Member States with at least five deep-sea TACs and those with fewer than five. This is important to not overattribute the results from a small number of decisions for a minor party.

Spain tops the league table with 60% of its TACs above scientific advice – equal to over 1,600 tonnes. This is largely due to roundnose grenadier 8, 9, 10, 12, and 14, and red seabream 6, 7, and 8. The other Member States also set a large amount of excess TAC for 2019 and 2020, particularly Latvia, Germany, and Poland (Figure 1).

The number of TACs set above scientific advice decreased from the 2017–2018 deep-sea TACs, but their percentage remains high at around 70% (Figure 2). Moreover, the absolute reduction in excess TACs cannot be interpreted as progress towards sustainable fisheries management because six TACs were removed, as discussed later.

FIGURE 1. EXCESS TAC IN THE DEEP SEA BY EU MEMBER STATE.



The full ICES and Council dataset used for the analysis in this briefing is available online on the New Economics Foundation website for download and further analysis.[10]

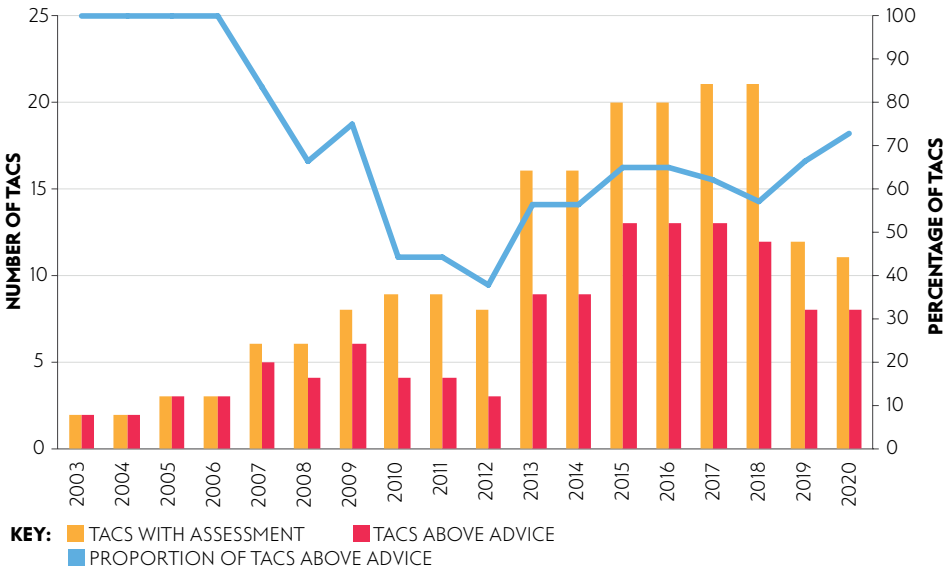
TAC REMOVAL

In addition to setting TACs for five deep-sea species, the Council of Ministers decided to remove six TACs from three species entirely: all four greater forkbeard TACs, roundnose grenadier in the North Sea, and black scabbardfish in the North Sea and Skagerrak. Scientific advice was commissioned on the risk of overexploitation from TAC removal, but as with TAC setting, the decision reached by the Council did not align with the advice in all cases (Annex 2). The ICES advice on TAC removal for deep-sea species concluded that roundnose grenadier 1, 2, and 4 is the only stock for which TAC removal would pose no risk of overexploitation. Greater forkbeard 5, 6, 7, 8, and 9 was estimated to have a low risk of overexploitation and no advice was produced on TAC removal for black scabbardfish 1, 2, 3, and 4 or greater forkbeard 1-4, 10, 12, 14 and yet nevertheless TACs were still removed.

In recent years, greater forkbeard 5, 6, 7, 8, and 9 has been set above scientific advice and is allocated to Spain, France, and Ireland. Black scabbardfish 1, 2, 3, and 4, which is allocated to Portugal and France, was also set above scientific advice for the 2015–2016 TACs.

Deep-sea ecosystems are extremely vulnerable to human exploitation. Therefore, removing TACs without at least introducing alternative management systems makes it unlikely that the CFP requirements of achieving MSY for all species by 2020 can realistically be achieved. Moreover, even where replaced by alternative management systems such as effort management, the process of TAC removal makes it more difficult to shed light on the already opaque process of how fishing limits for the EU are decided. No documents were published to explain the basis on which the Council made its decision.

FIGURE 2. NUMBER OF TACS ABOVE ICES ADVICE.



DISCUSSION

There are several issues related to the deep-sea TAC negotiations that are worth describing in detail.

The vulnerable nature of deep-sea species

Deep-sea species are generally slow-growing and late-maturing with a low reproductive rate. Therefore, they are particularly vulnerable to overfishing, especially where scientific information is limited. For years, marine biologists have used a general guideline: "We shouldn't eat fish that are as old as our grandmothers."[11]

Some particularly troubling aspects of this round of TACs is that a limit of seven tonnes has been set in three areas for deep-sea sharks. This is even though ICES advice was for a continued moratorium on the fishery and that several of the deep-sea shark species are listed as endangered or critically endangered by the International Union for Conservation of Nature (IUCN). These endangered species are now at increased risk of bycatch in non-selective fisheries.

Socio-economic evidence

That TACs should be set in line with scientific advice is clear from the text of the CFP. Article 2 states: "The maximum sustainable yield exploitation rate shall be achieved by 2015 where possible and, on a progressive and incremental basis at the least by 2020 for all stocks."[12] Delays to MSY past 2015 should only be allowed "if achieving the exploitation rates by 2015 would seriously jeopardise the social and economic sustainability of the fishing fleets involved" (Recital 7).[13]

While the scope of the analysis conducted here is to find where scientific advice has not been followed, there is the possibility that some of these increases can be justified for socio-economic reasons, as is apparent from the comments from fisheries ministers. To date, however, the Council has produced no evidence documenting socio-economic necessity in support of its decisions, and the 2019–2020 deep-sea TACs were no exception.

However, not only is the legal burden of proof with the Council if scientific advice is to be exceeded, so is the economic one. Studies of fish stock recovery pathways show that the faster the transition to sustainable fishing the better, as the net present value is higher the greater the number of years spent producing MSY.[14,15] Greater benefits have also been found from fishing in the lower end of fishing mortality ranges compared to the upper end.[16,17,18]

Limits vs catches

The amount of fish caught is rarely the entirety of the agreed TAC. For economic and biological reasons, TAC usage may be less than 100%, whereas illegal, unreported, and unregulated fishing may push fishing pressure above the agreed limit. Rather than analysing fishing pressure, this series of briefings specifically analyses the policy intent of the Council of Ministers.

Similarly, input controls to fishers (seasonal closures, days at sea) should be seen as complementing effective output control through TACs, not as a substitute. In a joint statement on the agreed TACs, the French and Spanish delegations committed to "implement coordinated national plans necessary for rebuilding the stock of red seabream in 6, 7, 8 through measures [aimed at protecting juveniles]," [19] yet the respective TAC was set at 100% above ICES advice (France and Spain hold a combined 85% of TAC for this fishery).

A lack of transparency in Council meetings

Under Article 3 of the reformed CFP, 'transparency' is mentioned as one of the CFP's principles of good governance, yet the secretive

negotiations in setting TACs and poor data availability undermine this principle and make the process less open to scrutiny. This study is therefore also limited in what it can achieve, as data shortages prevent a comprehensive analysis. Member States that top the league table for excess TAC should therefore be major advocates of increased transparency, if judging performance by outcomes is insufficient.

Last year, an investigation by the Corporate Europe Observatory revealed that some fishing industry lobbyists have used press passes to access the EU Council building during crucial ministerial negotiations on TAC setting.[20] Perhaps not surprisingly, the fishing industry lobbyists were representing fleets from Member States near the top of the *Landing the Blame* league table for the Northeast Atlantic TACs (Spain and the Netherlands).[21] With the lack of transparency around the Council meetings, it cannot be said whether this practice has continued.

A lack of transparency in TAC determination from ICES advice

Mirroring the difficulties with transparency around the Council negotiations is the issue of how the TACs were determined. Ideally, this exercise of comparing ICES advice and TACs should be a straightforward process that can be easily scrutinised. This is possible with the right request to ICES, but is currently far from what is practised. Matching ICES and TAC zones is also a perennial issue that could and should be resolved. [22]

All of these required inputs for determining TACs from ICES advice should be made publicly available in the interests of transparency and access to information by any stakeholder. This is the only way for civil society to properly hold representatives to account.

WILL WE MEET THE 2020 DEADLINE TO END OVERFISHING?

As deep-sea TACs are set biannually, the limits agreed by this year's November Council will apply through to the CFP's 2020 deadline, after which fishing all stocks at MSY will be a legal requirement. It is questionable how this milestone can be reached given that over two-thirds of deep-sea TACs were set above scientific advice, and that three TACs were removed altogether, effectively removing all output controls on these fisheries. This constitutes bad environmental policy with adverse economic effects and a risk to the credibility of EU policy in fisheries and beyond.[23]

As a result, if the 2020 goal is to be achieved for all fisheries, it will be despite and not because of the deep-sea TACs analysed in this briefing. This analysis will be replicated after the North Atlantic Council meeting to identify which Member States are delaying the transition to sustainable fisheries in the EU. It points to a clear need for improved stock assessment, which would enable ICES to give more detailed advice and monitor MSY status rather than relying on a precautionary approach.

ANNEX 1: TACS AND ICES ADVICE

2019

DEEP-SEA TACS COMPARED TO SCIENTIFIC ADVICE — 2019			EXCESS TACS BY MEMBER STATE												
Fish stock (ICES fishing zone)	Scientific advice (EU share)	TAC agreed by Council	Excess TAC	Denmark	Estonia	France	Germany	Ireland	Latvia	Lithuania	Poland	Portugal	Spain	Sweden	United Kingdom	Unallocated
Alfonsinos (3, 4, 5, 6, 7, 8, 9, 10, 12, and 14)	224	252	28	0	0	2	0	1	0	0	0	18	6	0	1	0
Black scabbardfish (5, 6, 7, and 12)	2,812	2,470	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Black scabbardfish (8, 9, and 10)	2,735	2,832	97	0	0	1	0	0	0	0	0	96	0	0	0	0
Deep-sea sharks (5, 6, 7, 8, and 9)	0	7	7	0	0	3	0	0	0	0	0	1	1	0	2	0
Deep-sea sharks (10)	0	7	7	0	0	0	0	0	0	0	0	7	0	0	0	0
Deep-sea sharks (CECAF 34.1.1, 34.1.2, and 34.2)	0	7	7	0	0	0	0	0	0	0	0	0	0	0	0	7
Red seabream (6, 7, and 8)	0	117	117	0	0	5	0	4	0	0	0	0	94	0	12	4
Red seabream (9)	149	149	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Red seabream (10)	576	576	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Roundnose grenadier (3)	0	50	50	47	0	0	0	0	0	0	0	0	0	2	0	0
Roundnose grenadier (5b, 6, and 7)	3,394	2,558	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Roundnose grenadier (8, 9, 10, 12, and 14)	1,294	2,281	987	0	0	32	7	1	11	1	222	0	709	0	3	0
Total	**11,184**	**11,306**	**1,300**	**47**	**0**	**42**	**7**	**6**	**11**	**1**	**222**	**122**	**810**	**2**	**17**	**11**

2020

DEEP-SEA TACS COMPARED TO SCIENTIFIC ADVICE — 2020			EXCESS TACS BY MEMBER STATE												
Fish stock (ICES fishing zone)	Scientific advice (EU share)	TAC agreed by Council	Excess TAC	Denmark	Estonia	France	Germany	Ireland	Latvia	Lithuania	Poland	Portugal	Spain	Sweden	United Kingdom	Unallocated
Alfonsinos (3, 4, 5, 6, 7, 8, 9, 10, 12, and 14)	224	252	28	0	0	2	0	1	0	0	0	18	6	0	1	0
Black scabbardfish (5, 6, 7, and 12)	2,812	2,470	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Black scabbardfish (8, 9, and 10)	2,735	2,832	97	0	0	1	0	0	0	0	0	96	0	0	0	0
Deep-sea sharks (5, 6, 7, 8, and 9)	0	7	7	0	0	3	0	0	0	0	0	1	1	0	2	0
Deep-sea sharks (10)	0	7	7	0	0	0	0	0	0	0	0	7	0	0	0	0
Deep-sea sharks (CECAF 34.1.1, 34.1.2, and 34.2)	0	7	7	0	0	0	0	0	0	0	0	0	0	0	0	7
Red seabream (6, 7, and 8)	0	105	105	0	0	4	0	3	0	0	0	0	84	0	11	3
Red seabream (9)	149	149	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Roundnose grenadier (3)	0	50	50	47	0	0	0	0	0	0	0	0	0	2	0	0
Roundnose grenadier (5b, 6, and 7)	3,394	2,558	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Roundnose grenadier (8, 9, 10, 12, and 14)	1,294	2,281	987	0	0	32	7	1	11	1	222	0	709	0	3	0
Total	**10,608**	**10,718**	**1,288**	**47**	**0**	**42**	**7**	**6**	**11**	**1**	**222**	**122**	**801**	**2**	**16**	**10**

ANNEX 2: ICES ADVICE AND COUNCIL DECISION ON TAC REMOVAL

SPECIES	ICES STOCKS	EU TAC AREAS	ICES ESTIMATED RISK* OF OVEREXPLOITATION IN CASE OF TAC REMOVAL[24]	COUNCIL DECISION[25]
Alfonsinos	1–10, 12, 14	3–10, 12, 14	High risk	No change
Deep-sea sharks	1–10, 12, 14	5, 6, 7, 8, 9	High risk	No change
Red seabream	6, 7, 8	6, 7, 8	High risk	No change
Roundnose grenadier	3.a	3.a	High risk	No change
Roundnose grenadier	5.a.1., 10.b, 12.a.1, 12.c, 14.b.1	8, 9, 10, 12, 14	High risk	No change
Greater forkbeard	1–10, 12, 14	5, 6, 7, 8, 9	Low risk	TAC removed
Greater forkbeard	1–10, 12, 14	1,2,3,4,10,12,14	No risk assessment provided	TAC removed
Roundnose grenadier	1, 2, 4, 5.a.2, 8, 9, 14.a, 14.b.2	1, 2, 4	No risk	TAC removed
Black scabbardfish	1, 2, 3.a, 4, 5.a, 10, 14	1, 2, 3, 4	No risk assessment provided	TAC removed

* ICES used a qualitative methodology to assess risk for each fishery based on (i) the vulnerability of the stock, (ii) knowledge gaps (iii) potential reaction of the fishery to the removal of TAC and (iv) potential alternative management measures.

ENDNOTES

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