



## Position Paper on the Implementation of Real Time Closures

March 2011

### 1. Background

- 1.1 The NSRAC broadly supports Real Time Closures. They are responsive measures that when well designed and implemented can contribute to an improved exploitation pattern and a reduction in fishing mortality. However, it has become evident to the NSRAC that there is confusion over the way Real Time Closures (RTCs) have been applied. There are a now several mechanisms under which RTCs may be imposed in the North Sea. Some closures are established to protect juvenile fish, including cod. Others are established to protect mature cod. Some closures are made under European regulations in accordance with the EU/Norway agreement; Member States and parts of Member States make others. Some closures are binding on vessels from all Member States; others are binding only upon the vessels of the Member States establishing the closures. Some are rewarded through exemptions from days-at-sea restrictions; others are not.
- 1.2 A briefing paper was prepared in 2010 on Real Time Closures of Fisheries for the European Parliament by the Directorate General for Internal Policies of the EU. This document is available on the Internet at: <http://www.europarl.europa.eu/studies>. The paper concludes that RTCs represent a dynamic and responsive tool which fisheries managers can use to protect spatially and temporally variable resources.
- 1.3 The NSRAC convened a focus group to consider the implementation of RTCs; both to clear up confusion and to agree a NSRAC viewpoint. The focus group met on the 21<sup>st</sup> October 2010 in Aberdeen. The resultant report was considered at the NSRAC Demersal Working Group, which met in November 2010 in Brussels and again at the Demersal Working Group in February 2011 in Edinburgh. The NSRAC now issues this Position Paper, which sets out its considered views for the Commission, Member States and Norway.
- 1.4 This paper summarises the circumstances under which RTCs may be imposed. It then goes on to make a number of points concerning the current arrangements for RTCs. Finally it presents the conclusions arrived at by the NSRAC.

## **2. European RTCs**

- 2.1 The RTC system currently operating within the EU was implemented as a result of an EU/Norway agreement in July 2009. It had been intended to come into force in September 2009. In the event the rules had not been transposed into EU legislation until September 2010 (through EU Regulation 724/2010).
- 2.2 The EU/Norway RTCs applying in the North Sea and the Skagerrak are intended to protect juvenile fish. The regulation applies to four species; cod, saithe, haddock and whiting. Closures are triggered by a catch of more than 15% by weight of the total of the four species below Minimum Landing Size taken from a 200 kg sample. If more than 75% of the fish caught in a haul are cod then the trigger level is reduced to 10% by weight. The closures are triggered by a single haul. Samples are only taken when it is estimated that the total haul exceeds 300 kg. The closures applied to trawlers, regardless of mesh size. Pelagic vessels and those fishing pots, scallop dredges, jiggers and gill nets are exempt. The closures last for 21 days and are for areas of 50 nm<sup>2</sup>, defined by 4, 5 or 6 vertices. Closures enter into force 12 hours after their definition by Member States.
- 2.3 At the original EU/Norway negotiations it had been decided that the RTC measures should be re-evaluated one year later; in September 2010. That evaluation is currently under way. The review is premature, as RTCs were only fully implemented in European law in September 2010. There has not yet been sufficient time to fully evaluate the operation of the regulations.

## **3. Member State RTCs**

- 3.1 Member State RTCs are still evolving. The NSRAC has looked closely at the Scottish system of closures operated by Marine Scotland. These closures have been introduced under Article 13.2c of the Cod Recovery Plan (CRP) where additional days at sea are provided in return for effective conservation measures. The Scottish RTCs have been introduced to save mature cod under the 'Conservation Credits' scheme. They started in September 2008 and continued, with some modifications, in 2009. The closure plan had been put before STECF and had enabled a 12% "buyback" of effort in 2009. This had been raised to 20% in 2010.
- 3.2 The Scottish areas are 56 nm<sup>2</sup>, and they last for 21 days and are then automatically re-opened. There may be 12 at any one time. They can be changed in shape using up to 6 vertices to define their contours. The closures are triggered by direct sampling of catches, or calculations of LPUE (landings per unit effort) based on Vessel Monitoring System (VMS) data and landings declarations. In 2009 there were 157 closures in total. There had been fears that vessels would continue to fish close by, or return to these areas when they were re-opened. In practice VMS data have shown that vessels remain away from the RTC areas and adopt other measures to avoid catching cod. Thus, although the existence of a closed area may not reduce

fishing mortality *per se* it encourages fishers to adjust fishing patterns and increase selectivity to avoid catching cod. A reduction in fishing mortality upon cod may be the end result.

- 3.3 The mechanism for declaring an RTC requires that a Relative Cod Importance Index be monitored. When the index becomes high the vessel moves away from the area or adopts selectivity measures to avoid catching cod and so lower the index. A steering group runs the scheme and was responsible for justifying the increase in buy-back in 2010. To maximise benefits for cod the size of the areas was increased to 15 X 15 nm (225nm<sup>2</sup>). They are only placed within the 12 nm limits in exceptional circumstances. A website provides information on where the areas are and when they will re-open. Compliance is monitored using VMS data and transgressions handled through penalties (deduction in days at sea).
- 3.4 England has been operating its own RTC scheme for cod, organised by the Marine Management Organisation. The closures are intended to protect spawning aggregations of mature cod (over 50 cm in length) and reduce cod mortality.
- 3.5 Member State closure schemes imposed under the Cod Recovery Plan apply only to their own vessels. Fishers from other Member States are encouraged to observe RTCs but do not have to comply; although some of them do. They comply despite their failing to obtain rewards similar to those obtained by vessels from the Member State imposing the RTCs. In other cases vessels from other Member States do not comply.

#### **4. Observations on RTCs**

- 4.1 There has been little, if any, involvement of scientists in establishing the RTC rules agreed with Norway. Neither the EU nor Norway consulted ICES on their plans.
- 4.2 Dutch fishers have asked IMARES to evaluate the efficacy of seasonal closures to protect cod. The scientists expressed real doubts about the efficacy of closures to protect adult cod. They pointed out that such closures could simply result in effort being displaced elsewhere. Declaring an RTC does not guarantee a reduction in fishing mortality. The same number of cod might be caught; but in adjacent areas. It is therefore important that any closures should be implemented in a way that will avoid displacement of fishing to nearby areas.
- 4.3 There is no doubt that moving away from areas where juveniles are aggregated is a good thing. The value of such closures of nursery area has been supported by many scientific studies. In particular, such closures protect yields by allowing young fish to grow.
- 4.4 There are also merits in protecting spawning concentrations of fish, where the fish are gathered at very high densities for short periods.
- 4.5 The current arrangements for RTCs need to be evaluated in terms of the contribution they make towards reducing fishing mortality and reducing discards. How do they

compare with other measures, including selective fishing gears, in terms of protecting juveniles and increasing yields? Currently we have little information on their efficacy.

- 4.6 The European RTC measures and EU Regulation 724/2010 were adopted without any discussion with stakeholders. The regulation was implemented without being referred to the NSRAC for advice, and, as we have seen, without assessment of the impact or efficacy of the measures.
- 4.7 It can be argued that vessels that do not catch juvenile fish should not be subject to RTCs aimed at protecting juveniles. There should be exemptions for vessels that have adopted larger mesh nets if they can demonstrate that they do not catch young fish. There are already derogations for some vessels from European juvenile closures. There is currently a risk of fishers using large meshes being prevented from fishing in an area as a result of a single haul taken by a vessel using a small mesh net. This is unfair. Incentives should be given to fishermen to encourage them to use larger mesh sizes (120 or 130 mm) by allowing them to continue to fish. This is especially important for the saithe fisheries.
- 4.8 Similarly, there is no reason why vessels that do not catch large cod should be subject to closures aimed at protecting mature cod. There are legitimate small mesh fisheries of major economic importance which can demonstrate that they do not catch cod but which nevertheless are affected by the RTCs imposed to protect mature cod. Vessels that can demonstrate clearly they are not catching cod should be exempt from both RTCs and effort controls.
- 4.9 If RTCs are to have any value then they should apply to all vessels that catch cod. There is no justification in terms of effects upon stocks for imposing a closure on vessels from one Member State while allowing similar vessels from other Member States or Norway to continue to fish in that area – especially if they are targeting the same stocks (for example saithe). However, it would not be appropriate for one Member State to introduce RTCs and expect fishers from all Member States to conform to them without being consulted.
- 4.10 There is a case for moving away from National schemes for RTCs towards a universal North Sea approach. Certainly there should be agreement over the rules that a particular Member State intends to apply if others will be affected. There is also concern that the rewards from the current national RTC schemes apply only to vessels from that particular Member State. If vessels from other member States are being expected to observe the closures then it is fair that they should receive similar rewards.
- 4.11 The definition of RTCs must include sufficient 'points' to allow areas to be shaped to avoid the inclusion of areas where cod and other named species are not present. For example, they should be able to be shaped to avoid the inclusion of deep waters.

## 5. Conclusions of the NSRAC with respect to RTCs

- 5.1 The NSRAC recognises that RTCs can play an important role in management. They provide an important tool in the fisheries management toolbox. Where there is a need to protect aggregations of fish from over-exploitation RTCs provide an especially useful measure. There are essentially two ways that the closures can contribute; firstly they can avoid discards and increase yields by protecting juveniles; secondly they can protect spawning fish during a vulnerable stage in their lives and perhaps also reduce fishing mortality on adult fish.
- 5.2 However, as a matter of principle, stakeholders should be involved in any discussions on policy with respect to RTCs to ensure that procedures are carefully designed and sensitive to fishers' requirements. The Commission and Member States should consult the NSRAC over the rules to be applied to RTCs. In addition Member States introducing their own systems of RTCs should consult not only their own fishers but also fishers from other Member States.
- 5.3 The NSRAC appreciates that it is difficult to evaluate the efficacy of RTCs, especially if as at present there are at least two different RTCs schemes designed for different purposes. Some are designed to reduce discards and improve yield by avoiding the capture of juveniles. Others are designed to avoid spawning concentrations of mature cod and to reduce fishing mortality on cod by encouraging cod avoidance. There should be scope for scientists to evaluate the success or otherwise of RTCs.
- 5.4 Such an evaluation should be a prerequisite for any change to the current EU RTC regime. It is understood that an EU/Norway/Faeroe Control Group of Experts has been tasked with reviewing the current scheme from the point of view of control and enforcement. There is also to be an ICES Study Group on RTCs in 2011. However, there needs to be a full scientific evaluation of the efficacy of the European scheme before it is developed further.
- 5.5 RTCs have the support of the NSRAC if they are well designed, targeted and free from discrimination. There are concerns, however, that the current arrangements are in some respects unfair and discriminatory. In relation to European closures to protect juveniles, fishers are concerned that vessels using large mesh nets, and which do not catch juveniles, are nevertheless expected to observe the closures. Member State RTCs intended to protect cod are affecting legitimate small mesh fisheries that do not catch cod.
- 5.6 In relation to Member State RTCs, we should be aiming for a common set of rules that the fishing industry can support and subscribe to. There is currently confusion over the different RTC schemes that are operating. There must be better communication with the NSRAC by the Commission and Member States over the planning and implementation of RTC measures.
- 5.7 The NSRAC considers that the actual benefits of RTCs should be examined through a directed research project. The NSRAC will raise this issue at the ICES Study group on RTCs to be held next year, but it would like the Commission to take note now that funding is required for such a project.

- 5.8 However, scientific research will not resolve the governance and legitimacy issues arising from the introduction of RTCs. The NSRAC accepts that it is perfectly legitimate for Member States to take their own steps to protect cod stocks through RTC schemes, provided they have been evaluated by STECF. The NSRAC supports measures that result in their fishers receiving rewards for behaving responsibly, as they currently do under the terms of the Cod Recovery Plan. However, those outside those Member States whose fishers benefit do not always understand the legitimacy and purpose of these national schemes. If they are expected to observe these RTCs they expect to be consulted about them. In some cases they might like to participate themselves, both to achieve conservation objectives and to receive benefits from doing so. The NSRAC considers it is perfectly possible for fishing vessels of one Member State to accept, adopt and participate in an RTC scheme devised by another Member State and for their fishers to acquire similar benefits in return for conforming to the closures.
- 5.9 There are already derogations from the RTC regulations for some gear types that do not catch cod (e.g. scallop dredges and pots). There is a case to be made for providing derogations for other gear types where it can be demonstrated that they do not catch juveniles or do not exploit cod. The NSRAC accepts that evidence must be provided to support such derogations.
- 5.10 Finally, further and more restrictive European RTC measures must not be applied in the North Sea until current European RTC measures have been fully evaluated and their benefits demonstrated. There is a need to evaluate the efficacy, assess the impact, and consider the effects of any changes to current European measures for RTCs.