



Position Paper on the Review of the EU Long-term Management Plan for Cod

April 2011

Draft

1. Introduction

- 1.1 The ICES/STECF Joint Scoping Meeting in Copenhagen in February/March 2011 set out terms for the review of a number of long-term management plans, including the EU Long-term Management Plan for Cod. (EC 1342/2008). Evaluation of the cod plan would be backward looking, in that it would examine how the plan had performed to date in achieving its objectives. The final report could be expected to be influential in shaping future cod recovery measures in the areas currently within the recovery zone (North Sea, Kattegat, Eastern Channel, West of Scotland and Irish Sea). The NSRAC and other stakeholders:

Contributed to the discussions at the Copenhagen meeting

Were invited to prepare and submit a report on the performance of the Cod Management Plan that would be included as an annex to the ICES/STECF report

Were invited to nominate a topic and (STECF funded) expert to investigate any aspect of the Cod Plan of particular interest to stakeholders.

This Position Paper summarises the considered views of the North Sea Regional Advisory Council on the Cod Management Plan.

- 1.2 Broadly speaking, the Cod Management Plan does not appear to have performed as well as anticipated by its architects. In summary, the Cod Plan has been diverse in its effects but without apparently achieving its objective of achieving a low level of fishing mortality for cod.

Some vessels face serious economic pressures directly as a result of the provisions of the plan.

Others have already been removed from the fleet directly or indirectly as a result of the plan.

Many vessels have redirected their effort to other fisheries, where cod are less likely to be caught, but have found that their abilities to fish for those other species impaired by the provisions of the plan.

Some vessels have not been able to fish their quota and as a consequence use their historical fishing rights because of the plan.

Some vessels would like to improve the selectivity of their fishing gears for species like plaice, but are prevented from doing so by the plan.

Other vessels are still largely dependent on catching cod, haddock and other demersal species and have adopted stringent and costly procedures to validate their catches and demonstrate conformity with the plan.

The Cod Recovery Plan, with both TAC provisions and days at sea restrictions, has reduced fishing opportunities for many fishers, and has also increased their costs but without achieving the overall reduction in fishing mortality considered necessary for rebuilding the cod stocks.

In some cases the plan has promoted discarding. The NSRAC shares the ambition of the Commissioner to curb large scale discards that waste the resource and disfigure the reputation of the fishing industry and the Common Fisheries Policy. However, heavy-handed top-down controls, like the discard ban that has been proposed, may produce arresting headlines but rarely translate into positive results at sea. Substantial progress has been made by fishers in many countries in reducing discards through initiatives of their own. We have drawn the Commission's attention to these developments on several occasions and have sought support for taking them forward. That support has not so far been received. We have also drawn attention to discarding that arises from the regulations themselves, including catch composition rules and inappropriate minimum landing sizes. We are hoping that reforms to the CFP will sweep away these perverse effects.

- 1.3 The varied impact of the Cod Management Plan on different Member States and fleet segments is seen at its most intense in relation to the plan's provisions on effort control. In some Member States, and in some fleet segments, the impact of effort reductions has been minimal. In others, the impact in terms of fewer days at sea has been severe. The division between fleets and the lack of flexibility of the effort regime has been a major constraint upon those fishers seeking varied fishing opportunities. Moreover, the most severe restrictions have not necessarily been on those vessels contributing most to cod mortality. Some countries have found it difficult to gain exemptions from the plan under article 11 for vessels that do not catch cod. Some have adopted cod avoidance measures but have found it difficult to obtain additional days at sea under the provisions of Article 13. The NSRAC has attempted to illustrate these differences in impact through the preparation of a series of case studies of the impact of the plan on different vessels. The paper collating these case studies is attached as an annexe to this Position Paper. The information is intended to complement information on the economic and social impacts of the plan being provided by Member States, and to inform the analysis of impact being carried out by the ICES/STECF WG.

1.4 The NSRAC will present its comments on the Cod Recovery Plan under five headings:

1. Design of the plan
2. Implementation of the plan
3. TAC setting and discards
4. Cod avoidance.
5. Fishers' responses to the plan

2. Design of the plan

2.1 The basis of the Commission's original Cod Recovery Plan (2003-2007) was the view that restrictive TACs had failed to prevent an increase in fishing mortality and halt the decline in cod stocks. Blame for this failure was mainly levelled at high levels of unreported landings and discards. From 2003 onwards TAC and quota limitations were complemented by effort control in the form of days at sea limitations applied to various gear categories in a cod recovery zone. However, the Commission quickly concluded that this approach was too complex. It had generated pressure for derogations that had undermined the purpose of the plan to the extent that it was questionable whether the measures had been sufficient to bring about cod recovery. The plan had failed.

2.2 New legislation establishing a long-term plan for cod stocks in the form of a new Cod Management Plan (EC 1342/2008) was therefore adopted in November 2008. It covered four cod stocks: cod in the North Sea, Skagerrak and Eastern Channel, cod in the Kattegat, cod to the west of Scotland, and cod in the Irish Sea. The new plan was intended to set TACs and effort limits according to predefined rules in response to the latest scientific advice.

2.3 Despite its name, the second phase of the Cod Management Plan was not designed as a coherent plan. There had been inadequate consultation with ICES scientists and stakeholders before the plan was introduced. Specifically there had been no formal impact assessment. This lack of planning led to a number of unforeseen consequences. Effort reductions were bolted on to a system of restrictive TACs without anticipating what the effects might be. The second plan has it has been less successful than hoped; cod biomass has increased, but fishing mortality upon cod has not fallen to the extent that was planned.

2.4 The lack of attention by the Commission to stakeholders' advice on cod recovery was especially disappointing to the NSRAC. The joint NSRAC/NWWRAC Symposium on Cod Recovery had raised important issues, and had pointed to the pitfalls of introducing unproven measures. It had emphasised the need for incentives to achieve cod avoidance. However, the first Plan was based on setting a target biomass – despite advice from the NSRAC that this was inappropriate. The second phase of the plan had adopted a target fishing mortality – as the NSRAC had originally suggested - but effort controls were then added on.

- 2.5 Baselines for member states allocations of effort (Kw days) were related to a recent reference period irrespective of whether Member States had undertaken capacity reduction through decommissioning schemes or other means, and irrespective of changes in fishing strategy and quota evolution between geographic areas (mainly between the North Sea and West of Scotland). This created a lottery effect from the outset, which has meant that effort control has been experienced very differently in those member states who happened to undertake decommissioning and other measures within the reference period compared to those who had been a little previous and reduced their effort levels earlier. There was also an attempt to apply the plan over an unrealistic timeframe; over which period recovery to the interim target levels were unlikely. In particular, TACs were set by the EU and Norway at the lower end of the ICES catch options leading to high levels of discards that undermined any progress made in reducing fishing mortality. Assumptions were made on what effort controls could achieve in terms of reducing fishing mortality, notably a close correlation between fishing effort and fishing mortality was assumed. Those assumptions have proved to be wrong.
- 2.6 The design of the effort regime has become one of the main issues in the cod recovery plan. It has been designed in order to cover almost all fishing gears (and all demersal fisheries), regardless of the protection required for cod. This means that the plan is not related just to cod, as is intended. The plan has a wide impact on other fishing activities. It is also difficult for fishers to accept that this highly restrictive plan applies only to European vessels. The plan does not apply to Norway, whose fishing vessels also contribute to cod mortality. Furthermore, the definition of the effort groups at a European level leads to the application of effort reduction to a wide range of fishing gears that do not contribute at all to cod mortality. Different levels of implementation of these measures compound the lack of coherence of the effort regime. Finally, the rigidity of the system, the division of the fleet into inflexible segments, and the inherent lack of flexibility limits the capacity of the fleet to change its behaviour (in terms of improving selectivity, transfer to different target species etc.) in order to avoid cod.
- 2.7 Taken as a whole, those recovery measures that have contributed most to cod recovery have been the strengthened landing controls and provisions for capacity reduction. The measures that have been least successful have been effort control, ultra-restrictive TACs and technical measures, (the latter according to STECF having to a large extent been undermined by the design of the effort regime). The jury is still out on incentivised cod avoidance, partly because of difficulties in assessing their contribution but also partly because of rigidities in the provisions of the Cod Management Plan that have obstructed the full implementation of this approach.

3. Implementation of the plan

- 3.1 Under the original Cod Recovery Plan, harvest control rules required that the TAC each year be fixed at a level that would result in a 30% increase in spawning biomass (SSB), until the precautionary level (BPA) was achieved. That was the level of biomass that scientists consider to be a safe level to avoid stock depletion. However, the resulting TAC was constrained to be within 15% of the previous year's TAC, provided

that the stock biomass was above the level that gave a high risk of stock collapse (B_{LIM}). If the stock fell below B_{LIM} , more stringent TACs would be fixed. An additional and important component of the cod recovery plan required that the effort of fishing vessels fishing for cod should be adjusted in line with the required changes in fishing mortality.

- 3.2 During the first phase of the plan (2003-2008), reductions in fishing effort were primarily focused on the part of the fleet that caught most cod; defined as that part of the fleet using mesh size over 100mm. As an unforeseen consequence there was a massive transfer of effort from gears traditionally targeting cod (demersal trawls > 100 mm mesh size) to smaller mesh trawls (using mesh sizes between 70/99mm). There was a perverse incentive for fishers to move away from gears that traditionally targeted cod, and which were to be subject to the biggest reductions in effort, towards smaller mesh gears where cod was taken as a by-catch. Because of this transfer, the resultant reduction in fishing mortality was insignificant.
- 3.3 The new cod recovery plan, put forward in April 2008, placed more emphasis on effort limitation. A simplification of the fishing effort management system was proposed, giving Member States more responsibility for allocating effort, together with a more flexible approach in adapting the rate of reduction in fishing mortality to different stages of recovery. Member States were allocated a kilowatt days 'pot' for each gear category in each sea area but, significantly, a Member State could 'buy back' days at sea for its fleets through various measures. Exemption from effort controls was possible for vessels that did not catch cod. The new arrangements came into force early in 2009.
- 3.4 In terms of implementation of the plan, there have been different approaches by different Member States. Contrary to claims by the Commission, the plan has not been easy to implement and it has not provided a simple regime for reducing fishing mortality. The plan has shifted responsibility from the Commission to Member States, and has placed a very heavy burden on administrators and the fishing industry. Complex issues have arisen and have led to confusion. Dividing up effort between different vessels within the fleet has proved problematical. The development of a market for days has added complications. It has proved extraordinarily difficult to gain exemptions from the plan under Article 11 for vessels that do not catch cod. In particular, there is a lack of transparency over the criteria used to deliver exemption and over the data to be collected and any "guarantees" required to achieve exemption. A discrepancy in the delivery of exemption to part of a fleet in the same fishery (between Member States or with third countries that do not operate an effort regime) has created disparities in opportunities to market some species, including saithe, and has resulted in unfair competition. Moreover, it has proved difficult to award additional days at sea under Article 13 to those engaging in cod avoidance. Management has turned into a confusing numbers game governed by arcane and incomprehensible rules that have little or nothing to do with constraining fishing mortality.
- 3.5 The spawning stock biomass of North Sea cod is still below B_{LIM} but the stock is increasing, demonstrating that cod recovery is taking place. Fishing mortality lies between F_{LIM} and F_{PA} and there has been a downward trend in recent years. However, although the landings target for an F of 0.4 has been met, there has been considerable discarding on top of that. For every cod landed an additional cod has been discarded.

Poor recruitment of cod has persisted since 2005. Recovery will be maintained if $F_{0.4}$ can be met, but this has not been the case so far. Year on year reductions in fishing effort have failed to maintain the initial downward trend in fishing mortality on North Sea cod.

- 3.6 With low spawning stock biomass and poor recruitment the NSRAC recognises that it is necessary to adopt a precautionary approach. The Cod Recovery Plan is designed to deal with a maintained level of low recruitment. The plan's aim is to conserve young fish and take a bigger yield from the older fish and it is based on reaching the target fishing mortality of 0.4. The NSRAC accepts that $F_{0.4}$ is a sensible target, and is concerned that it is not being met because of discarding.
- 3.7 The NSRAC does not believe that the required reduction in F can be met by further reducing effort because of flaws in the design of the current system. Nor is reducing the TAC for cod the way ahead, as this will increase discards still further.

4. TAC setting and discards

- 4.1 The Cod Recovery Plan has created discards through the way it has been designed and implemented. The link between the plan, TAC setting, and the Technical Conservation Measures Regulation (which imposes catch composition rules) has created regulatory discarding. To meet the regulations, some fishers are forced to discard.
- 4.2 A particular problem at the moment is that North Sea quotas are not matched to fishing opportunities. The TAC has been set too low for the available stocks. With effort restrictions in place and as commercial operators under economic pressure fishers go out to catch what they can with the lowest achievable costs. Some sectors of the fleet wish to reduce the numbers of small cod they catch by increasing their mesh size. However, an increase is not possible because the Cod Recovery Plan uses mesh size as a means of defining different fleet sectors. Smaller mesh vessels cannot increase their mesh size to promote cod avoidance.
- 4.3 Unreported landings, formerly a problem in the North Sea, may now have been marginalised but there is still a major problem with the discarding of cod. Total removals of cod have not declined in the way the Cod Recovery Plan had intended. There is a hole in the plan; caused by discards. A vicious circle has been set up where effort has been cut and quotas increased but not sufficiently to reflect the abundance of cod on the fishing grounds. Cod are being caught which cannot be landed and this has led to an increase in discards leading in turn to further effort cuts, creating economic difficulties for vessels. The plan lacks an economic dimension. In many cases vessels have adequate quota for other species, but cannot fully take this quota and maintain their income because of the days at sea restrictions imposed under the cod recovery plan. Very diverse fleets, with considerable earning power from other species, are being prevented from operating effectively. Fishers now see all avenues to making a profit being closed and this has adverse implications for the fisheries management system as a whole.

4.4 Fishers and fishery managers originally welcomed the provisions for cod avoidance and discard reduction offered by plan. However, although some of these provisions have been well utilised, others have not. Article 13 ostensibly provides a mechanism for increasing effort allocations in return for conservation measures that reduce discarding and reduce fishing mortality. In practice, these opportunities have not been taken up; perhaps for two reasons:

- The text of the article is obscure and difficult to comprehend and the process of exchange is protracted. It takes a long time for STECF to evaluate the measures being taken
- The standard of proof required is set too high

Article 11 allows for vessels to achieve exemptions from the plan where cod catches make up less than 1.5% of the total catch of the group of vessels concerned. In practice it has proved impossible to obtain exemptions for a number of fleets that are known to catch few cod because of problems in providing sufficient data.

4.5 Greater focus must now be placed on reducing discards. The current plan is flawed in this respect. Effort control was supposed to limit the total removals of cod but has failed to do so. Effort has never been in balance with TACs and the assumed linear relationship between reductions in effort and reduction in fishing mortality does not seem to exist. Initial effort reductions, along with other accompanying measures, may have reduced fishing mortality but that is no longer the case. The simultaneous operation of both an input (days at sea) and an output (TAC) regime has created problems. Discarding of juvenile cod has now been supplemented by economic or regulatory discarding of quality fish with a market value.

4.6 Effort control is now a complex and elaborate encumbrance that contributes little or nothing to further reductions in fishing mortality. Effort levels are linked to one species only – the cod. Yet fleets depend on a range of other species for their income. Many fishers are now opposed to the continuation of a regime based on effort restrictions.

4.7 A solution now has to be found to unlocking two major obstacles:

- The automatic year-on-year reductions in permitted effort that increases the costs of fishing without delivering a reduction in fishing mortality
- The barriers that have prevented the flexibilities present in the plan that would allow wider cod avoidance from being implemented.

4.8 There is strong support within the NSRAC for a “land more and discard less” policy, and for fishers being provided with the incentives to enable them to achieve that aim. The NSRAC also believes that it is important to control removals rather than landings. Landing the quantities of fish now being discarded would make many fisheries more viable. The plan must be changed to encourage the landing of valuable fish. We are advocating a fishery- by-fishery, incentive-driven, results-based approach as part of a more participative system of management under the CFP.

5. Cod avoidance

5.1 Responsibility for reducing F essentially lies with the fishing vessels and their operators. This could be achieved by:

- Providing vessels with incentives to avoid catching excessive quantities of cod.
- Insisting that all the marketable sized cod that are caught should be landed.
- Obtaining accurate estimates of total removals, which would strengthen the stock assessments.
- Taking measures to avoid the capture of juvenile and unwanted cod.
- Providing a more straightforward means to achieve exemption from the effort regime for those vessels able to demonstrate low catches of cod would encourage active cod avoidance and would reduce the constraints that are currently imposed on fisheries that do not catch many cod.

As part of the process of instilling confidence in cod avoidance measures taken by fishers it would be necessary to prove that cod avoidance works – the Commission has always been sceptical of fishers' measures.

5.2 The NSRAC has compiled a list of examples of initiatives taken by fishers across Member States to reduce discarding and promote cod avoidance, and has produced a series of comments on the causes of discards and the ways in which discarding might be avoided...

5.3 Our overall aim is to reduce F to the target level. There would no longer be any reason to adopt measures over and above a legally observed TAC. Indeed, further effort restrictions could be taken off the agenda now if fishers were made responsible for recording accurately all cod removals. The full documentation of catches could also be used to gain exemption from the effort regime, as it provides the necessary guarantees. There would be no reason for reducing days at sea still further. Clearly there must be confidence that fishing mortality has been reduced. That can perhaps best be achieved by validating total removals. ICES is already geared up to allocate fishing mortality to different fleet sectors.

5.4 Pilot projects have already allowed us to assess the ability of catch-quota systems, real time closures and other measures to reduce discards, reduce stock mortality, and encourage fishermen to fish more selectively.

5.5 There will need to be discussions with Norway, which shares the North Sea cod stock, over any move towards recording total removals of cod. Although there is a nominal discard ban imposed on Norwegian vessels it is currently not possible to verify that their landings conform exactly to the catches. There is a margin of error. This issue might be addressed at the EU/Norway negotiations in relation to the review of the cod management plan due in 2011.

- 5.6 The NSRAC accepts that there must be a robust system for confirming that total removals of cod are accurately recorded. There are many options for achieving such surety, including:
- Remote electronic monitoring systems
 - Full observer programmes
 - Partial observer programmes with catch profiling
 - Verifiable vessel management plans
- 5.7 Provision for such changes could be included in an additional Article within the cod recovery plan encouraging vessels to move in the right direction. It would be for individual vessels to decide whether to take on the additional task of catch accountability in return for relief from the effort regime. Such changes, if implemented, would reflect some of the aspirations for reform of the CFP. It would be a move towards results-based management. It would implement an adaptive approach. The changes would represent a move away from a system of prescriptive management to one where industry took responsibility for its actions.

6. Fishers' response to the plan

- 6.1 Fishers within different sectors of the fishing industry, and within different Member States, have responded differently to the provisions of the Cod Recovery Plan. The NSRAC hopes that it has captured some of those differences in the annexe attached to this paper.
- 6.2 The annexe aims to bring the ICES/STECF WG up to date on what has happened within the different fisheries, and considers what also might also take place in those fisheries if the Cod Recovery Plan is extended into the future in its present form. The response of individual fishing companies has clearly differed. Some have moved into fisheries where the catch of cod is minimal. Others, including those engaged in mixed fisheries, have adopted cod avoidance measures. In some cases the response has been to adopt fishing strategies that impede cod recovery. The Cod Recovery Plan has therefore affected different vessels in different ways. In some cases the impact has been minimal; in other cases fishers have found it difficult to maintain economic viability.

7. The way forward

- 7.1 The NSRAC notes that a review of the cod management plan with Norway is scheduled for 2011 and that the economic impact assessment being carried out by ICES/STECF will be an essential part of that review from a Commission perspective.
- 7.2 The NSRAC is firmly opposed to any further effort reductions in the North Sea. Such reductions would further discourage fishers from entering into innovative management

arrangements and discourage them from behaving in a positive manner. The revised Cod Recovery Plan has failed to reduce fishing mortality in the way expected by the Commission, and its provisions should now be revised.

- 7.3 The NSRAC is willing to play a key role in advising the Commission on how the plan might be amended to achieve the objective of sustainable fisheries for cod and other species in the North Sea.