

North Sea Advisory Council



NSAC Advice Ref. 01-201516

Phasing of the Landing Obligation in 2017 and 2018

This advice paper was approved with full consensus by the NSAC Executive Committee via a written procedure on the 18th December, 2015.

1. Background

- 1.1 The Scheveningen Group has clearly stated that it aims at a progressive implementation of the landing obligation that allows time and flexibility for fishermen to adapt to the new regime. In 2015 the Group submitted to the European Commission a joint recommendation for a discard plan for the demersal fisheries in the North Sea for 2016. The plan included a table (Table B) setting out which fisheries would be covered by the plan in 2017, 2018 and 2019. Between 2017 and 2019 a number of regulated species mentioned in article 15.c (ii) are due to be phased in to the landing obligation.
- 1.2 In its Work Programme for the North Sea from October 2015 to August 2016 the Scheveningen Group has sought recommendations in writing from the NSAC regarding the phasing of the landing obligation. The Group has made it plain that the landing obligation is to be phased in using a fishery based approach. The Group, following consultation with the NSAC, has defined the different fisheries for the North Sea. The Group is now seeking advice from the NSAC on: *how to ease phasing in the landing obligation in 2017 and 2018, according to Table B of the joint recommendation for 2016, considering the thresholds and the relation with the cod recovery plan* (subsequently referred to in this advice as the cod plan).
- 1.3 Advice from the NSAC on easing phasing of the landing obligation is being sought by the end of December 2015. Advice has also been sought on a number of other issues, but the timescale for that is more extended. This paper deals only with advice on the phasing of the landing obligation.



2. Proposed Phasing in 2017 and 2018

2.1 The joint recommendation of the Scheveningen Group sets out a roadmap on phasing for the fisheries in the North Sea in Table B. The phasing proposals are based on their definitions of the different fisheries. For 2017 it is recommended that:

- For the TR1 and TR2 trawl fisheries, all whiting and cod are to be added (subject to the removal of the current cod plan).
- For the BT1 and BT2 trawl fisheries, all *Nephrops*, sole, haddock and whiting are to be added.
- For gill net fisheries, all *Nephrops*, haddock, whiting and cod are to be added.
- For hook and line fisheries, all *Nephrops*, sole, haddock, whiting and cod are to be added

For 2018 it is proposed that:

- Any bycatches of saithe and cod are to be added.
- Any bycatches of plaice are to be added.

For 2019 it is proposed that:

- Hake and all other regulated species are to be added.

3 NSAC Advice on Phasing

3.1 The NSAC emphasises that it will be difficult to provide definitive advice on phasing without better understanding of:

- The future of the cod plan, and especially the future of effort controls. The joint recommendation from the Scheveningen Group emphasises that: *the overall success of the landing obligation would be severely hampered by the continued existence of the Cod Recovery Plan. The continuing effort restrictions are forcing fishermen to fish in ways which maximise their catch by fishing in areas close to shore where there is high abundance of juvenile fish, or fishing in areas of heavily mixed fish, including cod, where they may not have quota for all the species they catch.* The ability of fishermen to roam to find the optimal species mix is also very much reduced.
- The problems raised by choke species, and how these can be managed. There are different reasons for fishermen having to cease operations before they have caught their main quota allocations:
 - A) Economic choking may occur when there is a considerable bycatch of a low value species and the boat is filled with fish that will not deliver a profit. This might happen for example with dab in the plaice and sole fisheries



B) Quota choking occurs when the quota for a stock is limited relative to the abundance and/or catchability of the species. The landing obligation will not allow the fishing operation to continue. There are 3 reasons for quota chokes, each requiring different management actions:

- i. A stock is genuinely depleted or in poor condition or has declined below biomass trigger levels;
- ii. A TAC is perceived to be inappropriate or has been chosen in the absence of clear scientific advice, perhaps because a stock is data limited, or there are problems with the assessments, or because of rapid and unexpected changes in abundance;
- iii. There is enough quota available overall but not in the area where the fish are being caught, either due to inappropriate distribution of quota (e.g. hake in the North Sea); or because of spatial variation in the abundance of subpopulations.

3.2 It is difficult for the NSAC to make recommendations on the phasing of particular additional species; especially without further information on the revision of the cod plan or knowledge of how the problems raised by choke species will be addressed. However, the NSAC accepts that it is desirable to avoid a 'big bang' in 2019, and that further species should be phased in, if possible, in 2017 and 2018. Any obstacles to achieving this should be addressed as a matter of priority.

3.3 The introduction of the landing obligation for the demersal fisheries of the North Sea in January 2016 will result in new experience being gained in mitigating the effects of chokes through the use of various flexibilities and by using the exemptions provided in Article 15 of the Regulation. The NSAC hopes this experience will be supported by incentives to provide improved gear selectivity and the adoption of avoidance measures, and also accompanied by improved quota management (e.g. by POs, national authorities, inter-MS quota swaps and transfers). However, finding solutions to the problems of choke species is intimately related to phasing. The obstacles created by the landing obligation will need to be dealt with progressively, informed by experience gained during 2016. Information is not available at this stage to be able to assess whether the application of flexibilities and exemptions, for example, will be enough to address the problem of chokes. These exemptions and flexibilities, if used incorrectly, have the potential to affect progress towards achieving Maximum Sustainable Yield (MSY). It is also unclear how the use of these exemptions and flexibilities will fit/work within the framework of Relative Stability.

4 Review of the cod plan

4.1 The strong focus of the Common Fisheries Policy in the North Sea on the recovery of cod stocks has placed significant constraints on vessels targeting a mixed catch in terms of effort limitations, restrictive gear categorisations and spatial restrictions in other fisheries. Phasing cod into the landing obligation whilst the problems created by the cod plan still exist may seriously restrict fishermen in their attempts to avoid



unwanted cod and in taking action to minimise their catch of other unwanted species. The joint recommendations of the Scheveningen Group already recognise that the measures imposed by the cod plan are: *counterproductive to the avoidance of unwanted catches of cod and across a range of species in the mixed fisheries of the North Sea and to the reduction in overall fishing mortality. For example, Article 17 of Regulation (EC) no 1342/2008 forces fishermen to continue to use small, less selective, gear as they are unable to acquire the days at sea to use larger, more selective gear to fish the same fishing pattern, which would help them avoid catching undersized fish and be beneficial to the stock, in their existing fisheries.*

- 4.2 On the 1st of December 2015 the European Court of Justice provided judgement on the legal action brought against the Council by the European Commission. In its judgement the court:
1. Annuls Council Regulation (EU) No 1243/2012 of 19 December 2012 amending Regulation (EC) No 1342/2008 establishing a long-term plan for cod stocks and the fisheries exploiting those stocks;
 2. Maintains the effects of Regulation No 1243/2012 until the entry into force, within a reasonable period, which may not exceed 12 months starting from 1 January of the year following the date of delivery of the present judgment, of a new regulation adopted on an appropriate legal basis.

The NSAC expectation in light of this ruling is that over the next twelve months the legislative bodies in the EU will be working on a revised management strategy for cod.

- 4.3 Revision of the cod plan should incentivise the use of more selective gear, which would free up vessels to fish in areas where there are fewer juvenile fish. Retention of the current plan presents a potential barrier to the effective delivery of the landing obligation and to the buy-in that needs to be secured from fishermen. The NSAC advises that cod should not be covered by the landing obligation until such time as the cod plan has been removed or amended to address these problems. In addition, the NSAC wishes to be kept up to date and consulted on any planned developments with respect to changes to the cod plan. It would be in everyone's interest to establish a roadmap for the revision of the cod plan and the aligned provisions/delegated acts.

5 Dealing with choke species

- 5.1 Previous advice from the NSAC has emphasised that it will be important to phase in species in a way that will allow the industry to adjust to the major changes that are being proposed. A phased and adaptive approach is a prerequisite for the transition to full implementation of the landings obligation over the period 2016 – 2019. A phased approach is necessary because of the extent and complexity of these changes to well-established systems. Phasing is also necessary to limit the scope for adverse and unintended consequences, as well as limiting the potential impact of the scale and extent of the changes on fishers, shore-facilities, control and enforcement authorities, quota managers and member state authorities. Easing the phasing in of the landing obligation should be influenced by any problems that emerge in 2016. Getting the



implementation of the landing obligation wrong would have severe effects upon fishing businesses, and would risk undoing the gains that have been made over the last decade in reducing fishing mortality. It might also affect the achievement of the CFP's objectives and could potentially lead to a reduction in the quality of data collection and consequently the scientific assessments of stocks.

- 5.2 The NSAC will be providing advice in a separate paper to the Scheveningen Group on the various flexibilities, exemptions and other approaches available (e.g. selectivity, avoidance, quota management), and their application to the problem of choke species. In our advice we will be considering both the measures listed under the relevant CFP articles and additional measures that might be of use. Experience gained with implementation of the landing obligation during 2016 will be very useful in informing the phasing of additional species in 2017 and 2018. There is much to be learned during 2016 that will assist in refining the programme set out in Table B of the joint recommendation.

