

North Sea Advisory Council



NSAC Advice Ref. 04-1617

Monitoring and Control under the Landing Obligation

This paper was approved with consensus by the NSAC Executive Committee via a written procedure on the 15th December, 2016.

1. Background

- 1.1 The NSAC has been seeking to establish dialogue with the Scheveningen Control Experts Group – not only in respect of the introduction of the landing obligation as part of the EU fisheries policy but also to discuss monitoring, control and enforcement in relation to the various elements of the Common Fisheries Policy.
- 1.2 The NSAC therefore welcomes that cooperation between the Scheveningen Control Expert Group and the NSAC has been established in 2016 as the NSAC has been consulted and specifically invited to deliver a response to the “Report on control and monitoring of the demersal landing obligation”.
- 1.3 This document is the response of the NSAC to this report and a comment on the introduction of the landing obligation in the demersal fisheries in general.

2. Rethinking fisheries monitoring and control

- 2.1 The EU landing obligation came into force in the North Sea demersal fisheries on 1st January 2016, and will be implemented incrementally so that from 1st January 2019, all species subject to catch limits will be covered.
- 2.2 The implementation of the landing obligation will generate many challenges as it involves major changes to EU fisheries policy. One major change is the shift from a system where discards are permitted in certain situations to one where there is an obligation to land all species subject to catch limits.
- 2.3 The NSAC has examined risks associated with this change to the management regime which will have implications for the monitoring and control of fisheries. For fish stocks, it is our view that there is a potential risk of higher overall fishing mortality given there



will be no survival of those fish that were previously discarded and which may have survived. There is also a potential risk of higher overall fishing mortality due to discarding continuing but not being recorded. Such continued discarding would demonstrate a lack of compliance with the landing obligation. Another potential risk of the landing obligation for some fishermen is that of higher operating costs and reduced profits, as any catch must be counted against the quotas.

- 2.4 The landing obligation will also have implications for fisheries monitoring and control. It is anticipated that the landing obligation will involve an increased focus on monitoring and control of catches at sea as opposed to monitoring and control of landings in ports or throughout the supply chain.
- 2.5 Monitoring and control (MC) will be an essential component of the successful implementation of the landing obligation. Better and more comprehensive reporting of catches represents an opportunity to enhance scientific evidence and to improve the knowledge on which fisheries management and policy is based.
- 2.6 The landing obligation requires a greater degree of cooperation, harmonisation of control procedures and agreement between national control authorities in the North Sea to ensure that the rules are being interpreted and applied in a similar way.
- 2.7 The current move towards a results-based system of regional management provides an opportunity for the fishing industry to engage in dialogue with Member States from around the North Sea, through the Scheveningen Group. Risks will be reduced and opportunities fully embraced if the NSAC and the fishing industry can become actively engaged in finding solutions to the practical problems associated with the implementation of the landing obligation.

3. Defining success in terms of Monitoring and Control

- 3.1 It will be important to define the desired outcome for the implementation of MC measures within the broader context of the landing obligation. A number of criteria are important:
 - 1) There should be no overall increase in fishing mortality and there should be a progressive reduction and increased avoidance of unwanted catches through different measures.
 - 2) MC measures should be proportionate and cost-effective for Member States and for the fishing industry.
 - 3) There should be a high level of compliance by fishermen and the measures introduced should bring about a change in the fishermen's thinking, resulting in a culture of compliance.
 - 4) There should be confidence that MC measures are effective in preventing illegal activities and give control authorities the tools to monitor fishing practices adequately.



- 5) Member States should aim at a level playing field and apply MC measures equally across the North Sea. There should be full information sharing between control authorities from different Member States, and the control rules adopted should be consistent and transparent.
- 6) There should be no deterioration in the quality of catch data collected by scientific observers.

4. Challenges to Monitoring and Control arising from the Implementation of the Landing Obligation

- 4.1 A number of significant MC challenges will arise from implementation of the landing obligation in the North Sea.

A. Monitoring Catches at Sea

With the landing obligation, it is anticipated that monitoring and control at sea will be more important than ever. Controls at sea are highly efficient at detecting infringements but are costly. This must be addressed through more cost-effective monitoring and, where possible, increased funding from the Member States and the EU. The development of new monitoring techniques must be embraced, but these techniques need to be evaluated before being put into place. At-sea inspection procedures will also need to be aligned and coordinated within the North Sea.

B. Documentation of Catches

Unrecorded fishing mortality would have implications for the quality of stock assessments and for the setting of TACs. It is important therefore to obtain accurate recording of catches, both to ensure compliance with quota uptake and to ensure that information is collected to support the scientific determination of TACs.

It is important that NSAC is engaged in discussion on any problems that arise regarding the documentation of catches.

C. Achieving a Culture of Compliance

Perhaps the most significant feature of a fully effective monitoring and control regime is the degree to which there is a culture of compliance. There will undoubtedly be some degree of misreporting of catches by fishermen. There will be a need to consider when misreporting of catches might arise, how this can be avoided and what the legal consequences of such misreporting will be. Misreporting is especially likely to occur with choke species - when fish may be caught for which there is no quota. There may also be economic incentives to discard fish to achieve high grading, where only the highest value fish are retained. Causes for economic discarding must be avoided and rectified wherever possible.

Where fishermen consider the rules and management arrangements to be broadly fair, rational and proportionate, there will be a higher probability that those rules will be adhered to; whether they are quota limits, technical measures or monitoring



requirements. Unfortunately, many fishermen in the North Sea do not consider the landing obligation to be fair, rational and proportionate and do not support it, which has implications for levels of compliance. There will be a need for common and agreed rules, broadly supported by fishermen, with effective and proportionate sanctions against those who do not comply, to act as a deterrent to illegal activities. The NSAC is strongly supportive of additional measures to encourage compliance with the landing obligation, such as the development of training and information packs/workshops at various ports. Such information should also be made available to non-EU fishers fishing in the North Sea.

D. Achieving a Level Playing Field

Fishermen will require reassurance that the rules and monitoring methods are being applied in a fair and equitable way; and that there is a level playing field. If fishermen believe that other fishermen are being treated more favourably then there is likely to be a higher risk that a culture of non-compliance will develop. Member States may need to develop regional standards for MC measures over and above the minimum standards that exist at EU level. It will be important for such regional standards to be both proportionate and compatible with existing EU legislation. Ideally, they should extend to non-EU countries fishing in the region (for example, Norway in the North Sea) and for minimum standards to also be compatible with neighbouring regions to minimise confusion for vessels operating between regions.

E. Providing Incentives

Unwanted catches are inevitable in fisheries and any MC measures must be handled in a way that ensures a high level of compliance with the rules of the CFP and reduces the risks of overexploitation of fish stocks without significantly impairing the economics and profitability of fishing businesses. Compliance is likely to be higher if fishermen are convinced of the benefits that will accrue to them from complying with the landing obligation. Schemes are required to promote greater selectivity of capture, higher survival of any fish that are discarded, and enhanced monitoring of catches. In some cases, it may be possible to provide incentives to fishermen to participate in such schemes, for example access to additional quota. Another incentive might be to apply fewer prescriptive technical rules, in exchange for a fully documented fishery (results-based approach), which may have the potential to enhance flexibility and innovation of fishing operations. This would need to be assessed.

Implementation of the landing obligation may significantly increase the amount of work on the deck, in the fish room and in the wheelhouse. It will be necessary to develop solutions to reduce unwanted catch, as well as the handling and sorting of such catch, within a timescale that should be compatible with the implementation of the landing obligation. Finding solutions will be easier and quicker in some fisheries than in others. A certain level of ('technical') discarding is at present unavoidable in some fisheries e.g. in the BT2 and TR2 (for example 80mm is required to catch sole whilst a minimum of 120mm is required to release other flat fish. Panels can offer a partial but not complete solution). Finding solutions to fish more selectively will help to achieve a culture of compliance.



F. Transition to the New Regime

Effective MC measures will have to be developed incrementally, in an adaptive way, as experience in implementing the landing obligation is gained progressively. If workable arrangements can be found, then there will be high compliance. It is in the interests of both the fishermen and the control authorities that there should be ongoing dialogue between the two. Risks will be reduced and opportunities fully embraced if the fishing industry is actively engaged in finding solutions to the practical problems associated with implementing the landing obligation. The NSAC finds that the time schedule of implementing a landing obligation over the period of 5 years certainly is ambitious, but offers its unique position and expertise to facilitate dialogue between the parties involved, to make transition to the new regime a success.

G. Lessons to be Learned from Norway

It will be relevant to look at the Norwegian approach to discard monitoring and control and to learn from that. There are a number of measures that have been developed as a result of dialogue between fishermen and Norwegian control authorities. An example of one such measure is the definition of precautionary areas on a temporary basis, at locations where discards are likely to be high. The declaration of such areas promotes the use of greater selectivity; the option of continuing to fish within the precautionary area, where fishing may be highly productive, provides an incentive to achieve higher selectivity. A provision for moving on vessels within a set distance from an area where discards have recently been discovered to be high has also been successful. It is to be noted, however, that the compact nature of fishing areas in some areas of the North Sea does not allow for a simple emulation of this latter Norwegian measure. Decisions on the applicability and then the implementation of measures in the North Sea such as those outlined above will depend on full and continuing dialogue between the control authorities, fishermen and other stakeholders.

H. Dealing with Choke Species

Effective monitoring, control and enforcement measures have to be developed in the wider context of the landing obligation. In particular, the concerns about the potential for a species to become a choke species poses risks to achieving high compliance. Industry compliance with the landing obligation is likely to be contingent upon effective measures being implemented to deal with the problem of choke species. In the first instance, increases in selectivity both in terms of gear and avoidance need to be adopted. Quota uplift and quota flexibilities and exemptions, together with other parallel management measures, for instance the introduction of precautionary areas, may also play an important role. Overall, if choke issues can be addressed, thereby removing or reducing the financial threats to the fishing industry, it is more likely that there will be compliance with the landing obligation. NSAC notes that in a few specific cases such as hake the only way to avoid choke species currently seems to be an uplift of the TAC.

I. Working Together

If the landing obligation is to be successfully implemented it will require fisheries managers, innovators, fisheries scientists, and fisheries control authorities to work



closely with the fishing industry to develop workable solutions that are fit for purpose. Buy-in by stakeholders should result in greater compliance with the landing obligation.

5. Adoption of a Risk-Based Approach

- 5.1 The NSAC welcomes the cooperation between The Scheveningen Control Expert Group and the European Fisheries Control Agency (EFCA) to develop a risk assessment of compliance with the landing obligation for demersal fisheries in the North Sea.
- 5.2 The NSAC has therefore studied with great interest the 1st report from the risk assessment analysis that it received on 1st February 2016.
- 5.3 The NSAC supports the position that MC measures should be founded on a risk-based approach. Furthermore, there should be a uniform and agreed basis for risk based analysis. Though catch profiles can vary greatly between vessels even when fishing the same grounds, it may be possible to identify vessels that are deviating from the norm with respect to catches and landings. In view of the patchiness of fish catches, the data used should be very robust, which can only be obtained by a high number of samples of trips, hauls, and fish within each fleet or via a catch per hour figure. Specific annual benchmarking schemes might be developed for the different fisheries within the North Sea. The onus will then be upon individual fishermen to show that they are working within the benchmarks and complying with the law with respect to discards. If they can be identified as outliers with respect to compliance they should be required to participate in catch monitoring schemes, and to change their behaviour.
- 5.4 A risk analysis must be made using the most up-to-date relevant and robust data and information. Given that the assessment in the report is considered valid for the year 2015 the NSAC do not intend to comment on the findings and conclusions in the report but will merely focus on the methodology used. However, in light of the need for robust data NSAC notes with concern that the quality of datasets appears variable and that not all Member States submitted catch data to prepare the EFCA catch sheets. Such data must be submitted if a robust risk analysis is to be undertaken.
- 5.5 The NSAC agrees with the use of the well-known demersal gear segments and though we do not have access to the relevant annex, the fisheries descriptions appear appropriate. The NSAC endorse that historical discard estimates and logbook information is supplemented with projects involving the collection of an extensive set of “last haul” data to improve the knowledge base and the quality of the risk assessments exercises provided it is cost-effective and proportionate. Using reference fleets (involving catch composition comparisons) may also be used to provide additional data for scientific assessment and management decision-making.
- 5.6 On the question of risk characterisation it is relevant that the concept of “choke species” to a higher degree is being discussed as a risk factor. Addressing the problem of choke species, is not just about quota allocation. All the reasons for choke should be considered when carrying out the risk analysis in respect of the different fleet segments.



- 5.7 When carrying out the Risk Analysis the NSAC agrees that 2 main dimensions should be considered – likelihood and impact. In any discussion on likelihood it would be useful to consider the implications of possible choke species in the different fisheries. In discussion of the impact the NSAC agree to the comment that “the magnitude of the fisheries should be aligned with the estimated discard rates”, provided that the number of samples taken is sufficiently high to allow for solid conclusions. It is not enough to look at the relative impact of the different fleet segments – it must also be taken into account that though catches of some stocks in some fisheries might be relatively small, the overall impact in absolute numbers might be considerable.
- 5.8 The ranking and conclusions in the report illustrate how important it is that the most up-to-date information is being used for the risk analysis. Basing the risk assessment on data which are limited in scope and older than two years old must absolutely be avoided, as stock structure and fishing patterns will otherwise bear no resemblance to what it is compared to. As an example, the state of cod stocks and the altering patterns of langoustine fisheries has an influence on the conclusions and ICES advice for cod in the North Sea this year is quite different from last year. However, whilst there may be some concerns about the conclusions, NSAC supports the methodology in the report. NSAC recommends that it is given the opportunity to consider the preliminary findings and advise on the risk analysis process.

In this respect the NSAC recommends that the preliminary findings are being presented to a group of stakeholders for peer review before the risk analysis is finalised.

6. Conclusions of the NSAC

- 6.1 The NSAC welcomes the establishment of cooperation between the NSAC and the Scheveningen Control Experts Group. The NSAC looks forward to a close dialogue on monitoring and control – not only in respect of the introduction of the landing obligation but the CFP as a whole.
- 6.2 The introduction of the landing obligation is a major change to the CFP and monitoring and control will be one of the essential components of successful implementation of the landing obligation.
- 6.3 The NSAC supports MC measures being founded on a risk-based approach. A risk analysis must be made using the most up-to-date and relevant data and information, including the knowledge of pressure points related to ongoing choke situations.
- 6.4 The NSAC recognises the lack of support from the majority of fishermen for the landing obligation and the limited willingness to comply as a major challenge.
- 6.5 The NSAC recommends that it is given the opportunity to advise on the preliminary findings and the risk analysis process before the risk analysis is finalised.
- 6.6 The NSAC is looking forward to continued dialogue with the Scheveningen Control Experts Group.



