

26 October 2020

NSAC Advice Ref. 17-1920

NSAC Advice on Swedish proposal for JR on Fisheries Conservation Measures in the Marine Protected Areas in the Kattegat

This advice paper was approved by the NSAC Executive Committee on 26 October 2020.

1. Background

NSAC members appreciate the Swedish authorities having consulted the NSAC on their Joint Recommendation proposal on fisheries conservation measures in MPAs in the Kattegat under Articles 11 and 18 of Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy. We would primarily refer the Scheveningen group to the Scheveningen group to the NSAC Advice Ref. 10-1718 on the Swedish proposal for fisheries conservation measures in the marine protected areas in Kattegat¹ submitted on 20 September 2018, where both, the industry and eNGOs positions are reflected.

Since the NSAC members were not able to reach a consensus on this version of the Advice on the Joint Recommendation either, we are presenting the fishing industry and Other Interest Group positions separately.

2. NSAC Industry position

The NSAC industry is of the opinion that fishing activities and nature conservation should not be exclusive. However, it is vital that the proposed measures are commensurate to the expected conservation impact and fisheries socio-economic loss. We believe that the Swedish proposal for Natura 2000 areas in the Kattegat with complete closure to towed gears will have an unjustified negative effect on fisheries in the region.

When considering marine protected areas, it is important to identify scope, location and productivity of key fishing areas. It is the case, that fisheries are not active in all proposed areas in the said Joint Recommendation. In fact, they operate only slightly over a few of the edges of the areas, and in the corridor connecting two fishing areas. However, precisely these areas are considered key fishing areas for maintaining socio-economic viability of the Kattegat fishing community. We argue that it is essential for fishing to continue in these specific areas, and that co-existence between nature conservation and fishing is ensured.

Secondly, it should be recognised that fisheries conducting their operations in and around these areas are small-scale local fisheries, contributing significantly to economic viability of

¹ <https://www.nsrac.org/wp-content/uploads/2017/11/10-1718-Swedish-Proposal-for-Management-Measures-in-MPAs.pdf>

local communities along the coasts of Denmark and Sweden. The vessels land their catch exclusively in local ports in the Kattegat, which accounts for up to 25 percent of ports revenue. We consider it crucial for the future fishing in the Kattegat that the most productive fishing areas are maintained. According to the current Swedish proposal, these areas would be lost for trawling fisheries completely.

To inform Natura 2000 considerations in the Kattegat, we hereby delineate fisheries with important socio-economic impact in the proposed areas.

2.1 Fisheries in proposed Natura 2000 Areas

In order to further inform the proposal, these are the year-round fisheries to be considered in the various areas specified in the Joint Recommendation:

- **Fladen**

Trawl fishing is represented by lobster fisheries with average sized lobsters. In addition, catches include flatfish, such as sole, brill, plaice, lemon sole, and dab. It is vital to maintain fishing on the very edge of the areas, as compared to surrounding areas productivity there is significantly enhanced. On flat and smooth seabed, the quantity of fish is decreased with predominantly lobsters remaining. The fishery is typically operated with 3-4 hauls a day. In the autumn, at times herring fishing takes place with pelagic trawls.

Gillnet fishing is represented by sole fisheries, which operate from 1 May to 1 August. In addition, various species of other flatfish appear in the catch, such as brill, plaice, sole, dab etc. Fishing takes place in the depth between 10 to 20 meters.

- **Morups Bank**

Trawl fishing in this area is represented by Norway lobster fisheries. It is especially known for supplying some of the largest lobsters found in the Kattegat. It is therefore highly important to maintain fishing all the way to the slopes, where these large lobsters are caught. The fishery operates throughout the year, and various species of flatfish also appear in the catch, such as sole, brill, plaice, lemon sole, dab etc.

Gillnet fishing on the bank is limited.

- **Lilla Middelgrund**

Trawl fishing is extensive around Lille Middelgrund. It is therefore important to maintain access all around the slope. Primarily, Norway lobster fisheries operate in the area. However, various other fisheries are present such as sole, brill, plaice, sole, lemon sole, dab etc. In addition, there is a number of greater weever in the area, which are landed for both industry and consumption, provided they are over 30 cm in length. In the autumn, herring fishing takes place in the area during certain periods with pelagic trawls.

Gillnet fishing is extensive on seabed. Sole fisheries operate from 1 May to 1 August. Bycatch of other flatfish also appears in the catch, such as brill, plaice, sole, lemon sole, dab etc. Fishing takes place in water column from 6 to 20 meters of depth. The sole migrates to different locations on the bank from year to year.

- **Stora Middelgrund och Röde bank**

Trawl fishing is extensive around Stora Middelgrund and Röde Bank. The passage through Stora Middelgrund is crucial for fishing in the area, as it connects two fishing areas, providing fishers with an opportunity to switch from one area to another without taking the trawls in. VMS data provides evidence on the importance of the passage. Often, productivity is high on the western side of Stora Middelgrund during the day and on the eastern side during the night. It is therefore crucial to maintain a link between the two areas. Immediately to the south is the *cod closure area*, and to the north terrain is rocky, displacing fishers far north to avoid these. In the autumn, fishing takes place primarily in the east of Stora Middelgrund. The passage is considered a productive fishing spot, as the water depth in the area increases to about 30 fathoms, which is the deepest spot in the immediate area. Fishing activity is comprised primarily of Norway lobster fishing, with other flatfish fisheries present, such as sole, plaice, lemon sole, dab etc. The flatfish fishery is particularly productive. In spring, specific areas of Stora Middelgrund, provide an increased number of greater weever fished for both, consumption and the industry. Having to haul the trawl up, shoal through the area and set out again would mean a loss of 1-2 hours of effective fishing at each occasion, which is increasingly problematic for the individual fishers. Closed passage would significantly restrict fisheries around the entire Stora Middelgrund and Röde Banke, preventing fishers to move freely between the two areas.

Gillnet fishing is active throughout the area. Sole fisheries operate between 1 May and 1 August. In addition, various species of other flatfish appear in the catch such as brill, plaice, sole, dab. Cod and plaice are being caught on the bank throughout the year. Fishing takes place in 10 to 20-meter water columns. Large-scale fishing has taken place on the Danish part of Stora Middelgrund in recent years.

2.2 Other considerations

Most productive fishing grounds are found close to slopes and rocky reefs. This does not seem to be considered when the economic value of the areas is estimated. These areas often yield catches up to 2 to 3-fold higher than the value of an average area. Moreover, if fishing efficiency decreases, CO₂ emissions per kilo of fish caught increase, as does the area affected by fishing, resulting from displacement of fisheries to areas where the catches per fishing effort are lower. The NSAC fishing industry considers this a very likely unintended consequence, should the proposed measures be enacted.

2.3 Conclusion

While the fishing industry members of the NSAC understand that Member States' obligation to manage their Natura 2000 areas, the industry considers complete closure to towed gears an over-regulation of which cumulative effect will be an unproportionate zero-sum for fisheries.

The Habitats Directive does not advocate for such a radical regulation of areas. Aware of this, the Swedish administration followed Marine Strategy Framework Directive, taking into account species designated through HELCOM and OSPAR in their pursuit of arguments for this

particular Joint Recommendation. The NSAC industry believes that in its top-down approach, the Swedish administration did not do its utmost to include stakeholders' views in their deliberations.

Finally, the NSAC industry advocates for an intelligent approach to marine spatial planning, allowing co-existence between various marine activities, not least in the sphere of nature conservation and fishing, where both sides would benefit from a sensible approach to sustainability.

3. NSAC Other Interest Groups position

The Other Interest Groups endorse the measures presented in the draft Joint Recommendation with the exception that the ban on gillnet fishing, as initially proposed by Sweden, has been omitted. The measures are based on solid scientific evidence and rationale, and, with some exceptions, are appropriate to meet the conservation objectives of the sites.

We disagree with the decision to change the proposed ban on net fishing into a mandatory bycatch monitoring programme for the net fishery. A ban would have been the suitable measure to ensure appropriate protection of harbour porpoise and seabirds from bycatch. It would also be in line with the precautionary approach and provisions under the Habitat Directive to reduce disturbance of protected species². However, we understand the rationale behind a mandatory monitoring programme since data on bycatch and the small-scale net fishery is limited from the protected areas in question. We are therefore willing to accept the monitoring programme provided that it is executed as described in the Joint Recommendation, with an adaptive approach to fisheries management and that a new procedure under article (11) and (18) under the Common Fisheries Policy will be initiated should future data indicate high risk of bycatch for the aforementioned protected species. Nonetheless, NSAC eNGOs consider the effectiveness of measures to be imperative and a lack of data should not justify inaction.

The eNGOs consider the data and rationale provided by the Swedish Marine and Water Management (SwAM) to fully support the need for a complete ban on bottom towed gear. This is corroborated by the peer-review performed by SLU Aqua³. According to the objectives of the sites the protected habitats should be unaffected by physical disturbance and unnatural sedimentation, and species and habitats, including horsemussel (*Modiolus modiolus*) beds, sea pens and burrowing megafauna, bubbling reefs and large predatory fish, should develop naturally. Furthermore, it is evident that conservation values sensitive to disturbance by bottom towed gears, such as OSPAR sea pens and burrowing mega-fauna, are present in areas where the industry wants access, such as the slopes surrounding the banks within the MPAs and the passage between the banks in the MPA Stora Middelgrund och Röde bank⁴. New locales of bubbling reefs have also been found in recent surveys by the County Board of

² See Article 6.2 of the Habitats Directive

³ Appendix 7 in the appendices submitted with the Swedish proposal of measures and the draft Joint Recommendation

⁴ Figures 2b, 2c, 2d in Appendix 2 in the appendices submitted with the Swedish proposal of measures and the draft Joint Recommendation

Halland, some of which have already been negatively affected by bottom trawling⁵. The NSAC NGOs consider a ban on bottom towed gear a necessary measure to ensure ecological recovery of such habitats. It would also reduce the overall negative impact of bottom towed gears in the Kattegat, which currently is one of the most intensely trawled areas in the European seas⁶, and thus, would contribute to improved sea floor integrity as stipulated by the MSFD.

We consider the design of the protected areas and the proposed measures to be a perfect balance between nature conservation and fishing interests. The sites are located where high conservation values are found but where fishing is rather limited compared to surrounding areas.

NSAC OIG are of the opinion that Swedish authorities have taken different stakeholder views into account when forming the proposed measures and producing the draft Joint Recommendation. The initial proposal from the Regional County Board of Halland, responsible for the management of the sites, included a ban on pelagic trawling, which was omitted after stakeholder consultations. Similarly, the ban on net fishing from the Swedish draft proposal has been excluded from the draft Joint Recommendation. During early consultation stages in Sweden the Swedish Society for Nature Conservation together with WWF Sweden called for a complete ban on all fisheries in the sites in order to ensure full protection of ecosystem structure and functioning as outlined in the conservation objectives for the sites⁷. Similar to experiences expressed by the fishing industry during the NSAC Skagerrak & Kattegat WG meeting of September 28 2020, Swedish eNGOs requests have not fully been met by the measures proposed. However, NSAC OIG understand the need to balance nature conservation with fishing interests, as long as fishing does not undermine the purpose of the protected sites.

NSAC OIG consider the stakeholder consultation for the MPAs of Fladen, Lilla Middelgrund, Stora Middelgrund och Röde bank and Morups bank to have ensured “level playing field” for different stakeholders, where both eNGOs and the fishing industry were invited early on during the process.

3.1 Conclusion

The NSAC OIG endorse the fisheries measures in the draft Joint Recommendation with one exception: we consider a ban on net fishing the appropriate measure to ensure adequate protection of harbour porpoise and seabirds. However, we understand the rationale behind the proposed mandatory monitoring programme and are willing to accept it should it be

⁵ County Administrative Board of Halland 2020.

<https://www.lansstyrelsen.se/download/18.3db3ed8a171ac1fbfcb18ca4/1590411578291/2020-5%20Inledande%20studier%20av%20bubbelrev%20på%20Stora%20Middelgrund.pdf>

<https://www.lansstyrelsen.se/download/18.3db3ed8a171ac1fbfcb18ca3/1590411578131/2020-4%20Kunskapsmanställning%20om%20Fladens%20bubbelrev.pdf>

<https://www.lansstyrelsen.se/download/18.3db3ed8a171ac1fbfcb18ca5/1590411578462/2020-6%20Inledande%20studier%20av%20bubbelrev%20på%20Lilla%20Middelgrund.pdf>

⁶ Eigaard et al. 2016. The footprint of bottom trawling in European waters: distribution, intensity, and seabed integrity. <https://academic.oup.com/icesjms/article/74/3/847/2631171>

⁷ https://www.regelradet.se/wp-content/files_mf/1499240922RR_2017_152.pdf

executed as outlined in the draft Joint Recommendation. We consider the data and scientific evidence provided sufficient and in support of a complete ban on bottom-towed gear to meet the sites' conservation objectives as well as obligations to reach Good Environmental Status under the MSFD.