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**NSAC Advice Ref. 02-2021**  
**NSAC Advice on the NS Choke identification tool**

*This paper was approved with consensus by the NSAC Executive Committee on 8 December 2021 via written procedure.*

## 1. Background

In the past, the NSAC has been identifying and notifying policy-makers regularly of the potential effects of the landing obligation on the economic and social viability of the North Sea fleets and provided recommendations for overcoming potential chokes through consideration of scientific advice on fishing opportunities and through our continuous contact with the North Sea fishing industry. This paper is a result of work in the NSAC Landing Obligation Focus Group, re-established in March 2021, to work on matters arising from the implementation of Article 15 of Regulation (EU) No 1380/2013. In Phase 1 of the mentioned focus group, we prepared advice on the Discard Plan for 2022. In the second part of this first phase, we have identified potential choke risks in the North Sea demersal fisheries. Phase II of the Landing Obligation Focus Group will be marked with collection and analysis of members' experience with Article 15 of the CFP. This work is ongoing and is expected to be finalised in spring 2022.

Choke situations, where the exhaustion of one quota prevents a vessel, fleet, or Member State(s) from catching their main economic quotas, can occur when quotas are restrictive, or when swaps within or trades between Member States are not possible. When what is encountered in the field is not reflected in the scientific advice and scientific advice is being followed in the setting of TACs despite these discrepancies, this would result in a choke risk. Furthermore, certain management decisions taking into account mixed fisheries considerations, can cause chokes as well. The possibility for chokes will vary over time, although some chokes can be expected to persist unless the underlying causes are addressed. Different types of chokes will demand different management responses.

In this paper we attempt to identify and map out potential choke situations based on the scientific advice on fishing opportunities for 2022, TAC & quota negotiations with third countries, relative stability-based allocation to Member States, assumed future landings of the North Sea demersal species and existing exemptions. We consider the implications of this and appropriate contingency measures to be put in place if/when chokes occur. However, it is important to note that this is done against the backdrop of unpredictability of choke occurrence due to a number of variables involved.



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## 2. Advice

Our observations are collated in the excel sheet in Annex 1. We are using the traffic-light methodology to delineate the level of risk for a fishery to choke given the known variables (e.g. ICES advice on fishing opportunities, stock status, assumed landings extrapolated from previous landings, existing exemptions, swapping arrangements, inter-species flexibility, mitigation measures currently in place, etc.). For the list of existing exemptions we followed Commission Delegated Regulation (EU) 2020/2014<sup>1</sup> of 21 August 2020 specifying details of implementation of the landing obligation for certain fisheries in the North Sea for the period 2021-2023, as well as the latest Joint Recommendation of the Scheveningen Group of the North Sea Member States amending Delegated Regulation (EU) 2020/2014 specifying details of implementation of the landing obligation for certain fisheries in the North Sea for the period 2021-2023.

Bearing in mind these variables, fisheries marked in green are in our view in no or very low risk of becoming chokes. If there is a risk based on limited TAC, mitigation tools are identified and operational. In yellow we mark fisheries for which moderate risk to run into a choke situation was identified. For these fisheries a choke situation might occur, however mitigation tools such as inter-country swaps were identified and could be discussed as a way forward. Here it is worth noting that despite these options being identified, this does not automatically translate into a workable solution. This is due to a specific multifactorial nature of negotiations between the different countries rendering it difficult to determine whether such swaps could indeed materialise. This is particularly true for stocks shared with the UK, where swapping possibilities cannot compensate entirely the overall reduction of fishing opportunities for the EU as a consequence of the TCA and where the relations between the coastal states are less predictable. This is further specified in Annex 1 for individual stocks. Finally, with red we mark stocks for which there is limited quota that poses immediate risk to the typical North Sea mixed fisheries and where there are currently no solutions identified for choke mitigation. For these species we emphasise that it is imperative that the existing exemptions are maintained.

We invite the Commission and the North Sea Member States to review the annexed table and revert to us with any questions that might arise. On our side, we will continue to monitor and flag further issues and possible solutions in relation to chokes in the North Sea region.

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<sup>1</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32020R2014&from=en>

## ANNEX I<sup>2</sup>

North Sea										
Species	Stock code	Area	Member States Impacted	Approach	ICES Advice 2021 for TAC 2022 (in tonnes)	Possibility for inter-species flexibility according to Reg EU 1380/2013 Art 15.8 (yes/no)	Proposed exemptions contained in Scheveningen Group draft Delegated Act for 2022 and existing exemptions in place	Predicted choke risk 2022	Additional comments to predicted choke risk	Proposed additional measures for 2022
Cod	cod.27.47d20	Subarea 4 and Divisions 7.d and 3.a West	all NS MS	MSY	14276	not aware of any rules	Regulation (EU) 2020/2014: De minimis exemption: In the fishery for Norway lobster by vessels using bottom trawls (OTB, OTT, TBN) with a mesh size equal to or larger than 70 mm equipped with a species-selective grid with a bar spacing of maximum 35 mm in the Union waters of ICES	Increased risk	Increased risk due to Brexit: The current swapping system with the UK results in overall reduction of fishing opportunities for the EU.	Existing precautionary management plan; national plans
Haddock	had.27.46a20	North Sea, West of Scotland, Skagerrak (4, 6.a and Subdiv. 20)	all NS MS	MSY	128708	not aware of any rules	Regulation (EU) 2020/2014: De minimis exemption: in the fishery for Norway lobster by vessels using bottom trawls (OTB, OTT, TBN) with a mesh size equal to or larger than 70 mm equipped with a species-selective grid with a bar spacing of maximum 35 mm in the Union waters of	Increased risk	Increased risk due to Brexit: The current swapping system with the UK results in overall reduction of fishing opportunities for the EU.	Existing precautionary management plan
Saithe	pok.27.3a46	North Sea, Rockall and West of Scotland, Skagerrak and Kattegat (4,6,3.a	all NS MS	MSY	49614	not aware of any rules	Regulation (EU) 2020/2014: De minimis exemption: In the fishery for Norway lobster by vessels using bottom trawls (OTB, OTT, TBN) with a mesh size equal to or larger than 70 mm equipped with a species-selective grid with a bar spacing of maximum 35 mm in the Union waters of ICES division 3a: a combined quantity of common	Increased risk		Existing precautionary management plan
Whiting	whg.27.47d	North Sea and eastern English Channel (4 and 7.d)	all NS MS	MSY	88426	not aware of any rules	Scheveningen JR 2021: De minimis exemption for whiting below the minimum conservation reference size by vessels using beam trawls with mesh size 80-119mm in ICES subarea 4 (Article 11(11) of Regulation (EU) No 2020/2014). This point concerns a de minimis exemption as provided for by Article	Increased risk	Increased risk due to Brexit: The current swapping system with the UK results in overall reduction in fishing opps for the EU.	Existing precautionary management plan. ICES: Management should be implemented at the stock level.

<sup>2</sup> For full text please refer to Excel sheet titled Annex I enclosed to the Advice.

North Sea										
Species	Stock code	Area	Member States Impacted	Approach	ICES Advice 2021 for TAC 2022 (in tonnes)	Possibility for inter-species flexibility according to Reg EU 1980/2013 Art 15.8 (yes/no)	Proposed exemptions contained in Scheveningen Group draft Delegated Act for 2022 and existing exemptions in place	Predicted choke risk 2022	Additional comments to predicted choke risk	Proposed additional measures for 2022
Hake	hke.27.3a46-8abd	Northern stock (3.a, 4, 6, 7, 8.abd)	all NS MS	MSY	75052	not aware of any rules	Regulation (EU) 2020/2014: De minimis exemption: in the fishery for Norway lobster by vessels using bottom trawls (OTB, OTT, TBN) with a mesh size equal to or larger than 70 mm equipped with a species-selective grid with a bar spacing of maximum 35 mm in the Union waters of ICES.		Increased risk due to Brexit: The current swapping system with the UK results in overall reduction of fishing opportunities for the EU.	Existing precautionary management plan
Plaice	ple.27.420	Subarea 4 (North Sea) and Subdivision 20 (Skagerrak)	all NS MS	MSY	142508	not aware of any rules	Regulation (EU) 2020/2014: Survivability exemption for catch and by-catch of plaice: The survivability exemption applies in the Union waters of ICES division 3a and subarea 4 to: (a) plaice ( <i>Pleuronectes platessa</i> ) caught with nets (GNS, GTR, GTN, GFN).			Existing precautionary management plan
Sole	sol.27.4	Subarea 4 (North Sea)	all NS MS	MSY	15330	not aware of any rules	Regulation (EU) 2020/2014: The survivability exemption apply to common sole ( <i>Solea solea</i> ) below the minimum conservation reference size caught using otter trawls (OTB) with a cod-end mesh size		Increased risk due to Brexit: new shares of the TAC	Existing precautionary management plan
Megrim	lez.27.4a6a	Megrim in the northern North Sea and West of Scotland 4.a and 6.a	all NS MS	MSY	7350	not aware of any rules	No exemption		Problematic for DK due to limited swaps with UK	Existing precautionary management plan
Turbot	tur.27.4	Subarea 4 (North Sea)	all NS MS	MSY	3609	not aware of any rules	Regulation (EU) 2020/2014: high survivability exemption for turbot caught by TBB gears with a codend more than 80 mm in ICES subarea 4. Exemption in place until 31 December 2022.		Moderately increased risk due to Brexit: new shares of the TAC	ICES Advice: Management of turbot and brill under a combined species TAC prevents effective control of the single-species exploitation rates and could lead to the overexploitation of either species. ICES



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North Sea										
Species	Stock code	Area	Member States Impacted	Approach	ICES Advice 2021 for TAC 2022 (in tonnes)	Possibility for inter-species flexibility according to Reg EU 1380/2013 Art 15.8 (yes/no)	Proposed exemptions contained in Scheveningen Group draft Delegated Act for 2022 and existing exemptions in place	Predicted choke risk 2022	Additional comments to predicted choke risk	Proposed additional measures for 2022
Brill	blil.27.3a47de	Subarea 4 and divisions 3.a and 7.d e	all NS MS	Pa	1878	not aware of any rules	No exemptions			ICES Advice: Management of brill and turbot under a combined species TAC prevents effective control of the single species exploitation rates and could lead to the overexploitation of either species. ICES advises that management
Witch	wit.27.3a47d	Subarea 4 and divisions 3.a and 7.d	all NS MS	Delayed until September	-	not aware of any rules	No exemptions			ICES advice: management of lemon sole and witch flounder under a combined species TAC prevents effective control of the single species exploitation rates and could lead to the overexploitation of either species ICES advises that management should be implemented at
Lemon Sole	lem.27.3a47d	Subarea 4 and divisions 3.a and 7.d	all NS MS	Pa	3081	not aware of any rules	No exemptions			
Pollack		Subarea 4 and Division 3.a (North Sea, Skagerrak & Kattegat)	all NS MS	Pa	1828	not aware of any rules	No exemptions			
Cod	cod.27.21	Subdivision 21 (Kattegat)	all NS MS	Pa	0	not aware of any rules	No exemptions			

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Sole	sol.27.20-24	subdivisions 20 24 (Skagerrak and Kattegat, western Baltic Sea)	all NS MS	Pa	544-723	not aware of any rules	No exemptions			Existing EU MAP for North Sea
Turbot	tur.27.3a	Division 3.a (Skagerrak and Kattegat)	all NS MS	Pa	224	not aware of any rules	<b>Regulation (EU) 2020/2014:</b> The survivability exemption referred to in Article 15(4)(b) of Regulation (EU) No 1380/2013 shall apply in the Union waters of ICES subarea 4 to catches of turbot ( <i>Scophthalmus maximus</i> ) with beam trawls with a cod-end equal to or larger than 80 mm (TBB).			ICES Advice: If discard rates do not change from the average of the last 3 years (2018-2020), this implies landings of no more than 197 tonnes.
Norway lobster 3-4		North Sea	all NS MS			not aware of any rules	<b>Regulation (EU) 2020/2014:</b> high survivability exemption for Norway lobster caught in ICES subarea 4 and ICES divisions 2a and 3a using bottom trawls, including some with a selectivity device. a) catches with pots (FPO ( 33)); b) catches with bottom trawls (OTB, OTT, TBN) fitted with: (i) a cod-end equal or larger than 80 mm; or (ii) a cod-end with a mesh size of at least 70 mm equipped with a species selective grid with a bar spacing of maximum 35 mm.		Increased risk due to Brexit: The current swapping system with the UK results in overall reduction in fishing opportunities for the EU.  At least one MS has an issue with a possibility of early exhausted quota.	



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Norway lobster 3-4	FU 3-4	Division 3.a, functional units 3 and 4 (Skagerrak and Kattegat)	all NS MS	Pa	10241-14449	not aware of any rules	Regulation (EU) 2020/2014: high survivability exemption for Norway lobster caught in ICES subarea 4 and ICES divisions 2a and 3a using bottom trawls, including some with a selectivity device. a) catches with pots (FPO ( 33)); (b) catches with bottom trawls (OTB, OTT, TBN) fitted with: (i) a cod-end equal or larger than 80 mm; or (ii) a cod-end with a mesh size of at least 70 mm. Regulation (EU) 2020/2014: The survivability exemption referred to in Article 15(4)(b) of Regulation (EU) No 1380/2013 shall apply to skates and rays caught with fishing gear in the Union waters of the North Sea (ICES divisions 2a, 3a and subarea 4).			
Skates and Rays		(ICES divisions 2a, 3a and subarea 4	all NS MS			not aware of any rules	Scheveningen JR: High survivability exemption for skates and rays caught by all fishing gears in the North Sea (ICES divisions 2a, 3a and subarea 4). Regulation (EU) 2020/2014: By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, the following quantities may be discarded pursuant to Article 15(4)(c) of that Regulation: a) in the demersal fisheries by vessels using bottom trawls (OTB, OTT, PTB) with a mesh size equal to or			The North Sea Advisory Council submitted a document following the Scheveningen Group request from 4 March 2021 on harmonized guidelines for best practice when handling catches of skates and rays. A finalized table was sent to MS on 26 April 2021. This table can be found here: <a href="https://www.eccc.eu/en/">https://www.eccc.eu/en/</a>
Ling			all NS MS			not aware of any rules	Regulation (EU) 2020/2014: By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, the following quantities may be discarded pursuant to Article 15(4)(c) of that Regulation: a) in the demersal fisheries by vessels using bottom trawls (OTB, OTT, PTB) with a mesh size equal to or			
Monkfish			all NS MS			not aware of any rules				