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## **NSAC Advice Ref. 10-2122** **NSAC Advice on the Common Fisheries Policy Report**

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### 1 Background

According to the Article 49 of the Regulation (EU) No 1380/2013 on the Common Fisheries Policy (CFP), the Commission shall report to the European Parliament and to the Council on the functioning of the CFP by 31 December 2022. To this end the Commission has launched in 2021, a study on regionalisation, and subsequently on 17 December 2021 a public consultation on the CFP Report. This advice paper was developed by the NSAC CFP Report Focus Group in a series of meetings from February to April 2022. Following Commission's assurances at the January Inter-AC meeting and given the prominence of the topic, we hope that the Commission will take into consideration the belated NSAC's input. We look forward to address this further with our partners and stakeholders at regional-level in-depth discussions later in the year.

### 2 Identification of relevant aspects

This NSAC Advice focuses on specific fisheries conservation and management measures introduced by the CFP regulation, such as the landing obligation, MSY principle, TACs and quotas, multiannual plans. We focus particularly on those that come short of success and those that pose a challenge to the implementation of the CFP. We will touch upon the principles of good governance and regional cooperation on conservation measures and provide commentary on improved functioning and involvement of stakeholder forums such as the Advisory Councils and their role in the regional Member State Groups. We will attempt to advise on how to further improve decision-making processes in light of regionalisation, including but not only in relation to cooperation with third countries. Additionally, subjects such as EMFAF, blue economy, maritime spatial planning, biodiversity strategy, social aspects, and climate change will be advised upon.

In the development of this paper, we based ourselves upon the Commission's public consultation questionnaire on the Report of the CFP and the European Parliament's PECH



NSAC is supported by The European Commission

Committee questionnaire feeding into related EP report on the state of play of the implementation of the CFP and perspectives after 2020.

### 3 NSAC Advice

#### 3.1 General on implementation of CFP

For the NSAC, the CFP framework regulation is fit for purpose. However, some objectives as set out in the Regulation (EU) No 1380/2013 have not been effectively met. The CFP lacks adequate implementation, control and enforcement and we believe that addressing these shortcomings is necessary. The EU fleet, in general, maintains net profitability, according to Commission's communication in 2021<sup>1</sup>. This is one of the positive achievements of the current CFP, given that the EU fleet was only marginally profitable in 2008. Sustainable fishing is the way to maintain long-term profitability.

In recent years uncertainty has been permeating the fishing industry. The NS MAP failed to address long-term stability in terms of catches and the health of stocks and instead both are exposed to a fluctuating advice and uncertainty stemming from Brexit and post-Brexit developments. The NSAC would like to emphasize that this lack of stability is of no benefit for neither the fish stocks, the industry, communities, nor the overall health of the ecosystem.

Lack of pragmatism and unrealistic deadlines hinder the achievement of environmental, social and economic sustainability objectives enshrined in the CFP. Provision of the Landing Obligation is often in opposition with technical measures stipulated in the Regulation (EU) 2019/1241 on technical measures. In the current policy framework, we would welcome if the fishers were granted more flexibility in determining ways of achieving selectivity (through, for example, the choice of gear).

The NSAC members observe that the distance between the Commission and fisheries stakeholders is widening and that there is decreasing trust in attaining common positions that would be beneficial for all. There is a concern that the involvement of stakeholders is not exercised as initially envisaged and that a long-term perspective is lacking. Stakeholders in the NSAC do not feel a strong sense of empowerment, wherefore a more inclusive/pragmatic role setting would be welcome.

An issue was raised concerning the uptake of the advice, notably the fact that it is not transparent how the Commission processes advice from ACs. The Commission's response<sup>2</sup> to the Joint AC Letter on weight of ACs advice<sup>3</sup> the Commission mention that the AC advice feed directly into policy reflections, however mere mentioning that the NSAC has been consulted on certain files (such as the Delegated Acts) does not provide us with sufficient feedback concerning the direct effect of our endeavours. This seems particularly important for sustained members' motivation and interest. Nevertheless, the members share the view that ACs are beneficial for member organisations not least in the way they allow organisations to

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<sup>1</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2021:279:FIN>

<sup>2</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021R2062&from=EN>

<sup>3</sup> <https://www.nsrac.org/wp-content/uploads/2022/03/03-2122-JointAC-Letter-weight-of-ACs-advice-consultations.pdf>

develop and mature their positions and organisations. Further effort in feedback on the impact of our work would significantly improve the functioning of the AC.

NSAC members also believe that fisheries management would benefit from further regionalisation. It has been proven on several occasions that 'one-size fits all' approach is not effective and that measures that work in one region are not directly or not at all applicable to another sea basin. Overall, there is a common view that technical measures are regionalised to a high degree, which is welcomed.

### 3.2 MSY principle

Maximum Sustainable Yield (MSY) has by the members of the NSAC been considered a very important principle for reaching the objectives of the CFP. MSY is a rational principle to follow in fisheries management, however the application of the concept of MSY must be improved.

In the opinion of the NSAC with exception of Oceana and the North Sea Foundation, a broader interpretation of MSY<sup>4</sup> is needed and scientific advice that is robust and ensures stability. They believe that instead of MSY being a fixed and rigid prescription, a more flexible application using FMSY ranges is necessary. Pragmatic management decisions will require cognisance of ecological and sustainability goals as well recognition of socioeconomic and practicality factors. One of the projects looking into developing new MSY indicators ensuring high levels of fishery yield while respecting ecological, economic and social sustainability was [MyFish](#).

Increased focus in North Sea fisheries management should be placed on challenges of achieving sustainability in mixed fisheries, which constitute most of North Sea fisheries. Recovery of depleted stocks, such as the North Sea cod stocks, which are commercially valuable and environmentally important, should be given special attention.

### 3.3 Multiannual plans

The NSAC believes multiannual plans (MAPs) are appropriate and necessary tools for achieving the objectives of the CFP. However, a more ecosystem-based and longer-term approach to MAPs is needed. The MAPs should be improved to make them truly regionally tailored and ecosystem-based and including clear environmental and socio-economic objectives. In our 2018 Advice Ref.11-1718<sup>5</sup> we mention that it is important to consider the implication of FMSY ranges in a mixed fisheries context. Fishing contributes to food security and as such requires higher appreciation of socio-economic impact.

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<sup>4</sup> Oceana disagrees with watering down of the MSY legal objective and points to annual reports of STECF on monitoring the performance of the CFP which confirm that progress in implementing the policy has been too slow to end overfishing, rebuild fish populations and protect marine ecosystems: <https://bit.ly/3enUvJ5>

<sup>5</sup> Ibid.

### 3.4 Landing Obligation

The NSAC members understand that the Landing Obligation has been established as a means of the CFP to improve gear selectivity and reduce unwanted catches. It is unclear whether this objective has been sufficiently met and the members ask the Commission to evaluate how the landing obligation has succeeded in achieving selectivity targets. Members also observe that given the many obstacles in obtaining permission to use innovative and more selective gears, in the way of implementation of the LO, the selectivity objective is challenging. In some cases, it seems unattainable for fishers and the scientific evaluation from STECF appears untransparent and counter-productive.

The NSAC members as fisheries stakeholders have played a crucial role in ensuring efficacy of the landing obligation and hence would like to emphasise that this role should only be strengthened. The NSAC has been working productively with the Scheveningen group of the North Sea Member States on every one Joint Recommendation to the extent that we were allowed in the process, and indeed on many policy issues raised by the Commission, as well as those addressed by the members pro-actively. It is only with the contributions and engagement of on-ground fisheries experts, professionals and nature conservation stakeholders that agreeable results and measures can be achieved.

Furthermore, there has been increased collaboration observed between stakeholders and scientists to improve the know-how, e.g. the Horizon 2020 projects [DiscardLess](#), [MINOUW](#) and the AC's choke mitigation tool<sup>67</sup>. Significant efforts by all stakeholders have been made to facilitate implementation of the landing obligation, to improve selectivity, avoidance, and particularly to enhance control and enforcement, for example by providing NSAC Advice Ref. 09-2021 on REM and CCTV<sup>8</sup> and as well as by providing valuable input to EFCA's [technical guidelines and specifications](#) for implementing remote electronic monitoring (REM) in fisheries.

### 3.5 Science and data collection

As the NSAC has called for in previous advice, its members support the full ecosystem approach including socio-economic considerations in fisheries science. The Commission's requests to ICES should be formulated in accordance with the objectives of the CFP. Furthermore, pollution and climate change implications should be incorporated in ICES advice to a higher degree. Commission's request to ICES should improve in transparency and regional stakeholders' involvement should be granted in their formulation. Requests should be developed in a way that summons more accurate and consistent responses from scientific bodies.

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<sup>6</sup> <https://www.nwwac.org/publications/north-western-waters-choke-species-analysis.2365.html>

<sup>7</sup> <https://www.nsrac.org/wp-content/uploads/2021/12/02-2122-NSAC-Advice-on-Choke-Identification-Tool.pdf>

<sup>8</sup> <https://www.nsrac.org/wp-content/uploads/2021/01/09-2021-NSAC-Advice-on-REM-and-CCTV-1.pdf>

On data collection more emphasis should be put on the updating of all relevant data as soon as possible. The ACs in general should have a more prominent role here, however the important part is to improve data on fisheries and on the stock trends in a way that this as close to reality as possible. Improved cooperation between scientists and fishers is encouraged.

On the matter of improving selectivity and bringing new technologies and research into the fisheries management, it is the opinion of NSAC members that the STECF scrutiny is often untransparent when evaluating proposed innovative gears, and the Commission lacks the necessary flexibility and pragmatism in interpreting STECF advice. As stated, in the case of quota regime, greater flexibility should be granted to gear implementation with a more region-specific approach. The current Technical Measures regulation is sufficiently regionalised, but often extremely restrictive and as such generates further discards. Obstacles need to be removed for fishers to be able to pro-actively improve selectivity and a greater weight should be given to individual scientists/institutes collaborating with fishers on innovative gears. The NSAC strongly believes that there should be no measures limiting innovation in fishing gears that are scientifically demonstrated to reduce environmental impact and minimise bycatch. Any further technical regulations on innovation would be counterproductive and limit innovation. The NSAC recommends including a principle of conditionality on scientific reviews innovation processes, resulting in advice by ICES and STECF.

### 3.6 Fishing capacity

The NSAC suggests that the European Commission takes advantage of the report on the functioning of the CFP to assess whether the current definition of 'fishing capacity' (measured in terms of Gross Tonnage and Kilowatt) correspond to the real ability to catch fish and to the social and environmental challenges faced by the EU fishing fleet. NSAC asks the European Commission to reflect on a definition of capacity that would allow EU fishing fleet to adapt to this environmental and social challenges without increasing the ability of the vessel to catch fish. The NSAC with exception of Oceana and the North Sea Foundation supports the joint letter of social partners<sup>9</sup> to the Commissioner Sinkevičius on entry/exit scheme and fishing capacity measurements.

### 3.7 External dimension

The NSAC wants to emphasise, particularly in light of certain unilateral measures of third countries we have recently witnessed in the North Sea, the importance of following common management strategies for shared stocks as agreed through lengthy negotiations between the EU and the third countries of UK and Norway. Members believe it should also be possible to have a more adaptive approach in consultations with third countries, while still respecting the principles of the CFP. Maintaining a level playing field is of utmost importance for ensuring trust needed for effective fisheries management, and for access to markets.

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<sup>9</sup> <https://www.etf-europe.org/wp-content/uploads/2020/11/European-Fisheries-social-partners-letter-to-Commissioner-Sinkevicius-Fishing-Capacity.pdf>

### 3.8 EMFAF

Public investments through EMFAF for fishers are imperative especially in light of the increased lack of long-term stability fishers are experiencing regarding their activities. Uncertainty does not encourage the sector to invest in the necessary innovations to improve the sustainability of the sector. The difficulties of negotiations with the UK and Norway are good examples of this reality. Due to such uncertainties fishers are not able to estimate their activity in the long term and therefore cannot assess if their investment is to be returned in the future. Purely economically, instability decreases incentive to invest in a sector. It is for this reason that public investment is crucial to encourage fishers to invest in more sustainable fishing practices. Member States should be encouraged to optimize spending of EMFAF to spur innovation in suitable environmental and climate mitigation/adaptation measures in the industry.

### 3.9 Legislative synergies between different human activities at sea

In general, the NSAC members observe that the cooperation between the different departments, legislative acts and stakeholder groups lack the necessary cooperation and coordination spurring synergies between different human activities at sea. It is crucial that silos between departments is broken down and information flow improved. Working in isolation will not bring the necessary progress towards continuous environmental, social and economic sustainability. In the multi-AC advice on the Blue Economy<sup>10</sup> the various ACs advised that: *The EU and its Member States should promote the integration and ensure the coherence of the Blue Economy framework with other relevant governance frameworks such as for international ocean governance, climate and biodiversity; and that it is vital to ensure a level playing field between all actors of the Blue Economy and implement both the same approaches – notably in respect of upholding sustainability principles – and levels of requirements, obligations, accountability and transparency across all sectors.* Likewise, strengthening of cooperation between the different policy departments on the EU and national levels was advised in the [NSAC/NWWAC Advice on MSFD Review](#).

### 3.10 Pollution

The NSAC believes that the fishing communities are to a very high degree depending on healthy seas. Therefore, fishers are inherently motivated to make considerable contributions to improve the state of the sea. While they do their noticeable part on mitigating pollution (see previous advice<sup>1112</sup>), similar efforts are needed in tackling/reducing pollution in other sectors, including land-based activities, particularly at their source. A holistic approach to pollution

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<sup>10</sup> <https://www.nsrac.org/wp-content/uploads/2020/12/05-2021-Multi-AC-advice-on-Blue-Economy.pdf>

<sup>11</sup> <https://www.nsrac.org/wp-content/uploads/2020/07/13-1920-NSAC-Advice-on-Circular-Design-of-Fishing-Gear.pdf>

<sup>12</sup> <https://www.nsrac.org/wp-content/uploads/2021/09/15-2021-NSAC-Letter-of-support-to-NWWAC-advice-on-CO2-emissions.pdf>

would help break down the silos between the different departments, users of the sea and common resources, improve legislative links, cross-pollinate ideas and exchange best practices. Forums such as advisory councils and regional groups (i.e. OSPAR), as well as collaboration between them, should be strengthened to offer a platform for such exchanges.

The fishing community plays an important role in bringing marine litter to port reception facilities. The delivery of this passively caught waste is regulated in Directive (EU) 2019/883, and its goal is to incentivise fishermen to drop the litter in waste bins instead of throwing it back in the sea. Even if this will not sort out the pervasiveness of marine debris across the ocean, it is a worthy contribution to clearing of the fishing grounds and improving the health of the ecosystems.

### 3.11 Social Aspects

The NSAC members find that there is a need for improvement of social considerations when proposing/adopting fisheries measures. In general, there is common understanding that while environmental sustainability has been prioritised in CFP interpretations, there is a lack of such considerations on social matters. The NSAC wishes to emphasize to take into account and reconcile all three sustainability pillars when proposing fisheries measures. Further focus should be placed on education, health and attracting young workforce in the sectors. The NSAC, together with the NWWAC, recently established a focus group on Social Aspects which is poised to deal with and provide advice on social sustainability of the fishing industry.

### 3.12 Climate Change

The NSAC believes that fishers are one of the affected parties in climate change. In light of this it is important to include social considerations in structural programmes which should be directed to fisheries. It is also important to note that climate change has and will have an effect on stock distributions and important considerations will need to be made in light of future stock management.

The European Commission should consider the need for increased flexibility and responsiveness in fisheries governance to account for changing conditions – including geographical shifts in stock distribution and potential conflicts with neighbouring countries. The Commission should also look into the mismatch between TAC and ICES areas, which is/may be a source of conflicts when designing fisheries measures. Furthermore, the Commission should request scientific advice to include climate considerations and ecosystem-based approach, with special attention and scientific solutions to mixed fisheries.

The NSAC recently established the Climate Change focus group, aimed at taking stock of existing considerations in climate mitigation/adaptation measures and identifying knowledge gaps in relation to fisheries and fish stocks in the face of climate change in the North Sea.

## 4. Conclusion

The key findings and main messages are summarised below.

- The CFP framework regulation is fit for purpose however, there remain important implementation gaps and principles to be reflected upon.
- The European Commission and Member States should step up the CFP implementation. The Commission's comprehensive report on the functioning of the CFP (due by December 2022) should address the implementation gaps and issues not sufficiently covered in the CFP, like climate adaptation.
- Sustainable fishing is imperative for maintaining long-term profitability of the sector.
- The NS MAP fails to address long-term stability in terms of catches and the health of stocks. An ecosystem-based and longer-term approach to regional MAPs is needed, with environmental and socio-economic objectives.
- The achievement of environmental, social and economic sustainability objectives of the CFP would benefit from increased pragmatism and realistic deadlines.
- In the current way of implementing the landing obligation, selectivity objective is challenging and requires more flexibility.
- Stakeholder participation observes considerable implementation gap. There is a need for a longer term inclusive and pragmatic role setting for stakeholders in fisheries management. The AC role in ensuring efficacy of the landing obligation should be strengthened.
- Better feedback on the impact of NSAC work would significantly improve the functioning of the AC.
- Further regionalisation of fisheries measures is called upon.
- For especially the NSAC industry a broader interpretation of MSY is needed and scientific advice that is robust and ensures stability.
- Ecological and sustainability goals as well recognition of socioeconomic factors should be woven into pragmatic management decisions.
- Challenges in mixed fisheries as well as management of commercially and ecologically valuable stocks should see increased focus.
- The Commission's requests to ICES should be formulated in accordance with the objectives of the CFP; pollution, ecosystem-based approach and climate change implications should be incorporated in ICES advice, with special attention and solutions to mixed fisheries.
- More emphasis, to the extent possible, should be put on quicker updating of all relevant data.
- Improved cooperation between scientists and fishers is encouraged.
- Greater flexibility should be granted to gear implementation with a more region-specific approach. Individual scientists/institutes collaborating with fishers on sustainable innovative gears should be given greater role.
- The Commission should reflect on a definition of capacity that would allow EU fishing fleet to adapt to this environmental and social challenges without increasing the catching ability.
- Maintaining a level playing field in external dimension is of utmost importance for ensuring trust needed for effective fisheries management, and for access to markets.
- Public investment is crucial for investments in sustainable fishing practices. Member States should optimize spending of EMFAF to spur innovation in suitable environmental and climate mitigation/adaptation measures in the industry.



- The cooperation between the different departments, legislative acts and stakeholder groups and coordination spurring synergies between different human activities at sea should be enhanced.
- A holistic approach to pollution would help break down the silos between the different departments, users of the sea and common resources, improve legislative links, cross-pollinate ideas and exchange best practices.
- Social considerations in structural programmes which should be directed to fisheries as the ones affected by climate change.
- The Commission should consider the need for increased flexibility and responsiveness in fisheries governance to account for changing conditions (i.e. stock distribution due to climate change, geopolitical changes etc.).