

Scheveningen Group of the North Sea Member States (Danish presidency)
Ministry of Food, Agriculture and Fisheries of Denmark
Department Holbergsgade 6
1057 Copenhagen
Denmark

Cc: DG MARE

Zoetermeer, 27 April 2023

Advice Ref. 06-2223
NSAC Advice on Exemptions from the Landing Obligation post-2023

This paper was approved with consensus by the NSAC Executive Committee on 27 2023 via written procedure.

The NSAC appreciates the opportunity to comment on the Joint Recommendations (JR) proposed by the Scheveningen Group of the North Sea Member States, particularly when these are submitted in a timely fashion to allow for thorough deliberations and comprehensive advice proposed by the NSAC members, while at the same time recognising the strain put on the Member States to realise all the deliverables. We would like to express our readiness to assist, in any way necessary, to cater for fair and thorough consultation processes.

With this paper, the NSAC aims to comment on the JR of the Scheveningen Group specifying details of the implementation of the landing obligation for certain fisheries in the North Sea from 2023. The NSAC had previously supported the Scheveningen Group JR amending the Delegated Regulation (EU) 2020/2024 on the implementation of the landing obligation for certain fisheries in the North Sea for the period 2021-2023, which applied provisions for simplification of the plaice exemption to allow for scientific research¹.

The NSAC Landing Obligation focus group met on 23 March 2023 to comment on the rest of the exemptions post-2023 as proposed in the draft JR. In addition to Covid-19 restrictions in 2020 and 2021, the lack of financial resources impeded the necessary research for a comprehensive analysis of the relevance of the existing derogations. We are also of the opinion that all of the current exemptions were requested with relevant argumentations and underpinnings at the time, and considering that the circumstances haven't changed, we deem current exemptions as specified in the 2020 Discard Plan fit for purpose. Below we propose additional commentary for certain exemptions to underpin our reasoning.

¹ <https://www.nsrac.org/wp-content/uploads/2023/03/03-2223-NSAC-Advice-on-the-Joint-Recommendation-on-simplification-of-the-plaice-exemption.pdf>

High survivability exemptions

Article 3²: High survivability exemption for Norway Lobster caught with pots and trawls in ICES division 2a, 3a and ICES subarea 4 (Article 3 of Regulation (EU) No. 2020/2014)

NSAC comment: Scientific evidence for high survivability rate has been acknowledged as sufficient by STECF. This is an important derogation for several fisheries and should be upheld.

Article 4: High survivability exemption for common sole caught with trawls in ICES subarea 4c (Article 4 of Regulation (EU) No. 2020/2014).

NSAC comment: NSAC recommends continuation based on observed high survivability of undersized sole, however, this does not relate to mesh sizes and therefore the derogation should be applied to undersized sole regardless of the vessel size, gear or depth of the sea (since sole has no swim-bladder).

Article 5: High survivability exemption for by-catch of all species subject to catch limits in pots and fyke nets in ICES division 3a and ICES subarea 4 (Article 5 of Regulation (EU) No 2019/2238).

NSAC comment: In general fish caught with these gears were demonstrated to have high survivability rates and therefore we recommend continuation of the exemption.

Article 6: High survivability exemption for catch and by-catch of plaice in ICES division 3a and ICES subarea 4 (Article 6 of Commission delegated Regulation (EU) No 2020/2014)

NSAC comment: This exemption is covered by the previous JR proposing the merging of derogations for plaice; the NSAC has responded to the JR supporting the simplification of the derogation and has no further comments.

Article 7: High survivability exemption for catch of plaice below minimum conservation reference sizes in ICES division 2a and ICES subarea 4 (Article 7 of Commission delegated Regulation (EU) No 2020/2014)

NSAC comment: This exemption is covered by the previous JR proposing the merging of derogations for plaice; the NSAC has responded to the JR supporting the simplification of the derogation and has no further comments.

Article 8: High survivability exemption for catch of turbot ICES in ICES division 2a and 3a and subarea 4 (Article 8 of Commission delegated Regulation (EU) No 2020/2014)

NSAC comment: As the derogation currently applies to beam trawls only, the NSAC recommends to expand the derogation to cover other towed gears and apply it post 2023.

² Of the 2020 Discard Plan

Article 9: High survivability exemption for catch of rays in ICES subarea 4 (Article 8 of Commission delegated Regulation (EU) No 2020/2014)

NSAC comment: There are ongoing survivability studies on rays caught with Danish seines, with data possibly available in April 2023. It is generally believed that if the derogation discontinued, the species mortality will increase. The NSAC therefore recommends continuation of the derogation.

Article 10: High survivability exemption for catches of mackerel and herring in the purse seine fisheries (art 10 of Regulation (EU) No 2020/2014)

NSAC comment: Covers pelagic species, therefore NSAC will not comment.

De minimis exemptions

Article 11:

De minimis exemption for sole caught in nets

NSAC comment: This exemption has not been assessed since 2015. There are few discards of undersized sole in fishery. These de minimis exemptions are significant for certain fisheries. The NSAC suggests continuation. In the case of whiting, NSAC comments that some quantities of whiting are being discarded due to parasites.

De minimis exemption for sole, haddock, whiting, cod, saithe and hake in fisheries for Norway lobster

NSAC comment: This exemption is based on the extraordinary workload presented by sorting of catches of the species. Despite species-selective sorting in gear, catches still occur, and thus requires sorting. Considering the circumstances are unchanged, NSAC recommends that the exemption continues.

De minimis exemption for sole, haddock, whiting, cod, plaice, saithe, herring, Norway pout, great silver smelt and blue whiting in the fishery for northern prawn

NSAC comment: This exemption is based on the extraordinary workload presented by sorting of catches of the species. Despite species-selective sorting in gear, catches still occur, and thus requires sorting. Considering the circumstances are unchanged, NSAC recommends that the exemption continues.

De minimis exemption for whiting below minimum size in bottom trawls fisheries

NSAC comment: This exemption is based on the extraordinary workload presented by sorting of catches of the species. Despite species-selective sorting in gear, catches still occur, and thus requires sorting. Considering the circumstances are unchanged, NSAC recommends that the exemption continues.

De minimis exemption for plaice below minimum size in the fishery for Norway lobster

NSAC comment: This exemption is based on the extraordinary workload presented by sorting of catches of the species. Despite species-selective sorting gear, catches still occur, and thus requires sorting. Considering the circumstances are unchanged, NSAC recommends that the exemption continues.

De minimis exemption for all species subject to catch limits in the fishery for brown shrimp

NSAC comment: This exemption is based on the extraordinary workload presented by sorting of bycatch TAC species onboard shrimp vessels. Firstly, the NSAC support that there should be no exemption from using a sorting device year-round. On the point of the changed condition from the Scheveningen Group with regards to a mandatory increase of mesh size to 24 mm, it seems to focus mainly on a study with model predictions focusing on the brown shrimp stock and the catches of smaller brown shrimp and not bycatches of TAC species. The POs in Denmark, Germany and the Netherlands have already implemented a voluntary management plan for brown shrimp and have changed the minimum mesh size requirements from 16 to 24 mm. However, this is done with a focus on the brown shrimp stock and not bycatch of TAC species. If it is to be obligatory to ensure de minimis in the fishery for brown shrimp, then there should be specific information on what the actual bycatch reduction for each TAC species is expected to be in the different mesh sizes. If these numbers are presented, then the NSAC can support this recommendation from the Scheveningen Group. In addition, the NSAC would like to point out that while a 24mm mesh would be too restrictive, a 22mm mesh size could be supported by our members. This is to account for different measuring practices by the control agencies and ensure there is a margin for fishers to comply with existing rules. We note that the difference between 22 and 24mm will not in any way affect fish stocks bycatch and will only have implications for undersized brown shrimp.

De minimis exemption for ling below minimum size in bottom trawls fisheries

NSAC comment: This exemption is based on the extraordinary workload presented by sorting of catches of the species. Despite species-selective sorting in gear, catches still occur, and thus requires sorting. Considering the circumstances are unchanged, NSAC recommends that the exemption continues.

De minimis exemption for combined quantity of whiting and cod in bottom trawls fisheries

NSAC comment: This exemption is based on the extraordinary workload presented by sorting of catches of the species. Despite species-selective sorting in gear, catches still occur, and thus requires sorting. Considering the circumstances are unchanged, NSAC recommends that the exemption continues.

De minimis exemption for whiting below minimum size in bottom trawls fisheries

NSAC comment: This exemption is based on the extraordinary workload presented by sorting of catches of the species. Despite species-selective sorting in gear, catches still occur, and

thus requires sorting. Considering the circumstances are unchanged, NSAC recommends that the exemption continues.

De minimis exemption for whiting below minimum size in beam trawls fisheries

NSAC comment: This exemption is based on the extraordinary workload presented by sorting of catches of the species. Considering the circumstances are unchanged, NSAC recommends that the exemption continues.

De minimis exemption for a combined quantity of mackerel, horse mackerel, herring and whiting in pelagic trawls up to 25 meters in length

This exemption is based on the extraordinary workload presented by sorting of catches of the species. Considering the circumstances are unchanged, NSAC recommends that the exemption continues.

De minimis exemption for a combined quantity of sprat, sandeel, Norway pout and blue whiting in bottom trawls fisheries

NSAC comment: This exemption is based on the extraordinary workload presented by sorting of catches of the species. Despite species-selective sorting in gear, catches still occur, and thus requires sorting. Considering the circumstances are unchanged, NSAC recommends that the exemption continues.

De minimis exemption for ling below minimum size in demersal fisheries for hake using longlines

NSAC comment: This exemption is based on the extraordinary workload presented by sorting of catches of the species. Using longlines selectivity cannot be increased. Considering the circumstances are unchanged, NSAC recommends that the exemption continues.

De minimis exemption for horse mackerel in bottom trawls fisheries

NSAC comment: This exemption is based on the extraordinary workload presented by sorting of catches of the species. Despite species-selective sorting in gear, catches still occur, and thus requires sorting. Considering the circumstances are unchanged, NSAC recommends that the exemption continues.

De minimis exemption for mackerel in bottom trawls fisheries

NSAC comment: This exemption is based on the extraordinary workload presented by sorting of catches of the species. Despite species-selective sorting in gear, catches still occur, and thus requires sorting. Considering the circumstances are unchanged, NSAC recommends that the exemption continues.

De minimis exemption for blue whiting in industrial pelagic fishery for blue whiting

NSAC comment: Considering the circumstances are unchanged, NSAC recommends that the exemption continues.

De minimis exemption for northern prawn in bottom trawls fisheries

NSAC comment: This exemption is based on the extraordinary workload presented by sorting of catches of the species. Despite species-selective sorting in gear, catches still occur, however in very small amounts. Considering the circumstances are unchanged, NSAC recommends that the exemption continues.

New proposals

The NSAC proposes addition of two new exemptions:

- **De minimis exemption for haddock under MCRS in the Kattegat** due to lack of technical solutions for selectivity and incommensurate time for processing/sorting documented by CCTV.

A *de minimis* scheme for haddock in the Kattegat has been proposed, which corresponds to the exemption that applies to whiting. This proposal is based on the fact that, as the basic regulation applies, in the Common Fisheries Policy, Article 15, par. 5 c) ii) there is the provision that "to avoid disproportionate costs of handling unwanted catches, for those fishing gears where unwanted catches per fishing gear do not represent more than a certain percentage, to be established in a plan, of total annual catch of that gear."

The background is that in the Kattegat a significant increase in the occurrence of smaller haddock has been observed in the fisheries for nephrops and in mixed demersal species with towed gear. This situation means that the time used for sorting catches, to be compliant with the landing obligation, in many cases is more than doubled for the individual vessel.

The time used has a direct negative effect on the sorting of other species with high survivability, such as plaice and nephrops. The time used also affects the crew's workload and rest time, with the consequent increase in risk of work-related accidents. The occurrence of haddock and the related effects are similar to those factors that justify the current *de minimis* exemption for whiting in the same fishing gears and areas.

Against this background, the NSAC sees a *de minimis* scheme for haddock below minimum size in 3AS as necessary and fully compatible with the requirements and purpose of the Common Fisheries Policy.

Unfortunately, the Scheveningen Group has apparently only been able to agree on a common setting limited to vessels equipped with CCTV or fishing with trawl equipped with SELTRA300 panel located 3 meters from the codend. This demarcation does not fundamentally solve the problem that fishermen have in relation to comply with the

landing obligation in relation to haddock and the extra workload, which is the challenge for the individual vessel. It is a different agenda that is pursued and in that context without respect for the industry.

The NSAC recommends implementing solutions which can ensure proper implementation of the landing obligation, compiling to a de minimis exemption for haddock below minimum size in the mixed demersal fisheries, disregarding location of sorting panel or the use of CCTV.

- **De minimis exemption for health-compromised species** (due to parasites, predation, pollution). i.e. *Force majeure* exemption.

To ensure compliance with the landing obligation, it is of utmost importance that the regulation is clear and transparent. Occasionally situations occur that challenges the interpretation of present regulations. The situations can be referred to as *force majeure* and include situations with polluted catches, infected specimens and damaged catches. A clear and transparent regulation allowing fishermen to handle these situations is needed. The NSAC thus recommends an exemption based on force majeure situations.

Thank you again for the opportunity to comment on draft JR on exemptions post-2023, we hope you find our commentary useful. We remain at your disposal to further discuss the implementation of the landing obligation through proposed exemptions.