

# North Sea Advisory Council



## NSAC Advice Ref.02-1718

### Response to the European Commission Consultation on SCIPs

This paper was approved by the NSAC Executive Committee on the 19<sup>th</sup> June 2018.

#### **1.0 Introduction**

1.1 Members of the NSAC are pleased to have been invited to contribute to the European Commission's Advisory Councils consultation; Towards new SCIPs. (Specific Control and Inspection Programmes). Whilst members are happy to make contributions and participate in the consultation process we have reservations about the timing of the consultation and its alignment to other ongoing developments within the CFP. The revision of the legislation regulating SCIPs is being introduced as we approach full implementation of the Landing Obligation (LO) and when the revision of the EU Fisheries Control Regulation is under way. Notwithstanding the short consultation period and our concerns regarding relevance and importance to related regulations, the NSAC would like to submit observations and recommendations which are directed at demersal fisheries in the North Sea.

#### **2.0 Implications of the Landing Obligation**

2.1 The consultation paper "*Towards New Specific Control and Inspections*" unfortunately has a narrow focus. It has been written from a surveillance and control perspective with limited reference to the fisheries management context or to the specific challenges faced in applying the landing obligation to mixed demersal fisheries managed primarily through a system of TACs and quotas.

2.2 In particular the problem of chokes in mixed fisheries is not addressed, though this is perhaps the biggest challenge both in terms of fisheries management, achieving maximum sustainable yield (MSY) exploitation rates and enforcement and control. The NSAC Advice "[01-1718 Comments on the Implementation of the Landing Obligation – Joint Recommendation for a Delegated Act for 2019](#)" explains current concerns with the implementation of the LO, whilst no chokes situations have been realised to date,



this is due to implementing a more fisheries-based approach which has delayed the introduction of problematic species until January 2019. The NSAC advice highlights that after January 2019 chokes may be experienced in particular for cod, hake, ling, plaice, whiting, seabass and skates and ray stocks with a risk of non-compliance with the landing obligation in relation to these species. For an explanation of the choke problem, see [NSAC Advice 01-1718](#).

- 2.3 To be specific: the risk of non-compliance with the landings obligation is likely to increase significantly with the risk of choking. In circumstances when it becomes evident that continuing to land a choke species will result in the premature closure of the fishery, and therefore the inability to land the vessel/PO/member state's main economic species, with potentially serious socio-economic consequences for the fishing business, crew, community, and supply chain, the likelihood of illegal discarding taking place will be high. This temporal and spatial aspect of compliance and enforcement risk may fluctuate considerably over time, making a dynamic, ongoing assessment of risk essential. In this respect, the NSAC acknowledges the existence of regional risk assessments already carried out by EFCA on the subject, and call on the agency and the Member States to deepen their work on the topic, notably by fully integrating the risk of chokes into their analysis.
- 2.4 We are of the view that regulators could provide a pathway for the fisheries sector to comply with the landing obligation. In other words, the master of a vessel is more likely to comply with the landing obligation if he can see a way of doing so whilst also operating an economically viable fishing vessel. Building this *culture of compliance* throughout the fishing sector is important. To date there is no such pathway within the mixed demersal fisheries. Against this background, it is difficult for the NSAC to support the blanket application of mandatory CCTV on all vessels throughout the North Sea demersal fisheries.
- 2.5 It is unclear on what basis the consultation makes the assertion that "closed-circuit television (CCTV) has been identified to be the only effective control tool to ensure control and enforcement of the LO at sea" as there are examples where a strong culture of compliance has been achieved with other measures such as those seen in Iceland and Norway.
- 2.6 We fully recognize that remote sensing and information technologies have a role to play in fisheries, as they do in many other economic spheres. There are, however, a number of important legal issues at stake, including:
- Transparency and data collection
  - Data protection law concerning the right to privacy
  - Ownership and use protocols for the data generated
  - Existence of legal requirements for corroborating evidence when CCTV is used in prosecutions



Furthermore, previous studies have identified pros and cons of CCTV utilization but additional studies could investigate how CCTV would be feasible on small and large-scale fisheries.

- 2.7 The main issues are however not *primarily* legal or technical; they relate to good governance. Industry members of NSAC are of the view that mandating the use of CCTV should be required on a case-by-case basis for all fisheries found to have medium and high risks of non-compliance with the LO in risk assessments conducted by EFCA. They are of the view that the results of the risk categories should be discussed with the Advisory Council (AC) before decisions are made as to which tools would be most appropriately implemented. The OIGs are of the view that CCTV should be mandatory for all vessels assessed by EFCA as having medium and high risks of non-compliance.

### 3.0 NSAC Response to Presented Questions

1. **Do you agree with the introduction of mandatory measures in the SCIPs for the application of CCTV technology across all MS and to specific fishing fleets, on a regional basis, according to harmonized risk management?**

The NSAC acknowledges that monitoring and control will be an essential component of the successful implementation of the Landing Obligation. Better and more comprehensive monitoring and reporting of catches represents an opportunity to enhance scientific evidence and to improve the knowledge on which fisheries management and policy is based. This includes Remote Electronic Monitoring (including continuously recording Closed-Circuit Television (CCTV), net sensors, and systems incorporating data storage and/or the ability to send camera footage in real time) across all MS and on all fisheries, that are identified by the control experts of EFCA as being of medium, high or very high risk of non-compliance. The results of the risk categories should be discussed with the AC before decisions are made as to which tools would be most appropriately implemented.

Member States should aim for a level playing field and apply management and control 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. Any phase in of the system, for example, should prioritize the installation in all high and very high-risk fleet segments first.

Existing compliance monitoring such as last-haul analyses should not be replaced.

2. **What criteria should be used to determine the fisheries/fleet segments/vessels subject to control through CCTV? Should there be a threshold in fishing vessel's length?**



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**3. What do you believe will be the greatest technical and legal challenges and what do you think can be the solutions? (e.g., installation and maintenance costs, data access and exchange by flag and coastal state competent authorities, technical specifications, implementing protocols, privacy and data protection laws, etc.)**

The primary challenges to the use of CCTV will not be legal or technical, although these are not negligible. Unless the landing obligation is implemented in line with the principles of good governance, there is the potential that over the next decade the work that has been done over that last two decades to reduce fishing mortality and improve exploitation patterns will be jeopardized.

Though Remote Electronic Monitoring is considered the most cost-effective form of monitoring to support the implementation of the LO, the cost and effort involved in establishing a comprehensive system may be a deterrent for some MS. It is important to note that EMFF has funds available for monitoring and control, as outlined below, but to-date these have been significantly underspent. We recommend that full use should be made of this funding to cover the initial costs associated with the effective monitoring and control of the LO. In addition to available EMFF funds to help developing electronic monitoring on European fishing vessels, the NSAC wishes to highlight the importance of finding long-term solutions to cover the costs of establishing and maintenance of an extensive system, as well as financing monitoring and control efforts. Member States national governments have a role to plan in providing this.

**4. Do you believe the use of some kind of incentives can be positive to start the process?**

Perhaps the most significant feature of a fully effective monitoring and control regime is the degree to which there is a culture of compliance. Where fishers 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. There will be a need for common rules, agreed at the EU level, that aim to establish a level playing field and act as a deterrent to all illegal activities, with effective, dissuasive and proportionate sanctions. 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.

#### **4.0 Conclusions**

- 4.1 This consultation paper is premature. The sequence should be to embed the monitoring, control and enforcement regime within a properly functioning, mutually coherent and internally consistent set of regulations that have been developed in close dialogue with those who will be affected by them.
- 4.2 Previous studies have identified pros and cons of CCTV utilization but additional studies could investigate how CCTV could be considered on small and large-scale fisheries.
- 4.3 Nevertheless, we recognise that using EFCA risk assessments to determine which vessels are to use CCTV appears the best way to guarantee a level playing field as EFCA is active in all sea-basins and can develop the same methodology for all its risks assessments.
- 4.4 In order to standardize the use of CCTV on board all fishing vessels, any incentive that could potentially be used to facilitate the beginning of the process of implementing REM/CCTV on vessels should be fully in line with the objectives and principles of the CFP. In particular, the NSAC highlights that incentives which could lead to overfishing must not be permitted.

