



Position Paper 1 (2012/13)

October 30th 2012

Comments on the Commission Proposal for a Regulation of the European Parliament and the Council amending Council Regulation (EC) No1342/2008 of 18th December 2008 establishing a Long Term Plan for Cod Stocks and the fisheries exploiting those stocks

Status of the Advice

The status of this position paper is that of unanimous NSRAC advice, except where otherwise indicated. In particular, the Environmental NGOs, (WWF, BirdLife International and Seas at Risk) do not subscribe to the views on setting a TAC for North Sea cod outlined in this paper. These organisations also agree with the Commission's view that a prohibition on vessels engaged in *catch quota* trials from transferring cod quota, in or out, is necessary to prevent increased discards from non-participating vessels which already complain of not having sufficient cod quota. These views are expressed as minority positions within the text.

Summary

The North Sea RAC welcomes the general thrust of the proposed amendments to the EU multi-annual cod plan, most of which are in the broad direction advocated by the NSRAC in its earlier advice. A number of clarifications and important refinements are still required before adoption. Nevertheless, the changes proposed, if adopted quickly, should contribute to setting the Plan on track to achieve its original objectives. Whilst we support and are wholeheartedly engaged in the development of full *mixed-fishery management plans* for the principal demersal stocks in the North Sea, we recognise that it will take some time to develop the necessary scientific underpinnings and to hold the equally necessary dialogue with stakeholders. It is therefore entirely appropriate to adopt *interim* arrangements, not least to address the flaws in the current plan identified amongst others by STECF and the NSRAC. The priority now must be the early adoption of this Regulation by the co-legislators and its early introduction into force.

Proposed Amendments

Baselines and Uptake

Changes to Article 4 are aimed at closing the unintended possibility for Member States to deploy higher levels of effort than the plan was meant to allow simply by changing the methods used for the calculation of effort when establishing the baselines and when calculating usage.

Without conceding our view that effort control has proven to be a blunt and largely ineffectual instrument in the EU cod recovery and cod management plans, it is reasonable to require member states to calculate effort usage on a consistent basis to that used to establish effort baselines.

Data Deficient Stocks

In Article 9 there is currently a procedure for TAC setting in the absence of the necessary information to apply Article 7 or 8. Instead of automatic reductions of 25% it is now proposed to take a case-by-case, and therefore a more flexible, approach though remaining firmly based on available scientific advice.

The scope for the Council to apply reductions in effort and TACs less than the automatic 25% for stocks required under the current plan, in cases where analytical assessments are not available, is a wise and proportionate proposal, which will allow the Council to apply a case-by-case approach in light of the most comprehensive scientific advice available.

Exemptions for Vessels catching Negligible Amounts of Cod

The former Article 11 is split into Article 11, Article 11a and 11b. Instead of exempting groups of vessels specified by each Member State, exemptions are now based on criteria that would be generally applicable for any vessels that meet them, regardless of the Member State to which they belong. The amended Article also avoids the need for constant adjustments of the baseline by Council.

The administrative hurdles required to obtain exemptions for vessels catching negligible amounts of cod have been disproportionate and have undermined the intention of this provision. We therefore welcome this streamlining of the arrangements for granting exemptions.

Some clarification is required on how the new exemptions would work in relation to the potential overlap between gear selectivity, spatial distribution of catches and depth. For example some gears operating in high-cod density areas catch very low amounts of cod; equally, some gears operating in relatively low cod dense areas can catch substantial amounts of cod.

Greater clarity about the evidence base to be used in determining the criteria used to define cod dense areas is required along with a better understanding of how the new approach would be applied in practice.

Transitional measures will ensure that vessels groups already excluded will be subject to the criteria in force at the time of exclusion.

It makes sense to maintain continuity where groups of vessels have already met existing exemption criteria. We consider that where vessels or groups of vessels can demonstrate that their by-catch of cod has been negligible in the past and continues to be negligible in the present, there should be no question of removing their exemption after the transitional period.

Fully Documented Fisheries – Effort Exemption

A new Article 11c is introduced. Vessels involved in fully documented fishery trials, where all catches are counted against quota, are exempted from fishing effort regime.

Whilst the STECF evaluation has highlighted the non-linear relationship between effort reductions and reductions in fishing mortality, and although there is important scope within the proposed amendments to freeze further effort reductions, we also take the view that exemption from the effort regime for those vessels which can provide fully documented catches is logical. However, if fully documented fisheries are advanced as a positive development with a demonstrable ability to reduce discards, we fail to understand the reasoning behind the proposed prohibition on transfers of quota to and from these vessels. This part of the proposed amendments appears to take the cod management plan in the opposite direction to the direction of travel in CFP reform, where regionalisation and the alignment of economic incentives with management objectives are cornerstones.

The most salient point is that it can be demonstrated that since FDF trials were introduced discards have been reduced in the North Sea, with the FDF vessels contributing substantially to discard reduction.

It is also important to take account of the management consequences arising from a decreased TAC and increased catchability of cod on the fishing grounds. FDF vessels are likely to find it much more difficult to manage their whole range of fishing opportunities in the context of a reduced TAC for cod, with no flexibility on quota transfers, and an obligation to halt fishing when their cod quota is exhausted. In these circumstances cod would become a *choke* species.

We consider that this poorly thought-through measure would prevent interested vessels from joining catch quota trials in the future.

In general quota management is a member state area of competence and should remain so.

Exception

Note that the E-NGOs disagree with the views expressed above for fully documented fisheries and support the Commission's opinion that a prohibition on quota transfers is

necessary to prevent quota being transferred from vessels which are not under FDF arrangements to those which are, leading in turn to an increase in discards by the former.

In Article 11C (2) it is proposed that “an amount of effort equivalent to the amount of effort deployed by the participating vessel in the year before its exclusion from the fishing effort regime” is to be deducted from the fishing effort authorised under Article 12.

However, this would be a major change to the present rules and punishing member states that for the last 2-3 years have been participating in trials of fully documented fisheries. Vessels participating in trials of fully documented fisheries have in most cases benefited from the allocation of supplementary effort under the present Article 13(2)(c), because of their involvement in a discard reduction plan. It would be excessive therefore for the effort authorised under Article 12 to be reduced by amounts that included effort that had only been deployed as a consequence of vessels' compliance with discard reduction plans.

The reduction of effort baselines should be achieved in compliance with the present Article 3(3) of Commission Regulation 237/2010, which is to say that the 2004-06 (or 2005-07) baseline should be reduced by the amount that the participating vessels contributed during that period. The supplementary effort thus acquired should be retained by Member States to be ring fenced for similar trials on measures leading to a decrease in fishing mortality.

The exemption of certain vessel groups must not have the effect of including vessel groups that have hitherto been exempted from the effort regulation (after Article 12 (5)). Thus, the mortality applied by exempted groups should still be included in the calculation of aggregated effort as stipulated by Article 12 (3)(b).

Flexibility in Setting TACs and Effort Levels

In Article 12(4) changes are made on the same grounds as for Article 9.

New paragraph 6 is introduced in Article 12. This paragraph foresees the possibility for the Council to decide not to apply further fishing effort reductions, once the fishing-effort ceiling has been reduced for four consecutive years.

The permissive authority to allow the Council to freeze the effort reductions required under the plan is vital to avoid serious and irreversible socio-economic damage to fishing businesses and fishing communities. Member states and the RACs, as well as STECF, have drawn attention to the blunt, disproportionate effects of this approach and the frequently counterproductive consequences that have resulted. The most salient consequence of this new flexibility will be an anticipated reduction in discards.

Catch Composition Management Period

In Article 13 a rewording is made in order to remove differences in interpretation between language versions. It is now made clear that the condition that cod catch are less than 5 % of the total refers to the catch composition over the management period, not per trip.

Against the background of CFP reform and an obligation to land all catches, the proposed changes that would have the effect of reducing discards of mature cod are welcome. The

flexibility to meet the 5% catch composition requirements across the whole management period should help in this regard.

Discard Reduction

In Article 14 the Member State obligation to address the discard issue is strengthened and the level of control and monitoring is specified according to risk-based management.

In our advice we have strongly been of the view that the future of rebuilding cod stocks lies in various kinds of cod avoidance by fishing vessels and aligning economic incentives in the industry with management objectives. To a large extent cod avoidance initiatives overlap with discard reduction. Within the context of the imbalance between TACs for North Sea cod and the actual abundance on the fishing grounds in the North Sea and Skagerrak, cod avoidance through real time closures, catch quotas, selective gears, seasonal and temporal avoidance have been the main means through which catching pressure on cod has been reduced. Monitoring and the application of a risk-based approach will doubtless reflect this pattern.

Conclusion

The NSRAC welcomes this proposal from the Commission, which in large part responds to the advice provided by the NSRAC and other RACs. Nevertheless, a small number of important concerns remain.

Our immediate priority is to see the early adoption of the new regulation through fast track co-decision procedure.

North Sea Cod TAC for 2013

The E-NGOs do not consider that it is their role to advise on individual TAC levels and therefore are not associated with this part of the NSRAC advice.

The NSRAC:

- Shares the view, expressed by STECF, that TAC reductions, even when underpinned by effort control, have a weak or at least indirect correlation with fishing mortality on cod.
- Notes that various innovative cod avoidance measures (including real time and seasonal closures, catch quota trials, increased gear selectivity, and spatial and temporal avoidance) have already led to a substantial reduction in discards of North Sea cod
- Observes that a TAC set in accordance with the terms of the EU Cod Management Plan for 2013 is highly likely to reverse that trend resulting in a significant increase in discards

- Concurs with STECF's view that a Cod Plan comprised of measures which have the support of stakeholders, and that are focused on constraining total outtake (catch) rather than landings, has a greater prospect of success.
- Considers that in the normal course of events the EU Cod management Plan would have been evaluated in 2011 and revised during the course of 2012.
- Regrets that the Council and European Parliament have been unable to resolve their dispute over the question of institutional competence under the Lisbon Treaty with regard to multi-annual management plans
- Is not insensitive to the complex and difficult legal position that the Commission is therefore placed in with regard the setting a TAC that is not consistent with the terms of the Cod Management Plan
- Notes that, notwithstanding the terms of the EU Cod Management Plan, the political (and legal) reality is that the TAC for North Sea Cod is agreed through a process of negotiation between EU and Norway
- Considers that this provides the contracting parties considerable latitude to set a status quo TAC for North Sea cod that:
 - Is consistent with achieving Fmsy within three years
 - Will allow continuing progress in reducing the absolute quantity of cod discards in the North Sea
 - Would be consistent with rebuilding the cod biomass, continuing the current trend (notwithstanding lower than average recruitment) observed for six successive years

We believe that what is required in relation to setting the TAC for North Sea cod in 2013 (and until a new set of harvest control rules can be agreed) is a pragmatic response from the EU and Norway to a unique set of political and biological circumstances. The aim should be a TAC for 2013 that delivers continuing increases in the cod biomass along with a reduction in fishing mortality and a reduction of discards. This, as the attached annex makes clear, is entirely achievable with a status quota TAC.

Annex

Divergent Trends in Stock Development and the TAC for North Sea Cod

The biological assessment of cod in the North Sea shows that the stock has increased for the 6th year in a row. On the first of January 2013, the spawning stock biomass will be 75,700 tonnes, which means that SSB is above Blim for the first time in 15 years.

With the present definition of HCR (Harvest Control Rule) in the plan, the Council is obliged to agree on a TAC, based on a 65 % reduction of the fishing mortality in 2008. This would mean a TAC for 2013 of roughly 20,000 tonnes. However, as there is also a rule that limits

year-to-year change to a maximum of 20 %, the TAC should be set at 25,441 tonnes according to the plan.

A TAC reduction of 20 %, on the background of a substantial increase in the stock size, will:

- Probably lead to a significant increase in discards, with the waste in terms of resource and value which that represents and consequent hostile media attention
- It will be difficult to explain such a reduction to fishermen, against their direct experience of an increasing biomass, leading to a loss of respect for the legitimacy of the Management Plan based as it is on a rigid method of calculation that does not allow for small modifications, based on the actual development in the sea.

The figure below shows the development in spawning stock biomass (SSB), total standing biomass (TSB) and TAC for cod in the North Sea since 2003 (predicted values for 2013 shown in red):

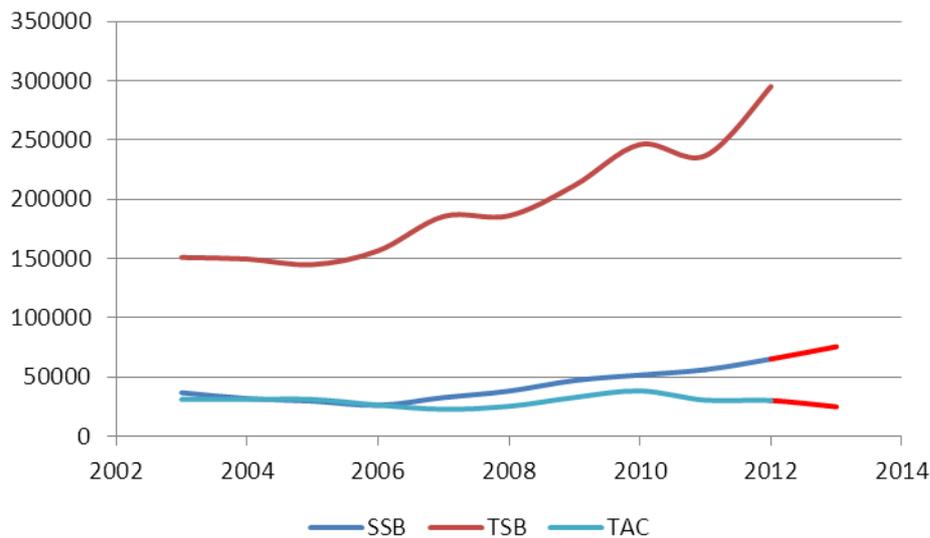


Figure taken from ACOM report 2012

This figure illustrates firstly, that a considerable part of the stock is made up by fish that are not yet adult, and secondly, that there is a divergence in the direction between the development of stock size and the TAC.

The NSRAC is of course aware of the obligation to exploit fish stocks according to MSY by 2015, and understands that TAC and stock cannot develop in absolute parallel. We do however emphasise that the mortality that is now used to set the TAC is well below the agreed target of F 0.4 – even when discard and unallocated mortality are included in the estimate.

As the biological assessment of the stock shows that SSB is growing, the EU and Norway can safely agree on a TAC for the following year that is the same as that set for the present year (a roll-over), as long as:

- 1. The mortality in the quota year is reduced compared to present year, and**
- 2. The SSB by the end of the quota year is larger than SSB in the present year, and**
- 3. The fishing mortality that corresponds to the TAC in the forecast table in ICES advice is less than F 0.4**

According to ICES advice in 2012, a roll-over of the TAC to 2013 will deliver a mortality of F0.32 (a reduction of 30 % compared to the present mortality) and a growth in SSB of 25 %.

A roll-over would thus be consistent with the criteria above. A TAC for 2013 could safely be set at the same level as the TAC for 2012, safeguarding the stock and with a consequent reduction in discards.