**Paper No. 3.4 Paper for Information**

**NSAC LO Focus Group
London**

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**ISF workshop on Interspecies flexibility (ISF)**

**Wednesday 4 November**

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**Summary**

* ISF does not provide a complete solution for the choke species problem.
* ISF without additional measures could lead to severely overshooting the TAC of bycatch species, since the same by catch specie can be booked from the quota of target species in different fisheries every time until 9% of the quota of the target specie.
* ISF should not lead to an increased F, since the extra landings were previously discarded, except when fisherman abuse ISF to target by catch species.
* A ceiling on TAC’s of bycatch species would limit the possibilities to use the same bycatch species in multiple fisheries and severely overshooting the TAC of the bycatch species.
* On the other hand would a ceiling on the TAC for some Member States with a very small share in the TAC have a very negative outcome. Their choke species problem will increase.
* Conversion factors have the effect that they will limit the abuse of ISF to target bycatch species. Conversion factors however are very difficult to establish, with prizes varying between Member States and even between ports inside Member States.
* A third option to limit abuse of ISF was brought on the table – to confiscate revenues of fish landed without quota
* A workshop on quota swapping, to explore to which extend quota swopping can prevent choke species, is considered very useful. Denmark has offered to host such a meeting
1. **Opening of workshop and recap of last years discussion** by Carian Emeka
2. **Inventory of foreseeable needs**
* Belgium mentions that they have a big problem with interspecies flexibility (ISF), because it solves only partly the problem with choke species. It was suggested by Belgium that when the quota of choke species run out, and all flexibilities are exhausted, the species should be labelled ‘prohibited’, so that any more catches must be discarded. Some member states questions whether this is in line with the basis regulation.
* Germany mentions that ISF is only a solution for species inside safe biological limits. There are other species not within safe biological limits. Germany suggests to group small TACs of individual stocks to a bigger combined TAC for a group of species.
* UK mentions that ISF leads to a higher catch than agreed in the TAC. The question is whether Norway will accept this. Denmark mentions that Norway has a habit of overshooting their quota, without repercussions with the argument of a landing obligation.Spain mentions that Interspecies Flexibility won’t lead to increased mortality. Currently those fish are caught and discarded. We only change the landings. ISF even limits mortality of the target species.
* NL mentions that under normal conditions F won’t change, if previously discarded fish (with no survival) is now landed. Except if fishermen abuse ISF to target by catch species. The discussion should focus on how to avoid targeting by catch species.
* The PRAC is currently drafting their experiences of the last year with the LO. Main concerns seem to be the technical regulations, and bycatch provisions for saithe in North Sea and boar fish in western waters. One of the concerns of the PRAC is how coastal states and Norway will respond to the requests on the uplift of the quota.
* The NSAC expects no big problems for 2016. The members of the NSAC want clarity on the new regulations first and foremost. The NGO’s do not want MSY jeopardized. It may be necessary to build in safeguards.
1. **Presentation David Miller on species eligible for ISF (enclosed)**
* Species above Bpa and below Fpa are eligible for ISF, Species below this point are not eligible
* Currently limited scope for applying ISF, because only small number is within safe biological limits
* Major problem is the lack of Blim proxies for data-limited stocks
* The regulation implies that there is presently limited scope for the flexibility to be applied and the STECF-EWG considered that early **progress towards extending the number of species was required**. It was also felt, in the absence of reference points based on metrics generated in the typical assessment framework, that the ***development of biomass and mortality reference point proxies should be treated as a matter of urgency***.”
* ICES ACOM has not received a request to look at data poor stocks and set reference points – dab is such a species and dab is in a good state.

***Discussion***

* Denmark mentions that herring in IIIa can be added to the list of species eligible for ISF
* The Netherlands mentions that the question is if we want to keep the list of species eligible for ISF limited, or do we want to put some effort and see if we can have more species eligible for ISF in this list.
* Sweden suggests that it might be good to increase knowledge on data poor stocks. But we should first look at other solutions, before we look at ISF (increase selectivity etc)
* Spain mentions that choke species can’t always be solved with increased selectivity. Sometimes the problem is the quota allocation.
* Spain mentions that ISF does not change mortality of by catch species. The only change is in the landings.
* The UK mentions that they would like to increase knowledge on data poor stocks, but we are short on resource. It’s already difficult to keep the research going with limiting resources.
* Belgium mentions that they don’t want to increase the list of species for ISF, because it doesn’t provide a good solution to choke species. Be suggests to treat species that are not eligible for ISF as a forbidden species and to discard these fish when the quota runs out.
* Ireland responds that they don’t see a legal possibility to treat choke species as forbidden species when the quota runs out.
* The industry representative of NSAC and NWWAC suggests that the need for ISF depends on the response of the industry to the landing obligation. There are different possibilities to mitigate the effect of choke species: IAF, FMSY ranges, and then ISF. That is beside de minimis for disproportionate costs. The premature closing of fisheries is also a disproportionate cost.
* The Netherlands supports all previous comments. We have to increase selectivity and we have to be careful with the use of ISF. But we also see need to have species eligible for this flexibility. Some species, like hake have had a full assessment, but the necessary reference points (fpa and bpa) were not defined. The Netherlands suggests that the Commission takes this into account when they set up the ToR for ICES.
* The chair asks the AC’s – what they expect to run into?
* The PELAC mentions that they haven’t run into any major problems so far. The landing obligation goes more smoothly than expected.
* The industry representative of NSAC/NWWAC mentions that because of phasing, no major problems are expected in 2016. The biggest problem is that there are still so many things unclear.
* The NGO representative of NSAC/NWWAC mentions that NGO’s will look mainly at how the flexibilities will have an impact on the objectives of the CFP, such as achieving MSY.

**Presentation David Miller on sources of complexity (enclosed)**

* Identifying choke species will be difficult, with all the flexibilities
* There are multiple reasons why stocks can be a choke species – poor condition, data poor, insufficient quota (rel. Stability)
* Example hake – increasing stock size. In some area’s some gears have high discard rates, which might lead to choke situations.
* Hake is present in multiple sea basins and caught as bycatch in different fisheries. It’s a valuable stock.
* At what level should ISF be applied - Vessel level, national level, sea basin level?
* The CFP (Article 2) stipulates that the **precautionary approach to fisheries management** should be followed and that exploitation should be consistent MSY
* STECF-13-23 : Landing obligation in EU fisheries (part 1): “Inter-species quota flexibility **could have serious impacts on stock sustainability** ...”
* Cumulative impact of flexibilities/exemptions should be limited to prevent that future TACs will not be even smaller

***Discussion***

* Spain suggests that we need a case by case approach. We need to check the state of the stock. If we use a stock that we worked really hard to get to a good level, and everybody starts using this species for ISF, than all that work might be for nothing.
* Ireland mentions that in the NWW the discard plan contains thresholds of catches. Some vessels spend part of the year catching gadoids and part of the year other fisheries. Whiting is,at least part of the year, a target species. The question is, if a species is only partly a target species, would it be eligible for ISF?
* The representative of the PELAC mentions that the use of ISF might have a negative impact on the Coastal State negotiations. The representative of the PELAC mentions that the PELAC therefore advices to withdraw de minimis from TAC to avoid increase of F.
* The NL repeats the comment from SP that F should not increase by the use of ISF. Currently we are discarding the fish, with the landing obligation we are landing the fish. That is, if we take out the incentive to abuse ISF to target by catch species.

**Presentation on two cases Erik Buisman (enclosed)**

* Aim ISF is to avoid choke species
* Problem is the impact it might have on by catch species, since there is no limit to the amount of by catch species that we could apply ISF to
* 2 management options – conversion factors and ceiling on use of bycatch species
* 2 cases – Northern hake, megrim (LEZ/56-14)
* Hake – not on list of eligible species, but within SBL.
* A choke species for multiple fisheries and MS
* Megrim – valuable by catch species in multiple fisheries
* TAC of Northern hake is 90.849t
* ISF could lead to almost 60.000t extra landings (65% above TAC)
* ISF on megrim could lead to 511% extra landings (above TAC)
* Conversion factors equal to the price ratio of target and bycatch species can take away incentives for target species, but don’t give an incentive to avoid the species, difficult to implement as prices can differ between MS, between ports and are volatile. Conversion factors alone don’t necessarily protect by-catch species from overfishing.
* Ceiling on the TAC of by catch species– simple and direct instrument. Require negotiations between Member States on how to set the ceiling and how to divide the ceiling over Member States – according to relative stability or according to discard rate?

***Discussion***

* Germany mentions that the management will be on a national level. If we would have a ceiling based on our own quota of hake, it’s very small. We will choke our fisheries even sooner.
* Erik – it could be a choice to take 9% of the TAC and not of the national quota and then negotiate how to divide this.
* Belgium remarks that in this case we assume that there are only 2 choke species. When in reality there are many choke species
* Erik responds that he just presented two examples of cases on the use of ISF and how conversion factors could work out or how a ceiling to the TAC of the by catch species will turn out.
* Ireland mentions that conversion factors can have the effect to take away the incentive to target bycatch fisheries, but the regulation does not require such a limit. This would then have to be discussed in the regional group.
* Denmark mentions that one of the proposals in the CFP was a bycatch quota, which was rejected by the Member States.
* BE mentions conversion factor hake to sole is 1, but sole is more expensive than hake. CF should be 2 or 3.
* Erik assumed that conversion factors could not lead to a higher uptake than 9% of the quotum of the target species. Also the aim of ISF is to avoid targeting the bycatch species. If the bycatch species is cheaper, than there is no incentive to target the species.
* Belgium mentions that a conversion factor lower than 1 can help in some cases where the by catch stock is in a lot better state than the target species.
* The UK mentions that a 9% cap on the TAC of the by catch species seems like a sensible approach. Setting conversion factors in different MS is very complicated. A conversion factor to help with choke species for cheaper species, will create a problem with the TAC of this species for next years.
* Denmark mentions that this group should look very closely at the possibilities of quota swopping to mitigate the effects of choke species.

**Plenary session on the outcomes of the group discussions**

Questions

Q1. Do you agree that ISF should not be used as a permanent solution to quota imbalances or to expand fisheries on alternative species – it will only allow continuation of the target fishery?

Q2. All Member States recognise the need to avoid transferring significant negative mortality onto the ‘receiving’ stock. Do you think exchange rates or a limit on the ‘receiving’ stock are the best method to achieve this?

Q3. In order to avoid one sea basin exporting its excess mortality where differences in stock size might not make such transfers appropriate, should Member states seek to limit ISF to stocks in the same sea area and species group - noting that some stocks are shared between regional groups and that in certain cases only one of these conditions may be met?

Q4. In order to prevent double counting or to avoid ‘a race to covert’ should Member States base all ISF calculations on final quota holdings?;

Q5. In order that all affected Member States can effectively plan their fishing operations should each Member State all other Member States in the relevant regional group(s) informed with reasonable advanced notice of any potential use of ISF, including the species and tonnages involved?.

Q6. Would it be helpful for the regional groups to draw up written protocols on ISF binding each member of the group to any principles which members may wish to agree?

Q7. Do we take the % ISF from the TAC or National Quota? And do target species and by-catch have to stem from the same fisheries or area.

**Group 1**

General comments

* Likelihood to use ISF in 2016 with current list is low
* ISF is a means of last resort and would be used after
	+ Selectivity measures
	+ National quota management
	+ EU swaps
	+ Inter annual flexibility
	+ De minimis
	+ High survivability

Q1 Yes, we should confine it to choke situations

Q2 We need measures to prevent significant negative effects on mortality. There are different options/tools that can be examined. These should be agreed on a regional basis with exception of straddling stocks. The discussion could include existing examples: e.g. whiting in sprat, mackerel, horse mackerel

Q3 Noting that some stocks are shared between regional groups and that in certain cases only one of these conditions may be met? Same area might be wise.

Q4 Yes. It should be final quota, but the quota uptake will be monitored during the year.

Q5 The current system FIDES includes notification about swaps. This could also be used for notification on ISF as a minimum.

Q6 Political agreements on a regional basis could include the points discussed here.

Q7 From the final MS quota for the target stock

**Group 2**

Q1 The instrument is permanent, but application on case by case basis. Measure of last resort. Possibility of swaps very important. It may be necessary in cases where swaps are not possible or too expensive.

Q2 Restrictions are needed. If ISF exceeds the discard rate of previous years, than you would increase F. Ceiling could be the discard rate of previous year. Conversion factors would prevent using ISF to target bycatch species, but difficult to install. Discussion is now on MS level, but the problems arise in the metiers. ISF affects relative stability. BEL argued that if it is applied, MS should look at the prices of fish, hence economical rel stab. A conversion factor could also help to take avoidance measures. Possibility is to use the EU-Norway cod equivalents (but this is not for all species or all areas). A safeguard could be a % to the TAC

Q3 Different regions, different landing obligation regimes. Cross boundary stocks call for inter-regional solutions. ‘Abuse’ of ISF in one area with big quota, may have big impact on small quota of other area

Q4 Yes. ISF should be based on final quota, after swapping and taking into account interannual flexibility (banking or borrowing). It was questioned if member states should continue to indicate before the 1st of November whether they will make use of the interannual flex or not, since the 10% is not applicable.

Q5 Useful to report after the use of ISF, but not practical to inform beforehand (administrative burden. One should agree on principles on regional level.

Q6 Yes, written binding principles would be appreciated. Not legally binding, but politically binding. Do we need any ISF for 2016 – not foreseen in 2016.

Q7 On a TAC-level or on national level? On a national level, but maybe flexibility between Members of the same regional groups. Not across regions, unless cross boundary stocks

Tips for follow up –Workshop on swapping is considered useful, protocol on ISF-use in regional groups.

**Group 3**

Q1 Yes agree that ISF is last resort

Q2 Exchange system would be too complex

Having a lower value transfer may encourage more selective fishing

Allows opportunities for gaming

Would either approach be effective?

Perm changes to relative stability may be needed – MS need to openly discuss their quota needs

Q3 If there is a cap/ceiling, this is less of an issue

The aspiration should be to make it logical and tight, as principle

Q4 Yes

Q5 Advanced notice is sensible, good manners. If there is a cap on the receiving stock, we’ll need to monitor the use.

Q6 Binding protocol would be useful. Best if there is 1 across regions.

Q7 Do MS agree not to use it in 2016/2017? – see how things turn out. It is unclear how target species are defined.

**Group 4**

Q1 Yes, but what will be the permanent solution?

For example quota swapping between MS – post council swapping. Additional meeting on swapping would be useful. Denmark will possibly organise such a meeting.

Q2 First reaction was that ceilings are easier than conversion factors. We should start with a ceiling and in the meanwhile start discussion on setting conversion rates. Conversion factors are complicated, but interesting to avoid incentives to target by catch species. Ceilings are appropriate if you expect increased F, but conversion factors are more effective to decrease incentives to target by catch species.

Another way to take away incentives would be to confiscate revenues for (for example) research

Q3 Same sea basin: yes. Same species group: not necessarily. Pelagic fisheries have demersal bycatches.

Q4 Yes

Q5 It’s not always foreseeable how and when ISF will be used. To give advance notice is not always possible. ISF reporting should be incorporated in FIDES.

Q6 Common understanding about ISF across regional groups will be needed. A binding protocol will be helpful. Ceilings and conversion factors should be binding within regional groups;

Ceilings raise distribution issues that need to be addressed in regional groups.

Q7 ISF should be a percentage of the national quota. Group recognised that if some MS don’t use the full % and other MS might need more. Could we exchange the right on ISF?

***Discussion***

* Chair concludes that all groups have more or less the same outcome.
* Germany mentions that binding principles can only be political binding and not legally binding.
* The representative from the Commission thought the discussion was interesting. She apologizes for colleagues that could not make it. The big question is, what is the threat to stocks to reach MSY-levels? Commission is concerned about the Parliament. The EP is already blocking the multiannual plan for the Baltic. Therefore the Commission thinks that it is very important that Member States on a regional level agree principles for a responsible use.
* The industry reprentative for the NSAC/NWWAC mentions that ISF has a limited utility. We need to strike a balance between MSY targets and socio-economic objectives of the CFP. Looking at moving quota to where the actual catches are, would be very interesting.
* The representative of the PELAC mentions that their advice last year was not to use ISF and listening to the discussions today, she thinks that this recommendation still stands. Quota swapping is a more appropriate tool

**Next steps**

* Denmark offers to host a meeting on quota swaps where the main question is: what is the potential for swapping to choke species?
* The Netherlands will use the outcomes of this workshop to develop a list of principles for regional groups to agree on