



## **DISCUSSION PAPER ON REVIEW OF COD MANAGEMENT PLAN (COUNCIL REGULATION NO. 1342/2008)**

This discussion paper is designed as a working document that will be used by the NWWWRAC Focus Group on Cod Recovery as a basis for its deliberations. A small steering group consisting of Bertie Armstrong, Caroline Gamblin, Barrie Deas, Lorcan O’Cinneide and Sean O’Donoghue (Chairman of Focus Group) jointly drafted this discussion document.

### **1. INTRODUCTION**

The EC is undertaking a review of Council Regulation No 1342/2008 in accordance with article 34 of that regulation and has requested STECF and ICES to carry out a historic evaluation of existing plans, namely North Sea cod, Kattegat cod, Channel cod (as part of the North Sea), West of Scotland cod and Irish Sea cod. For the purposes of this discussion paper, west of Scotland cod, Channel cod, and Irish Sea cod are only considered. The main articles considered in 1342/2008 are articles 2,3,5,6,7,9,11,12,13,17,20,33, and 34.

### **2. GENERAL ISSUES RELEVANT TO ALL THREE AREAS**

There are a number of key general issues that are relevant to all three cod plans. These can be summarised as follows:

#### **2.1. OBJECTIVE**

The objective of the plan is “*the sustainable exploitation of the cod stocks on the basis of maximum sustainable yield*” to “*be attained while maintaining the fishing mortality at 0.4 on cod on appropriate age groups*”. The steering group is of the view that the management plan is not achieving its objective and is very unlikely to do so in the future particularly for West of Scotland and the Irish Sea cod stocks.

#### **2.2. MINIMUM AND PRECAUTIONARY LEVELS**

The minimum and precautionary levels set for the West of Scotland and Irish sea (article 6) are not appropriate and are in the view of the steering group unrealistic and fail to recognise the significantly changed environmental circumstances that now prevail compared to when these targets were originally set in the seventies.

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Furthermore there seems to be an inherent contradiction in the plan between the objective which is set in fishing mortality terms and minimum and precautionary levels that are set as biomass targets. Surely as covered in the whereas of the regulation “*the objective of the long-term plan should be changed from a biomass based target to a fishing mortality based target, which should also be applied to permitted levels of fishing effort*”. This being the case why is biomass based targets included in Article 6 and set at levels that must be achieved in addition to the fishing mortality rate?

### **2.3. FISHING EFFORT REGIME AND ALLOCATIONS**

The fishing effort regime adopted in the plan is a major cause for concern for industry and unless it is amended it will ultimately lead to zero fishing effort as the regulation has an automatic 25% reduction year on year built into the regulation when the fishing mortality and biomass targets in Articles 5 and 6 are not met. This is covered in more depth in each of the three cod areas below.

### **2.4. EXEMPTIONS AND ALLOCATION OF EXTRA EFFORT**

Articles 11 and 13 provide for exemptions and the allocation of extra effort. The conditions set down for exemptions and allocation of extra effort is very onerous and applies to groups of vessels and to effort groups. The steering group considers that both these articles merit detailed discussion at the Focus Group particularly to identify the necessary amendments. It should be possible to design a system that if a vessel does not catch cod it can acquire an exemption in a short-period of time.

### **2.5. EFFORT GROUPS**

The steering group considers that the effort groups are far too wide to be a basis for management measures covering for example mixed demersal, nephops and flat fish fisheries.

### **2.6. FUNDING**

The funding provided under article 33 relates to the European fisheries fund which expires in 2013. A replacement funding mechanism is required that has both enhanced scope and additional financial support.

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## **2.7. REVIEW**

The review process included in article 34 is very weak. The only mandatory requirement is to evaluate the impact of the management measures on cod stocks concerned. There is no requirement to propose relevant measures to amend the regulation only where appropriate.

## **3. COD RECOVERY PLAN: MAIN ISSUES RELATING TO WEST OF SCOTLAND (VIA)**

### **3.1. GEOGRAPHICAL DEFINITION**

The geographical definition of Article 3 for the West of Scotland is not appropriate and covers areas where cod are not present now or indeed in the past. It should be confined to an area east of the area defined in article 13(d) of Regulation 1342/2008 and within that area specific areas should be excluded that contain very small quantities of cod.

### **3.2. OBJECTIVE**

There has been a huge reduction in fishing effort approximately 70% in area VIa over the last ten years. However there has been very little change in total mortality. This clearly points to fact that total mortality is the problem and not fishing mortality. Therefore an objective (Article 5) based on fishing mortality only is doomed to failure. The other factors affecting mortality such as predation must be taken into account.

### **3.3. MINIMUM AND PRECAUTIONARY LEVELS**

The minimum and precautionary levels set for area VIa are 14,000 and 22,000 tonnes, respectively. These levels are not attainable particularly as already pointed out above that it seems more than likely that factors other than fishing mortality are affecting the biomass. Trying to attain these bio-mass levels by reductions in fishing mortality only will not work. As the TAC setting procedure in Article 7.2(a) provides for a mandatory 25% reduction when the bio-mass level is below the minimum spawning biomass, it is only a matter of time before all vessels operating in VIa will have little or no effort allocation. A new approach is required that limits and controls total mortality other than natural mortality.

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### 3.4. POOR DATA CONDITIONS

Article 9 on the procedures to be utilised in poor data conditions has a direct affect on area VIa as again a 25% reduction is mandatory when the scientific advice is to reduce catches to the lowest possible level.

The ICES scientific advice for 2011 clearly identifies this poor data condition and states: *“Quantities of landings and discards are not included in the model (only weights at age information) because of concerns over unreliability in the historical commercial data. Mortality estimates arising from this assessment - based on survey data - are poorly estimated. Because of uncertainties in the level and trend of natural mortality it is not possible to predict landings estimates from the forecast, only removals associated with both fishing and unaccounted natural mortality.”*

### 3.5. TECHNICAL CONSERVATION MEASURES

Area VIa, unlike the other areas, has a number of unworkable technical measures imposed in part of area VIa East of 200 metres contour. These measures are not included in relegation 1384/2008 instead were initially adopted in the TAC and quotas regulation for 2009. They were subsequently transferred to Regulation 1288/2009 for a period of eighteen months up until end June 2011. This has now been further extended for eighteen months. These measures effectively rule out the use of TR1 and TR2 gears as defined in Reg. 1342/2008 in the defined part of area VIa and only allow a by-catch of haddock. This is not only extremely confusing but more importantly has ruled out fisheries that have no affect on cod stocks and has stopped a directed haddock fishery which has been a key fishery for area VIa.

## 4. COD RECOVERY PLAN: MAIN ISSUES RELATING TO IRISH SEA (VIIA)

### 4.1. GENERAL

The cod management plan (EC Reg. 1342/2008), its predecessor, the Cod Recovery Plan and various *ad hoc* measures put in place to encourage rebuilding of the cod stocks in the Irish Sea, including a seasonal closed area covering the presumed spawning areas, do not appear to have been successful in the Irish Sea. They may not have had any significant positive impact.



The weakness of the stock ICES assessment makes it difficult to make any firm judgement about the current status of the cod stock in the Irish Sea and therefore to make recommendations on the best way forward to rebuild the stocks. For this reason we consider that rebuilding the assessment, in part from addressing data deficiencies should go hand in hand with redesigning the management plan. Before reviewing some of the individual articles the following is considered as the new approach that should be adopted in the context of the Irish Sea.

Rebuilding the cod stock in the Irish Sea should be achieved by:

- Achieving fishing mortality rates consistent with the recovery of cod may be achieved through effective cod avoidance measures obtained with the full involvement and cooperation of the operators of fishing vessels. Some examples are:
  - ❖ Selective gear
  - ❖ Spatial and temporal avoidance
  - ❖ Fully documented fisheries
- Appropriate ways of incentivising effective cod avoidance linked to fully documented catches should be sought, particularly in relation to eliminating cod discards. Two obvious means are:
  - ❖ Additional quota
  - ❖ Exemptions from effort restrictions
- A broad fisheries approach rather than basing measures on a stock by stock approach;
- A new governance structure based on regional cooperation between member states and high levels of stakeholder involvement;
- A realistic time frame for recovery, recognising that whilst we may be in a period of low productivity for cod it is important to rebuild the stocks that are present;

#### **4.2. DESIGN OF THE PLAN (Art. 2)**

The design of the plan owes more to administrative convenience than to tailored measures adapted to the contours of the fleets catching cod in the Irish Sea. In particular, the effort groups based on mesh size are crude and blunt in their effect.

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#### **4.3. GEOGRAPHICAL COVERAGE (Art. 3)**

The review provides an opportunity to examine whether it is useful to have a single cod plan with largely common provisions that apply to four different fisheries with different fleet configurations, in widely different ecosystem conditions. In particular, fishing patterns and stock dynamics seem very different in the Irish Seas and West of Scotland compared to the North Sea.

#### **4.4. REFERENCE POINTS (Art. 6)**

We have already mentioned the absence of a very firm knowledge base for management measures in the Irish Sea as a result of the weakness of the stock assessment. Given this constraint, it is not possible to know if the minimum and precautionary biomass levels prescribed in the Cod Plan have any relevance or are even achievable.

#### **4.5. TAC SETTING (Arts. 6 and 7)**

The TAC mechanism prescribed in the Cod management Plan is flawed because:

- Currently it is not possible to determine the spawning biomass in this fishery with any degree of certainty; likewise there are major uncertainties over the levels of fishing mortality;
- The automaticity build into the procedures for setting TACs each year do not take into account the time that it takes for a stock to rebound, even when the target mortality has been reached;
- The application of the TAC setting procedure to the already low TACs in the Irish Sea has led to the situation where there is no flexibility to trial innovative approaches to fully documented fisheries, discard reduction and cod avoidance that have shown promise in the North Sea;

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#### **4.6. POOR DATA CONDITIONS (Art. 9)**

In the circumstances of the extremely data poor situation in the Irish Sea the Cod Plan requires an automatic 25% year on year reduction. There is no prospect of this situation changing without intervention despite the requirements of the Data Collection Framework Regulation. ICES and the NWWWRAC are currently working on ways of addressing the data deficiency problem in the Irish Sea but in the meantime the automatic TAC reductions continue each year, making it harder to develop innovative and participative ways of addressing the issues.

The downward spiral of poor data leading to low TACs, leading in turn to unrecorded discards is simply given extra fuel.

#### **4.7. FISHING EFFORT (Art. 11)**

The conservation advantages of an effort regime in the Irish Sea are hard to discern.

- A combination of restrictive TACs and effort control has led to the transfer of fishing activity from the whitefish to the nephrops sectors;
- Derogations from effort restrictions have been made unduly difficult to achieve;
- The timing of member states' decommissioning schemes in relation to the establishment of effort baselines has made the effort regime a lottery; to date most vessels in the Irish Sea have not been constrained by the effort regime;
- One can speculate that if effort did become a constraint the Cod Plan would encourage discarding of small cod in order to achieve the discard rates; there is therefore a catch 22, without fully documented catches it is not possible to determine levels of discards but fully documented catches will preclude vessels exemption from the effort regime;

#### **4.8. COD AVOIDANCE / EFFORT EXEMPTIONS (Art. 13)**

The motivation behind the inclusion of effort exemptions for vessels actively involved in cod avoidance behaviours was a wholly positive one. Regrettably, the provisions have been so hemmed in with conditions and complexity that much less has been achieved than its potential.

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If effort control is to be continued (although we can see no conservation reason why and many economic reasons why not), there should be much greater scope for vessels demonstrating effective cod avoidance to secure exemption. It is, we feel that it is this sphere that most progress could be made in rebuilding cod stocks in the Irish Sea but it requires a genuinely participative approach, appropriate incentives and appropriate methods of catch verification.

## **5. COD RECOVERY PLAN: MAIN ISSUES RELATING TO THE CHANNEL (VIID)**

### **5.1. DESIGN OF THE PLAN**

The main issue for the fleets in the area VIId is the effort regime. The effort regime constrains all the fisheries in the area even if those for which cod is not present in the catches or represents a small proportion of the catches. For the majority of the fleet working in the area VIId cod represents less than 5% of the landings.

The main problem seems to come from:

- The definition of the effort groups, based on the mesh size criteria, which includes a wide range of different fisheries/*metiers* that do not contribute to the same extent to the fishing mortality;
- The rule that leads to a systematic reduction of effort (based on the assumption that there is a link between fishing mortality and effort), and the hypothesis of an automatic rebuilding of the stock with a decrease of effort;
- The lack of flexibility between the groups of effort.

The different levels of implementation (European or Member State with or without STECF advice) of these measures compound the lack of coherence in the effort regime.

The main consequences of these provisions of the plan have for some fleets is to limit their ability to catch their quotas. Furthermore, the rigidity of the system limits the economically important polyvalence of the fleets (through the use of different type of gear during the year, or in the possibility to increase their mesh size to meet the requirements of other regulations (such as technical measures)).

Significantly, this effort regime doesn't cover the fleets from Norway that also contribute to cod mortality in the European Waters. On the other hand, the rules used to fix the TAC for the area VIId results from the discussion in the EU/Norway agreement (as the stock includes North Sea, Skagerrak and Eastern Channel).

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## 5.2. IMPLEMENTATION

As noted in the previous paragraph, the cod management plan covers a large part of the gear used in the VIId (and other areas) and is not a stand-alone plan. This results in an overlapping of the following sets of rules:

- Technical measures with catch composition rules;
- Effort regime;
- TAC;
- Long term management plan for other species.

This can lead to conflicts and contradictions and can partly explain the difficulty in implementing the plan successfully and in achieving the objectives set in the plan in terms to reducing cod mortality.

As a result of the design of the effort regime and of the setting of the baselines, the effect of the plan on the fleets is not usefully measured through the level of consumption of effort in the groups but should be investigated more closely fishery by fishery in terms of contribution to fishing mortality.

Lastly, the possibility offered by Article 11 to exempt some vessels from the effort regime appears to be difficult to achieve. In particular, there is a lack of transparency over the criteria used to deliver the exemption and over the data to be collected. The lack of any reasonable assurance that efforts to achieve an exemption through various kinds of cod avoidance will be outweighed by the benefits has undermined the positive intentions in the plan. In practice, it has proved to be almost impossible to obtain exemptions, in particular when applying the criteria of the STECF (based on the assumption of a homogeneous and widespread distribution of cod).

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### 5.3. THE WAY FORWARD

A solution has to be found to unlocking the year-on-year reductions in effort that have an important economic impact on the fleets without delivering a reduction in fishing mortality. The evaluation process should provide some ideas for introducing some flexibility in the effort regime in order to not jeopardize the viability of the fleets but also to provide serious encouragement to various kinds of cod avoidance. Fishermen are firmly opposed to any further reduction in the VIIId.

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