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ADVICE

Addressing High Choke Risk stocks under the Landing Obligation

17 April 2018

1. Background

The North Western Waters Advisory Council (NWWAC) attended the Commission (EC) meeting on the implementation of the landing obligation (15th November, Brussels). At this meeting, the NWW Choke Mitigation Tool (CMT¹) was presented, which identified key choke species in different sea basins, and for each NWW Member State. This identification was based on the level of catches, quota availability with and without top-ups and yearly quota adjustments by Member States. The potential choke situations were identified and categorized according to the definitions developed at the Member States workshop on 'Access to Quota' (14 -15th April 2016, Edinburgh):

- Category 1: Sufficient quota is available at Member State level. The choke species is due to the distribution of quota within the Member State, such that a region or fleet segment does not have enough available quota to cover catches. This situation may be resolved by the Member State itself and species falling into this category are not considered further in this document.
- Category 2: Sufficient quota is available at EU level but insufficient quota exists at Member State level. The choke species is due to the distribution of quota between Member States and may be resolved between Member States in a regional context
- Category 3: Insufficient quota exists at EU level. The choke species is due to insufficient quota within the relevant sea basin to cover current catches or catches that cannot be otherwise reduced (e.g. by selectivity or avoidance), resulting in the total cessation of fishing of the flag vessels of a Member State or Member States.

Further, the CMT not only identified these categories of choke species (which have the potential to change based on updated data) but also indicated if and how Article 15 exemptions and flexibilities, avoidance, selectivity, and quota-based tools may be used to reduce choke risks. It found that the existing tools could solve many choke issues within the categories 1 and 2 but that there are a number of category 3 choke stocks where additional measures will be needed beyond the existing tools in article 15 of the CFP to avoid the premature closure of a range of mixed demersal and pelagic

¹ Report on the NWW choke species analysis [Link Lien Enlace](#)



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fisheries.

The EC concluded that *while it was felt that the tool is very useful to help identify the key issues, further collaborative work between all stakeholders should focus on the critical stocks with a more detailed assessment of the possible technical solutions and what the implications of these may be in terms of the impact on other target species and what other measures will be required if technical solutions were not available*². It is important that the NWWAC, NWW MS group and the European Commission collaborate in order to identify and develop solutions for these high risk choke stocks³.

Through a December 2017 Council declaration, *the Commission and Member States recognised a need to take into account the effects of the landing obligation when setting fishing opportunities for different stocks. This also included situations where a very low TAC or zero TACs could lead to premature closure of fisheries due to choke situations. To this end the Member States working with the Advisory Council within the regional groups undertake to apply all appropriate measures to mitigate choke situations and to include such measures within their joint recommendations for discard plans for 2019. In cases where, even after applying all appropriate measures, residual category 3 choke issues still remain a major concern, the Member States will propose alternative conservation measures to alleviate the choke risk. Where necessary, the Commission will seek scientific advice either from ICES or STECF on appropriate measures for those stocks.* The NWWAC through this document aims at contributing to this intention.

In line with the request from the NWW Member States Group⁴ to prepare NWWAC advice on the joint recommendation and on options for addressing choke species in a timely manner, the NWWAC held meetings of the Advice Drafting Group on the Landing Obligation (10th and 29th January 2018), and further discussions took place in the Working Group meetings in Madrid on 7th and 8th March 2018. Thereafter, the advice was finalised by correspondence.

2. General remarks

The NWWAC acknowledges that the implementation of the landing obligation (LO) is a key element of the Common Fisheries Policy (CFP). However, one of the conclusions that the AC reaches by using the NWW CMT is that achieving both the MSY objective and landing obligation timetable for category 3, “high risk” stocks will result in the premature closure of fisheries unless further actions are undertaken to mitigate the choke risks. The NWWAC highlights that challenges in the process of implementing the LO include:

² Report from the European Commission on the Landing Obligation seminar (15th November 2017, Brussels) ([Link](#), in English only)

³ NWW letter to the European Commission on the NWW Choke Mitigation Analysis ([Link Lien Enlace](#))

⁴ Letter from the chair of the NWW Member States Group addressed to the chair of the NWWAC ([Link Lien Enlace](#)) and the NWWAC response to the Irish chair of the NWW Member States Group ([Link Lien Enlace](#))



- The setting of TACs in mixed fisheries (e.g. cod, haddock, whiting 7b-k) and coverage of non-target species (e.g. Plaice 7hjk);
- The MSY timetable, which requires that all harvested species are managed according to the principles of MSY by 2020 at the latest;
- Zero TACs;
- Relative stability;
- Highly depleted stocks with low rebuilding potential (e.g. West of Scotland cod);
- Lack of data, particularly on discards;
- Taking into account unintended consequences of measures, e.g. displacement.

The NWWAC is committed to continue the collaboration with the Commission and the Member States Group to avoid and reduce unwanted catch. In this advice we are focussing on High Risk or Category 3 stocks. The CMT remains the reference for categories 1 and 2 choke risks.

3. High Risk or category 3 stocks

A definition of a high risk or category 3 stocks can be found above.

The CMT showed that for certain high risk stocks, further mitigation measures are needed to mitigate the choke risks and reduce the chance of premature closure of certain fisheries in the NWW sea basin in 2019.

When updating the CMT with 2016 data, for some stocks the choke risk classification changed⁵. The NWWAC requests that the Member States develop an approach for addressing such changes in categorisation.

Based on 2015 and 2016 data, the CMT identified the following stocks as having a high risk of choking after the full implementation of the LO:

- Haddock – Celtic Sea
- Skates and Rays – all areas
- Whiting – Irish Sea
- Whiting – Celtic Sea
- Plaice – Celtic Sea
- Sole – Celtic sea
- Whiting – West of Scotland
- Cod – West of Scotland

⁵ The NWW Choke Species Analyses updated for 2016 ([Link](#), in English only) illustrated that Saithe in area 6, West of Scotland and Cod in area 7.a Irish Sea, changed category from high to moderate risk



This document covers category 3 (or high risk) stocks, for which the delivery of both the MSY and landing obligation timetable is expected to result in the premature closure of a large number of fisheries in the NWW sea basin in 2019, if no further actions are undertaken to mitigate the choke risks.

In the first part of this document (Section 4), the NWWAC presents advice on solutions to mitigate the high risk of species choking fisheries that were identified using the Choke Mitigation Tool. The following stocks are the subject of this advice:

- Skates and Rays – all areas
- Whiting – Irish Sea
- Whiting – Celtic Sea
- Plaice – Celtic Sea
- Sole – Celtic sea

In a second part of this document (Section 5), the NWWAC presents other mitigation tools which are conditional, but it should be noted that there was no consensus reached by the NWWAC..

The NWWAC recognises that the solutions required to mitigate the high risk of category 3 stocks choking fisheries may require a combination of the options presented.

4. Options identified using the Choke Mitigation Tool

4.1 Advice on high survival and *de minimis* exemptions, and technical measures for high risk stocks

4.1.1 Skates and rays

Summary of the problem

Within the group TACs (6; 7a-c,e-k and 7d) there are divergent trends between the different species. Limited discard data are available for most species, and the majority of species are mainly caught as a by-catch in almost all demersal fisheries.

The lack of swim bladder, thick skin with no scales and relative high stress resistance of some species compared to other fish make skates and rays a candidate for a high survival exemption under the landing obligation. For a number of species and métiers survival studies have been concluded, all showing a survival of 60% or higher.

Advice

The NWWAC advises Member States to propose that a high survival exemption for skates and rays in North Western Waters is granted on a temporary basis (e.g. 2 years), where any outstanding data gaps are filled using the best available scientific knowledge and in combination with a best practice



protocol for reducing unwanted mortality for fishers making use of the exemption.

As a matter of urgency the NWWAC requests Member States to work on providing the best available data to support the exemption request. For this issue it is important to identify two strands of evidence building:

1. A better understanding of survival of all the skates and rays caught in Western Waters fisheries
2. Combining and capitalizing on the available knowledge of practical solutions to optimize survivability of all species

The NWWAC further advises the NWW Member States group to liaise closely with the Scheveningen group on this issue as the same choke issues for skates and rays exists in the North Sea and we expect them to propose a similar solution.

4.1.2 Whiting – Irish Sea

Summary of the problem

Following discussion using the CMT, it was concluded that there are significant deficits between catches and quotas of whiting across Member States and mitigation actions are unlikely to prevent choking of fisheries.

Advice

On the basis of commitments made at December Council in 2017, the NWWAC expects that Member States will facilitate the adoption by their fleets of the existing selectivity and avoidance measures identified in the CMT as a matter of urgency. The NWWAC also advises that ongoing research projects to increase selectivity are prioritised. The conclusions on selectivity and avoidance stemming from the STECF expert meeting⁶ should be taken into account for the joint recommendation for 2019.

The NWWAC has further explored whether combined *de minimis* could constitute a partial solution to this high risk choke, recognising that combined DM has been used in the North Sea. However, as highlighted by STECF, “*any de minimis discard quantities should (and have been) deducted from the catch opportunities arising from FMSY based catch advice*” meaning that for choke species that arise as a result of limited quota, which includes whiting in the Irish Sea, this could exacerbate the issues further.

⁶ STECF expert meeting 18-02 was organised in Brussels from 5th to 9th March. More information and the final report can be found [here](#)



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4.1.3 Whiting – Celtic Sea

Summary of the problem

The NWWAC has taken into consideration that at the 2017 December Council the NWW MSG made a commitment to develop further improvements in selectivity to reduce unwanted catches of cod, haddock and whiting in partnership with the NWWAC (deadline end of May 2018). In this context, the NWWAC has participated in the STECF expert meeting which looked at improvements in selectivity for high risk choke species in NWW.

Advice

Improving selectivity can reduce the risk of choking, particularly where whiting is a bycatch. The NWWAC suggests that the Joint Recommendation by the Member State Group contains further analysis of selectivity and avoidance measures to mitigate the choke risk caused by unwanted whiting catches. The NWWAC also advises Member States to facilitate the adoption by their fleets of selectivity and avoidance measures identified both in the CMT as well as during the STECF expert meeting as a matter of urgency and that a commitment is made to optimize selectivity beyond the joint recommendations in 2018. However, this may not entirely resolve the whiting 7b-k choke risk.

One option considered for addressing residual choke risks was *de minimis* exemptions, more specifically the CMT identified a combined *de minimis* for gadoids in the Celtic Sea which may provide some flexibility but carries a high risk of overfishing of one or more of these stocks, and potentially will result in lower catch opportunities. Moreover, STECF⁷ highlighted that “*the de minimis discard quantities should (and have been) deducted from the catch opportunities arising from F_{MSY} based advice*”.

We also consider that for some individual Member States using interspecies flexibility is a possible but short-term solution and would rely upon transfer and trading agreements being concluded.

⁷ Report of the Scientific, Technical and Economic Committee for Fisheries – Evaluation of the Landing Obligation joint recommendations (STECF-17-08) ([link](#), in English only)



4.1.4 Plaice Celtic Sea (7.fg)

Summary of the problem

Following discussions using the CMT it was concluded that existing mitigation measures are likely to significantly reduce the risk that this stock chokes certain fisheries.

Advice

The NWWAC has been informed about mixed results in the different analyses in process in several Member States to assess survival of plaice. The NWWAC proposes asking the NWW Member States for an overview of these studies with an indication of (1) the expected conclusion dates and (2) any (preliminary) findings they are able to share. This can then inform discussion of the applicability of a high survivability exemption.

4.1.5 Sole Celtic Sea (7.fg)

Summary of the problem

Following discussions using the CMT it was concluded that existing mitigation measures are likely to significantly reduce the risk that this stock chokes certain fisheries.

Advice

A high survivability exemption is already in place for inshore vessels and the CMT considered the possibility of extending this to other fisheries, provided scientific evidence can be obtained. Member states are undertaking studies to assess the survivability of sole in WW fisheries. The NWWAC proposes asking the WW member states for an overview of these studies with an indication of (1) the expected conclusion dates and (2) any (preliminary) findings they are able to share. This can then inform discussion of the applicability of a high survivability exemption.

The CMT also highlighted that there is a *de minimis* exemption already in place for sole in certain fisheries. There was a suggestion this could be extended on the basis that discard rates are quite low and this could alleviate some of the risk of choking.

4.2 Advice on additional options

4.2.1 Whiting – Irish Sea

Advice

In a letter of October 2017 the NWWAC recognized the importance of increasing selectivity but also considered the option of removing the TAC. While recognising the continued responsibility to manage whiting sustainably, the letter highlighted conditions would have to be met before this option can be considered ([link](#)).



As a result of the possible limitations in the options outlined above and paragraph 4.1.2, the NWWAC has discussed a number of additional tools and conditions that should be in place if they are to apply. Further input is provided in the second part of this document (see 5.1.2).

4.3 Advice on stocks with zero TAC scientific advice

4.3.1 Cod West of Scotland

Summary of the problem

Currently, cod is a zero TAC species, managed with a 1.5% bycatch provision. This quota limitation compared to catches means that there is a high risk of the fisheries choking without further mitigation actions. Cod has the potential to close both the demersal and the pelagic fisheries in the area due to unwanted bycatch.

Advice

In 2013, the NWWAC developed recommendations to improve the cod management plan⁸. In light of the choke risk, the NWWAC plans to update this advice.

TAC removal

Recognising the continued responsibility to manage cod sustainably, the following conditions would have to be met before this option can be considered:

- ICES should be asked by the Commission to evaluate the implications of removing the TAC for the achievement of the MSY objective;
- Alternative management options and safeguards have to be identified by ICES and implemented to ensure fishing mortality does not exceed F_{msy} ;
- An enhanced monitoring and data collection programme has to be put in place e.g. a scientifically supervised observer programme or other means to ensure fully documented fisheries. This could also involve enhanced data collection surrounding the question of whether seal predation on cod and whiting in area 6 has a detrimental effect on the rebuilding capacity of the stock (Trijoulet *et al.* 2017⁹, 2018¹⁰).
- A full evaluation of current gear selectivity for cod in the relevant fisheries should be carried out with the objective of determining whether selectivity can be improved further to reduce unwanted catches of whiting. This evaluation would take account of all recent gear selectivity work carried out in this area.

⁸ The NWWAC recommendation improve the cod management plan [Link](#) Lien Enlace

⁹ Trijoulet *et al.* 2017 Grey seal predation mortality on three depleted stocks in the West of Scotland: What are the implications for stock assessments? *Can. J. Fish. Aquat. Sci.* (In English only, full publication available on request)

¹⁰ Trijoulet *et al.* 2018 Bioeconomic modelling of gray seal predation impacts on the West of Scotland demersal fisheries. *ICES J. of Mar. Sci.* (In English only, full publication available on request)



- If this option is followed it should be on a temporary basis while the genetics of the cod stocks are researched and reported upon.

The NWWAC has considering the use of a number of additional tools and associated conditions for cod 6a West of Scotland contained in 5.2.1.

4.2.2 Whiting West of Scotland

Summary of the problem

Due to the very high level of discarding, whiting will choke multiple fisheries and there will be significant economic impacts across Member States. This would include pelagic fisheries, mixed demersal and Nephrops trawlers even with relatively small whiting bycatch. Whiting bycatch in the pelagic fisheries in Area 6 presents a serious choke problem as bycatches of whiting in the pelagic fisheries for instance is almost as large as the overall uptake of the whiting TAC.

The NWWAC notes that in relation to this stock, ICES states that the assessment indicates an increasing mismatch between the survey and the fishery catchabilities. This is most likely linked to changes in fishery selectivity due to changes in effort for different métiers and the introduction of various technical measures in 6.a. These are not explicitly taken into account in the assessment model and it is unclear what the implications of this could be for advised catch levels. NWWAC advises the MS Group to request that ICES provides clarification on this.

Advice

The NWWAC advises that the Member State Group will consider the applicability of existing mitigation measures in the joint recommendation. For example the first phase of the GITAG project focused on gear development in the Nephrops trawling sector to reduce catches, particularly of juveniles. First trials showed encouraging results to greatly improve the reduction of juvenile whiting catches.

On the basis of commitments made at December Council in 2017, the NWWAC expects that Member States will facilitate the adoption by their fleets of the existing selectivity and avoidance measures identified in the CMT as a matter of urgency. Any conclusions on selectivity and avoidance stemming from the STECF expert meeting should be taken into account for the joint recommendation for 2019.

Merge TAC regions:

Although this may be biologically justified, scientific genetic evidence is not available. The NWWAC notes that relative stability can be affected when this option is pursued and may not solve the problem for all Member States.



TAC removal:

Recognising the continued responsibility to manage whiting sustainably, the following conditions would have to be met (see NWWAC advice on whiting⁸) before this option can be considered:

- ICES should be asked by the Commission to evaluate the implications of removing the TAC for the achievement of the MSY objective;
- Alternative management options and safeguards have to be identified by ICES and implemented to ensure fishing mortality does not exceed F_{msy} ;
- An enhanced monitoring and data collection programme has to be put in place e.g. a scientifically supervised observer programme or other means to ensure fully documented fisheries. This could also involve enhanced data collection surrounding the question of whether seal predation on cod and whiting in area 6 has a detrimental effect on the rebuilding capacity of the stock (Trijoulet et al. 2017¹², 2018¹³).
- A full evaluation of current gear selectivity for whiting in the relevant fisheries should be carried out with the objective of determining whether selectivity can be improved further to reduce unwanted catches of whiting. This evaluation would take account of all recent gear selectivity work carried out in this area.

4.4 Advice on stocks with No quota

Separate to species which have a zero TAC and which are assessed as being severely depleted, there are 24 stocks for which a particular Member State or a group of Member States have no quota in North Western waters. Many of these stocks are widely distributed species for which catches are highly likely and unavoidable.

Under the landing obligation these species essentially choke fisheries from the start of the year for those Member States impacted unless mitigation actions can be taken to either avoid capture, quota to cover the catches can be obtained through swaps or exemptions or alternative discard provisions can be put in place. While ES are the MS most impacted, BE, DE, FR, IE, NL and UK are also affected. A summary of the species and MS concerned as well as an assessment of the risk of these species choking multiple fisheries is provided in the CMT report (Table 8.3.1). The CMT report identified that MS in many cases are highly reliant on swaps to cover such catches, however the analysis did not discuss option outside the available mitigation tools. In two cases – tusk and Bluefin tuna – an “others” quota to cover catches by Member States without a specific quota allocation has been included in the TAC.



5. Additional mitigation tools discussed by NWWAC

5.1 Additional tools to mitigate choke risks of category 3 stocks

All category 3 choke stocks will require additional measures to avoid the premature closure of a range of mixed demersal and pelagic fisheries.

The NWWAC recommends that Member States and the European Commission look into alternative means to address the choke risk Celtic Sea haddock will cause.

The NWWAC has discussed a number of additional tools as set out below and conditions that should be in place but there is no consensus in relation to which tools can apply and the conditions surrounding these tools.

5.1.1 Haddock – Celtic Sea

Summary of the problem

The CMT analysis shows that catches far exceed available fishing opportunities for all Member States¹¹, and that the available mitigation actions would not prevent the premature choking of all fisheries with catches of haddock.

Discussion on possible, additional tools:

The following additional tools were discussed within the NWWAC and views on whether these tools are applicable and, if so, the conditions that should be attached before they can apply are outlined below.

1. Apply a TAC top-up taking into account the gap in discard data.
2. Allow an extra TAC over a period of time considered sufficient to address the data gap and/or to obtain results of a further analysis of technical measures.
3. Set the TAC at an upper MSY range as advised by ICES.
4. Introduce a longer period for the full implementation of the Landing Obligation (beyond 2019).
5. TAC setting based on mixed fisheries

In relation to **option 1 and 2** the NWWAC refers to the advice produced in October 2017 to the European Commission requesting that the TAC for haddock in the Celtic Sea be supplemented by additional quota (a percentage) to facilitate the implementation of fully documented fisheries on the basis of certain conditions. The request was for the additional scientific quota to be made available only to those vessels participating in the enhanced data provision and validation scheme. This request was not adopted and the Commission has since responded to the advice, stating ‘the

¹¹ One of the Member States (Spain) has a zero relative stability share of this stock.

industry should take the lead in providing accurate data, without making this conditional upon additional incentives’.

On this basis, the OIGs propose the following conditions before a percentage additional quota can be granted:

As soon as possible in 2018:

1. Use the available haddock quota exclusively to cover unwanted catches of haddock in mixed fisheries (i.e., cease targeted fisheries of haddock).
2. Require all vessels involved in fisheries with catches of haddock to use the most selective gears, including those identified in the CMT, and to agree to apply prescribed avoidance techniques and information sharing requirements. This is in line with the Commission’s focus on the importance of selectivity work to address the choke issues for haddock in the Celtic Sea¹².
3. Require all vessels involved in fisheries with catches of haddock to implement fully documented fisheries.
 - a. The data generated by this full documentation should be used to strengthen the quality of the ICES assessment as a basis for setting a TAC that accurately reflects the abundance of the stock.
 - b. Full documentation is used to demonstrate that a) there is no increase in fishing mortality; b) fishing mortality/unwanted catches are being progressively reduced; and c) all catches are being landed apart from those with sanctioned catch and release protocols (in this case, if the combined *de minimis* exemption is approved).
4. EMFF funding could be used, not only to develop/implement new fishing gears and methods, but also to help fishers switch gears and adapt their activities to minimise bycatch as well as reduce pressure on the wider ecosystem.

Additional quota (a percentage) for 2019 should only be considered if these measures achieve the desired results in terms of more accurate discard data, enhanced selectivity and a progressive reduction in fishing mortality.

In relation to **option 3** industry members of the NWWAC recommend that these ranges are used even before implementation of the expected multi-annual plan for Western Waters. Members of the OIG consider that this could be part of a suite of measures to address choke risks in relevant cases but only where this is provided for in the multiannual plan, with clear conditions for the use of upper ranges and in line with the precautionary approach and the best available scientific advice.

¹² See Commission response to NWWAC advice on haddock in the Celtic Sea (reference)



Whereas industry members of the NWWAC are of the view that **option 4** applicable for addressing this high risk choke situation, the members of the OIG highlight that this is not possible in the existing legal framework and that it jeopardises the achievement of the CFP objectives.

For **option 5** the members of the OIG are of the view that in order to safeguard the most vulnerable stock(s) in a mixed fishery and avoid choking, the ICES mixed fisheries advice should be used so that the TACs for the remaining species in the Celtic Sea mixed fisheries are set at a level lower than the maximum advised in the single species advice for those stocks.

Overall, industry members of the NWWAC accept that certain conditions should apply to use the additional tools outlined above. For the OIGs however, where the above tools could apply, their use should be conditional upon the following (note separate conditions outlined in relation to conditional additional quota):

- Fully documented fisheries.
- Significantly reduce the unwanted mortality of haddock.
- Enhanced data collection¹³.
- Implementation of all available avoidance and/or selectivity measures.

5.1.2 Whiting – Irish Sea

Discussion on possible additional options:

The NWWAC has discussed a number of possible additional tools for Irish Sea whiting as set out below and conditions that should be in place if they are to apply but there is not a consensus on which tools can apply and the conditions to be attached before they can apply.

1. TAC setting based on mixed fisheries
2. Introduce a longer period for the full implementation of the Landing Obligation (beyond 2019).
3. Conditional additional quota (a percentage) to supplement the TAC to facilitate addressing the data gaps.

In relation to **option 1** the OIG has the view that in order to safeguard the most vulnerable stock(s) in a mixed fishery (in this case, whiting in the Irish Sea), and to avoid choking, the ICES mixed fisheries advice should be used so that the TACs for the remaining species in the mixed fisheries are set at a level lower than the maximum advised in the single species advice for those stocks. In the case of whiting, the majority of whiting bycatch is in the *Nephrops* trawl fishery.

¹³ NWWAC advice on Celtic Sea haddock: An incentivised data collection scheme to improve the management of the stock in the context of the Landing Obligation [Link](#) Lien Enlace

Whereas industry members of the NWWAC are of the view that **option 2** is applicable for addressing this high risk choke situation, the members of the OIG highlight that this is not possible in the existing legal framework and that it jeopardises the achievement of the CFP objectives.

For **option 3** industry members of the NWWAC accept that certain conditions should apply. For the OIG however, for this tool to apply the following conditions must be met:

As soon as possible in 2018:

1. Use the available whiting quota exclusively to cover unwanted catches of whiting in mixed fisheries (i.e., cease targeted fisheries of whiting).
2. Require all vessels involved in fisheries with catches of whiting to use the most selective gears, including those identified in the CMT, and to agree to apply prescribed avoidance techniques and information sharing requirements.
3. Require all vessels involved in fisheries with catches of whiting to implement fully documented fisheries.
 - The data generated by this full documentation should be used to strengthen the quality of the ICES assessment as a basis for setting a TAC that accurately reflects the abundance of the stock.
 - Full documentation is used to demonstrate that a) there is no increase in fishing mortality; b) fishing mortality/unwanted catches are being progressively reduced; and c) all catches are being landed apart from those with sanctioned catch and release protocols (in this case, if the combined *de minimis* exemption is approved).
4. EMFF funding could be used, not only to develop/implement new fishing gears and methods, but also to help fishers switch gears and adapt their activities to minimise bycatch as well as reduce pressure on the wider ecosystem.

Additional quota (a percentage) for 2019 should only be considered if these measures achieve the desired results in terms of more accurate discard data, enhanced selectivity and a progressive reduction in fishing mortality.

Overall, industry members of the NWWAC accept that certain conditions should apply to use the additional tools outlined above. For the OIGs however, where the above tools could apply, their use should be conditional upon the following (note separate conditions outlined in relation to conditional additional quota):

- Fully documented fisheries
- Significantly reduce the unwanted mortality of whiting
- Enhanced data collection
- Implementation of all available avoidance and/or selectivity measures.



5.2 Discussions on other tools to mitigate choke risks of stocks with zero TAC scientific advice

5.2.1 Cod West of Scotland

Discussion on possible additional tools:

The NWWAC has discussed a number of possible additional tools for cod 6a West of Scotland as set out below and conditions that should be in place if they are to apply but there is not a consensus on which tools can apply and the conditions to be attached before they can apply.

1. Set the TAC at an upper MSY range as advised by ICES
2. Introduce a longer period of phasing for the full implementation of the Landing Obligation (beyond 2019).
3. Increase bycatch provision: the bycatch provision could be increased in 2019. This may resolve the choke problem for certain Member States such as France and Spain but this will not resolve the choke problem for the main quota holders.

For **option 1** industry members of the NWWAC recommend that these ranges are used even before implementation of the expected multi-annual plan for Western Waters. Members of the OIGs consider that this could be part of a suite of measures to address choke risks in relevant cases but only where this is provided for in the multiannual plan, with clear conditions for the use of upper ranges and in line with the precautionary approach and the best available scientific advice.

Whereas industry members of the NWWAC are of the view that **option 2** is applicable for addressing this high risk choke situation, the members of the OIG highlight that this is not possible in the existing legal framework and that it jeopardises the achievement of the CFP objectives.

In relation to **option 3** industry members of the NWWAC accept that certain conditions should apply to use the above options. For the OIG members however, where the above options could apply, their use should be conditional upon the following:

- Fully documented fisheries.
- Significantly reduce the unwanted mortality of haddock.
- Enhanced data collection.
- Implementation of all available avoidance and/or selectivity measures.

Further, the OIG of the NWWAC considers that an increase in bycatch quota can only be granted subject to the specific conditions, as follows. As soon as possible in 2018:

1. Use the available cod quota exclusively to cover unwanted catches of cod in mixed fisheries.



2. Require all vessels involved in fisheries with catches of cod to use the most selective gears, including those identified in the CMT, and to agree to apply prescribed avoidance techniques and information sharing requirements.
3. Require all vessels involved in fisheries with catches of cod to implement fully documented fisheries.
 - The data generated by this full documentation should be used to strengthen the quality of the ICES assessment as a basis for setting a TAC that accurately reflects the abundance of the stock.
 - Full documentation is used to demonstrate that a) there is no increase in fishing mortality; b) fishing mortality/unwanted catches are being progressively reduced; and c) all catches are being landed apart from those with sanctioned catch and release protocols (in this case, if the combined *de minimis* exemption is approved).
4. EMFF funding could be used, not only to develop/implement new fishing gears and methods, but also to help fishers switch gears and adapt their activities to minimise bycatch as well as reduce pressure on the wider ecosystem.

The OIG highlights that additional bycatch quota for 2019 should only be considered if these measures achieve the desired results in terms of more accurate discard data, enhanced selectivity and a progressive reduction in fishing mortality.

6. Plan for further NWWAC advice on the landing obligation

The NWWAC continues to reflect on how to avoid choke situations. The aim of these reflections is to present a second advice later this year on how to avoid premature closures of fisheries by other choke species.