



CONSEIL CONSULTATIF POUR
LES EAUX OCCIDENTALES
SEPTENTRIONALES

NORTH WESTERN
WATERS
ADVISORY COUNCIL

CONSEJO CONSULTIVO PARA
LAS AGUAS
NOROCCIDENTALES

NWWAC ADVICE

to support the NWW MSG in drafting the Joint Recommendation for the Discard Plan 2021

21 April 2020

1. Background

The North Western Waters Member States Group (NWW MSG) is preparing Joint Recommendation on the NWW Discard Plan 2021. The North Western Waters Advisory Council (NWWAC) has prepared the following advice to assist the MSG. This is based on consultations of the geographical Working Groups and on the meeting of its Horizontal Working Group on 10 March 2020. It is unfortunate that at the time of preparing this advice there was no draft available but the NWWAC welcomed the information obtained from the NWW MS Technical Group (TG) meeting on 6 February 2020 and of the High Level Group (HLG) meeting on 10 March. The AC reflected on the effectiveness of the exemptions currently in place and sought to indicate sources providing additional information in their support (see Table 1 and 2 below).

2. Suggestions on current exemptions

In general terms the NWWAC is advising to retain the existing exemptions, noting that OIG members request these to be subject to the relevant supporting information being provided, and is adding some suggestions in tables 1 and 2 below. We reiterate the view expressed in the Choke Advice 2019¹ that priority should be given to measures that aim at avoiding unwanted catches in the first place. Any technical measures put forward should not only minimise the amount of unwanted catches (and thus the choke risk), but also help the relevant stocks to recover or to remain in a sustainable state in order to mitigate chokes in the longer-term. The AC acknowledges that not all choke risks are caused by the state of the stock. Some are due to the lack of catch information leading to precautionary advice that does not reflect fishermen's perception of stock abundance. In other cases, Member States (MS) have no or very low quota for certain bycatch species.

We provide more detailed comments on individual exemption requests below.

¹ NWWAC advice on Addressing Choke Risk in NWW after exemptions, October 2019. Available at: http://www.nwwac.org/fileupload/Final_NWWAC_Advice_Addressing_Choke_Risk_October-2019_EN.pdf



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Table 1 - High survivability exemptions

Stock	Discard Plan for 2020	NWWAC advice
Nephrops 6a	Survivability exemption for Norway lobster caught within twelve nautical miles of the coast, using otter trawls with a mesh size of 80-110 mm.	Additional survivability studies to cover fisheries outside 12 nautical miles
Sole 7d	<p>Within six nautical miles of the coast but outside identified nursery areas, catches of below the minimum conservation reference size made using otter trawl gears with a cod end mesh size of 80-99 mm, by vessels:</p> <p>(a) having a maximum length of 10 meters and a maximum engine power of 221 kW; and</p> <p>(b) fishing in waters with the depth of 30 meters or less and with tow durations of no more than 1:30 hours.</p>	<p>Monitor and evaluate effectiveness of selectivity measures introduced.</p> <p>Reconsider similar high survivability exemption for sole in the whole 7 area as for sole in 7d, once MS provide information on the fishery catch composition and the related survival rate of the species in the relevant fisheries.</p> <p>In view of the rejection of the proposed survival exemption in 7e in 2020, this proposal is repeated for 2021, subject to the result of the relevant scientific studies being provided to support the request. This exemption would substantially increase the acceptance level of the LO by the local fishermen.</p>
Skates and Rays 6 & 7	High survivability exemption until 2021 for skates and rays species caught with any gear in the North Western Waters.	<p>In line with NWW Roadmap for skates and rays, the programme of data collection, further high survivability experiments and improvements in selectivity should continue.</p> <p>The SUMARIS project included survival tests and fishermen training (release guide, identification sheet, etc.).</p>



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		Please also consider the NSAC and NWWAC joint advice on the topic of skates and rays which will be submitted separately to the MSG.
Plaice 7d-g	Caught with trammel nets.	Further survivability work should be prioritised to confirm survival rates.
Plaice 7d-g	Caught with otter trawls.	Further survivability work should be prioritised to confirm survival rates.
Plaice 7a-7k (temporary 7h, j, k)	<p>Caught by vessels having a maximum engine greater than 221 kW and using beam trawls fitted with a flip-up rope or benthic release panel.</p> <p>Data provided by MS to demonstrate high discard survival rates for plaice do not cover all the MS concerned and that in that fishery survivability is affected by many factors and is highly variable.</p>	<p>Further survivability studies in fisheries other than beam trawls should be prioritised.</p> <p>Given the dire state of plaice in 7h-k, OIG members of the NWWAC remain concerned about this stock falling under an exemption in the absence of robust catch documentation for this stock.</p>
Plaice 7a-7k (temporary 7h, j, k)	<p>Caught by vessels using beam trawls, having a maximum engine power of 221 kW or a maximum length of 24 meters, which are constructed to fish within 12 nautical miles of the coast and with average tow durations of no more than 1:30 hours.</p> <p>Data provided by MS to demonstrate high discard survival rates for plaice do not cover all the MS concerned and that in that fishery survivability is affected by many factors and is highly variable.</p>	<p>Further survivability studies in fisheries other than beam trawls should be prioritised.</p> <p>Given the dire state of plaice in 7h-k, OIG members of the NWWAC remain concerned about this stock falling under an exemption in the absence of robust catch documentation for this stock.</p>
Plaice 7d	High survivability exemption for plaice caught with Danish seines.	Further survivability work should be prioritised to confirm survival rates.



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Table 2 - De minimis exemptions

Stock	Discard Plan for 2020	NWWAC advice
Whiting 7b-k	Up to a maximum of 5 % of the total annual catches of that species by vessels using bottom trawls and seines with a mesh size equal to or greater than 80 mm, pelagic trawls and beam trawls with a mesh size of 80-119 mm.	The effectiveness of the selectivity measures introduced in 2019 should continue to be monitored and evaluated during 2021. A study on gadoids will be carried out by the French POs concerned. This should bring the first results by the end of 2020.
Sole 7d-g	Up to a maximum of 3 % of the total annual catches of that species by vessels using trammel and gill nets.	Prioritise high survivability work in fisheries in 7f,g.
Mackerel 6 and 7b-k	Up to a maximum of 7 % in 2020 of the total annual by-catches of that species, caught in demersal mixed fisheries, by vessels using bottom trawls, seines and beam trawls.	Arguments about disproportionate costs will be provided by the French industry. In line with the appendix to the Recommendation, it would be interesting to display the list of gear codes in the regulation as for horse mackerel.
Horse Mackerel 6 and 7b-k	Up to a maximum of 7 % in 2020 of the total annual by-catches of those species, caught in demersal mixed fisheries, by vessels using bottom trawls, seines and beam trawls.	Arguments about disproportionate costs will be provided by the French industry.
Haddock 6a (temporary)	<i>De minimis</i> exemption for haddock below MCRS caught by vessels using bottom trawls with a mesh size up to 119 mm in the West of Scotland <i>Nephrops</i> fishery. STECF concluded that the justification for the analysis is based on an analysis of disproportionate cost of handling unwanted catches. STECF notes that the costs seem to be reasonable, however there is no objective means to assess whether they are realistic or can be considered disproportionate.	Accelerate introduction of technical measures and monitor and evaluate effectiveness of the measures introduced. Explore spatial/temporal closures.



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<p>Haddock 7a</p>		<p>To fish for haddock in 7a, a minimum mesh size of 120 mm must be used when there are more than 10% of cod, haddock or rays combined. With this highly selective gear, a <i>de minimis</i> of 5% should be requested for haddock caught with 120 mm minimum mesh size in 2021 to allow for a small quantity of unavoidable bycatch, in line with Article 15.5.c.i and ii of Regulation (EU) 1380/2013. Some OIG members wish to recall the need for relevant supporting information to be provided prior to the adoption of the exemption.</p>
<p>Haddock 7b-c and 7e-k (temporary)</p>	<p>Up to a maximum of 5 % in 2020 of the total annual catches of that species by vessels using bottom trawls, seines and beam trawls with a mesh size greater than or equal to 80 mm.</p> <p>STECF concluded that information provided shows that improvements in selectivity for haddock are difficult to achieve without substantial short-term losses in marketable catches. STECF notes that specific technical measures in the Celtic Sea protection zone are expected to reduce unwanted catches of haddock to a lesser extent, but it is too early to evaluate the possible achievements.</p>	<p>The effectiveness of the selectivity measures introduced in 2019 should continue to be monitored and evaluated during 2021.</p> <p>A study on gadoids will be carried out by the French POs concerned. This should bring the first results by the end of 2020.</p>
<p>Megrim 7 (temporary)</p>	<p>Megrim below MCRS, up to a maximum of 5 % in 2020 of the total annual catches of those species by vessels using bottom trawls with a mesh size of 70-99 mm and beam trawls with a mesh size of 80-199 mm.</p> <p>STECF concluded that limited data was provided by the Member States and the evidence that landing unwanted catches has an</p>	<p>This exemption needs to be reviewed based on the change in vessel coverage following Article 13 of Regulation (EU) 2020/123. Prioritise improvements in selectivity proposed in fisheries where unwanted catches of megrim below MCRS are highest. Update information on disproportionate costs.</p>



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	<p>associated cost is not sufficient to demonstrate that those costs are disproportionate. The STECF notes that improving selectivity in the relevant fisheries should be the priority as it would reduce the costs for handling unwanted catches.</p>	<p>Selectivity tests and studies have been carried out and are ongoing in Spain, with final results expected by the end of 2020.</p> <p>At the French level, an update of the data on the gears could be provided.</p>
<p>Greater silver smelt 5b and 6 (temporary)</p>	<p>Up to a 0,6 % in 2020 of the total annual catches of that species by vessels using bottom trawls with a mesh size equal to or greater than 100 mm.</p> <p>Limited data was provided by the Member States and the evidence that landing unwanted catches has an associated cost is not sufficient to demonstrate that those costs are disproportionate. The STECF notes that improving selectivity in the relevant fisheries should be the priority as it would reduce the costs for handling unwanted catches.</p>	<p>Proposal to rephrase the exemption as it was proposed in the JR from last year: “For greater silver smelt (<i>Argentina silus</i>), caught by vessels using bottom trawls (OTT, OTB, TBS, TBN, TB, PTB, OT, PT, TX) with a mesh size greater or equal to 100 mm (TR1) in ICES division 5b (EU waters) and subarea 6, up to 0.6% of the total annual catches of that species.”</p> <p>The provision of economic data should be prioritised.</p>
<p>Boarfish 7b,7c and 7f-k</p>	<p>Up to a maximum of 0,5 % in 2020 of the total annual catches of that species by vessels using bottom trawls.</p>	<p>Proposal to rephrase the exemption as it was proposed in the JR from last year: “For boarfish (<i>Caproidae</i>), caught by vessels using bottom trawls (OTT, OTB, TBS, TBN, TB, PTB, OT, PT, TX) in ICES divisions 7b-c and 7f-k, up to 0.5% of the total annual catches of that species in all fisheries in 7b-c and 7f-k.” Some OIG members wish to recall the need for relevant supporting information for any additional fisheries to be provided prior to the adoption of the exemption.</p> <p>Ideally, the application of the boarfish TAC should be limited to pelagic fisheries.</p> <p>The provision of economic data should be prioritised.</p>



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Ling 6a		<p><i>De minimis</i> exemption for ling under the MCRS size, caught by vessels using a longline (LLS) up to 3% in 2021 of the annual catch of ling caught by longliners. Some OIG members wish to recall the need for relevant supporting information to be provided prior to the adoption of the exemption.</p> <p>Ensure consistency with the North Sea vessels fishing straddling the 2 zones. This exemption exists in the North Sea and the longline fleet (already highly selective in relation to ling catches), that is using it, is fishing on both area 4 and 6a. For harmonization and consistency purpose this exemption will make the LO more operational for this fleet.</p>
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3. Catch documentation and discard data collection

Recording of discards is legally required both for *de minimis* and high survivability exemptions.² Reliable estimates of high survival discards are essential to account for residual mortality in order to reflect real stock status as best as possible. If discard data are uncertain, ICES cannot provide advice consistent with MSY. Instead, ICES applies an advice rule that is based on precautionary considerations, i.e. fisheries management will be more cautious, in order to ensure that catch advice would not be set at unsustainable catch levels.³

The NWWAC recommends that the NWW MSG includes in the JR concrete dispositions and clear instructions on documentation of discards under both *de minimis* and high survival exemptions to provide for the collection of accurate discard data.

STECF has pointed out in its latest report on fisheries-dependent information,⁴ that the data that are used to estimate exemption discards (so that the Commission can factor them into its TAC proposal) are incomplete and not necessarily reliable, making the resulting discard estimates '*rather uncertain*' (see p. 78). In the same report, the STECF also noted that '*for most MS and fisheries, the records of unwanted catch fractions (discards + BMS landings) in logbooks are believed to be an unreliable source of information*', and recommends that MS '*find ways to improve compliance and may have to adapt their national sampling programs in case they have a larger amount of landings under a certain exemption, but no discard information*' (p. 79). It also highlighted that '*a specific data call asking Member States to provide data for each exemption may be a better option than to use data from the FDI-EWG that has been implemented to monitor the developments of EU fisheries in general*' (p. 78).

These findings confirm that there are legitimate concerns about the comprehensiveness and accuracy of data collection on total catches (including unwanted catches), which are crucial prerequisites for reliable stock assessments and the resulting scientific advice. The NWWAC advises the NWW MSG members to cooperate with each other and with the Commission to address these issues as a priority to ensure comprehensive and reliable documentation of all discards.

In order to address the need for additional data on the stocks for which an survivability exemption exists the NWWAC recommends that MS prioritise the evaluation of representative data from other relevant fisheries and areas; then on this basis, survivability studies can be initiated for those stocks characterised by the largest data gaps.

² Article 14(4) of Council Regulation (EC) No 1224/2009, as amended by Regulation (EU) 2015/812.

³ ICES Advice Basis, 13 July 2018, <https://doi.org/10.17895/ices.pub.4503>

⁴ Scientific, Technical and Economic Committee for Fisheries (STECF) – Fisheries Dependent -Information – FDI (STECF-19-11). Publications Office of the European Union, Luxembourg, 2019, ISBN XXXXXX, doi:XXXXXXX, PUBSY No. <https://stecf.jrc.ec.europa.eu/documents/43805/2574024/STECF+19-11+-+FDI.pdf/456fc3cb-c000-4197-b255-25b58e896bd4>



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4. Transparency of the process

The NWWAC is aware of last years' high degree of engagement between the Commission and the regional groups from the moment of publication of the STECF's evaluation of the joint recommendations and their adoption as discard plans.⁵

Close cooperation between the NWWAC and the Regional Member States' Group is important to all our members and is needed to fulfil the NWWAC objective to optimise the efficiency of the consultation process, the exchange of ideas and the production of advice. Whilst the MSG is developing the Joint Recommendation, the NWWAC appreciates being kept informed of any changes and requests made by the Commission for adjustments, as well as being asked for input where relevant.

Due to the current COVID-19 crisis the possibilities to meet and the organisation of the necessary work in preparing Joint Recommendations is seriously hampered. The AC is aware that despite these challenges the Commission is requesting to keep the timelines so that the regulatory process for having Discard Plans in place by 1 January 2021 remains achievable. We encourage the MSG and the Commission to consider how activities can continue given the challenges posed by the COVID-19 crisis, including the timely delivery of supporting information for exemption requests.

Emiel Brouckaert

Chairman of the Executive Committee

⁵ We recognise that the NWW MSG had shared documents such as the letter from the Commission to the NWW MSG indicating which exemption requests the Commission was inclined to accept (as such or following adjustments) or reject

(<https://www.asktheeu.org/en/request/6376/response/21327/attach/10/3916726%20Letter%20to%20NWW%20on%20updating%20JR%20for%202019%20Redacted.pdf.pdf>) directly with the NWWAC.