



CONSEIL CONSULTATIF POUR  
LES EAUX OCCIDENTALES  
SEPTENTRIONALES

NORTH WESTERN  
WATERS  
ADVISORY COUNCIL

CONSEJO CONSULTIVO PARA  
LAS AGUAS  
NOROCCIDENTALES

## MINUTES

### **HORIZONTAL WORKING GROUP on the LANDING OBLIGATION**

**Conference Room 01, Victoria Quay, Edinburgh  
Thursday 7<sup>th</sup> of July 2016**

#### **1. Welcome and introductions**

Bertie Armstrong welcomed members, Commission and Member State representatives, and observers to the meeting. Before addressing the first point of the agenda, the chair raised a matter of importance and concern, following an incident reported to the Secretariat and the Chair. Attendees of AC meetings were kindly asked to avoid unwarranted, gratuitous offence by making immoderate comments loudly when wearing headphones.

The agenda<sup>1</sup> was adopted as drafted and the chair stipulated that the overall aim of the meeting was to develop proposals:

1. To solve chokes situations and
2. For a roadmap on phasing for 2018.

The chair emphasised that despite the UK referendum to leave the European Union, all members of the NWWAC, including UK members, should focus on the next phase of the Landing Obligation (LO), as the UK will still have to apply the LO until such time as a formal exit of the EU has been triggered and negotiated, which could be some years ahead.

All action points from the previous meeting had been completed.

#### **2. NWW Member State Group meetings and NWWAC Advice**

The Secretariat had forwarded the reports of the Member State (MS) Technical and High Level Group meetings and workshops to the General Assembly. At the last MS High Level Group (17<sup>th</sup> May), the AC representatives presented the advice drafted for the guidance of the MS Group on the 2017 Joint Recommendation. Although well received, the MS Group stressed the need for more substantial input from the NWWAC on the way forward with the LO.

The chair welcomed the organisation of workshops by the MS. Especially the workshop in

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<sup>1</sup> All relevant documents to the meeting can be found at the NWWAC website: [link](#)

Edinburgh (14-15 April) on 'Access to Quota', which had been well attended and considered very productive. Members of the AC were reminded that the output of this workshop will be valuable for the drafting of future advice.

### **3. Presentation by the Member State Control Expert Group**

The Member State Control Expert Group (CEG), represented by Mr Julian Roberts (UK), Mr Matthias Bigorgne (FR) and Mr Leon Bouts (NL), presented the final report on the 'Recommended measures to achieve compliance with the Landing Obligation in demersal fisheries in North Western EU Waters' ([link](#)). They informed the AC that the CEG would welcome formal, written feedback on this report, preferably before their next meeting on 23<sup>rd</sup> August.

#### *Summary of the presentation*

The report was written in close collaboration with EFCA and had a lot of similarities with the report on pelagic control. It was noted, however, that the more diversified demersal fleet required a more diverse control-toolbox. In this respect, all available control tools were considered as parts of a complementary matrix to deter and detect noncompliance with the Landing Obligation. The report highlighted that the most effective control tools for high risk vessels would be the use of control observers and CCTV.

The CEG recommended three options for a possible strategy for the Control, monitoring and surveillance of the Landing Obligation:

- Option 1: Continuous monitoring of fisheries for all vessels in high risk segments;
- Option 2: No additional control and monitoring tools in the current stage and
- Option 3: Compliance evaluation of the LO with the goal of developing intelligence as a basis for future, risk-based control actions.

The gradual introduction of the Landing Obligation has created a lot of challenges for the CEG and more data will be required on: catch composition to understand by-catch levels; means to identify catches that have been subjected to the Landing Obligation and how exemption rules have been implemented. In order to collate more information, the CEG suggested collaborating more closely with scientists and use information from the observer programmes implemented under the Data Collection Framework (DCF). This exchange of data would increase the transparency between science and control and allow for dialogue on data collection and data needs.

#### *Discussion*

Sean O'Donoghue stressed that a thorough assessment of the CEG report would be a very important necessity. He considered that the two main components of the report were:

1. The risk assessment matrix and
2. The control tool scoring matrix.

Mr O'Donoghue indicated that the system used to score a fleet or fishery was identical to that used for pelagic fisheries and from his experience of the pelagic control report, anomalies in the risk assessment matrix could have a large impact on the risk evaluation of a certain fleet, which had a large effect on how vessels or fleets were evaluated for control. He further suggested that a dedicated Focus Group should be established to go through the report thoroughly. This proposal was welcomed by the CEG representatives.

The industry representatives of the NWWAC were concerned about the use of scientific data for control purposes. The CEG representatives guaranteed that scientific data collection did not have the same mandate and legal status as control data and therefore, could not be used for prosecutions. The sole reason why the CEG wanted to use scientific data was to have more insight into catch composition and learn how flexibilities and *de minimis* exemptions are being implemented.

Scottish and French fishermen raised concerns about the emphasis on compliance by the CEG, and stressed that fishermen were not yet sure how the Landing Obligation could be implemented.

Additional questions from the industry members focussed on practicalities:

- How would the CEG envisage the control of flexibilities and *de minimis* exemptions, as there were still a lot of stocks not yet under the LO?
- How did the CEG determine the different fisheries and their associated risk category? Concerns were raised by Industry representatives on the risk assessment categories, as the qualifiers were very broad, while in practice the smallest changes to the gear or mesh could have a large effect on the catch composition and
- What criteria will be used to determine which fleet has to use CCTV?

The CEG representatives recognised the difficulties that fishermen are faced with, which are similar to the difficulties for the control agencies. In this context, option three of the proposal, suggests the development of a compliance evaluation tool. Data gathered for the purpose of control and prosecution, will also be used to monitor: changes in fishing behaviour as a result of the Landing Obligation, the implementation of flexibilities and *de minimis* exemptions and developing future control tools. Increasing the observer data on discards will reveal whether a fleet is operating in the manner they have indicated. Where control officers notice infringements, MS will be advised to monitor that fleet more closely.

With regard to the risk assessment matrix, AC members were notified that although the qualifiers were set up in the most objective way, the availability of more data on the comparison of catch compositions by gear and area would improve the assessment.

Mr Roberts explained that ongoing trials with CCTV cameras illustrated a much reduced cost compared to that of observer programmes. It was noted that choosing vessels for continuous monitoring should be governed by resources and a sensible risk assessment, but in the end industry buy-in is required for this tool to be successful. It should be up to the industry to own the CCTV and not the MS, which meant that the data would belong to industry.

French and Spanish industry representatives raised the importance of a balanced control approach: EU fisheries are not homogenous, which implies the need for difference control methods. Fishermen are reluctant to use CCTV cameras as it violates their privacy. The members suggested a closer collaboration between industry and the control agencies to achieve the aims of the Landing Obligation, but they reasoned that a complete Landing Obligation with zero discards is not realistic.

Mr Bigorgne pointed out that the aim of the report is to develop a better understanding of the different fleets and the effects of the Landing Obligation, especially under option 3; Compliance Evaluation of the LO with a goal of developing intelligence as a basis for future risk based control actions. The control group realised the need for an improved understanding, while ensuring a level playing field and it was not the intention to propose the placement of observers on every vessel. The CEG explained that option 3 of the report was intended, to develop proportional solutions. Mr Bouts further clarified that the CEG had submitted three proposals to the HLG for their consideration: (1) The current control toolbox (option 2), which

did not expand the current control toolbox, (2) Compliance by full coverage, which moves control towards fully documented fisheries and CCTV and (3) An intermediate solution where a reference fleet was studied, preferably on a voluntary base.

Marc Ghiglia stressed that he welcomed the effort to minimise by-catch, but he asked the CEG to explain the rationale being proposed to determine discards. Mr Roberts referred to previous discussion regarding the prerequisite of a level playing field and the need for an appropriate risk assessment; The aim of the risk assessment would be to determine the level of control that would be needed for a particular fleet with limits ranging between 10% and 100% observer coverage.

**ACTION:** The Secretariat will draft a formal letter of response to the CEG based on the output of the meeting, which will be finalised by correspondence.

**ACTION:** The Secretariat to look into options to set up a Focus Group on control and compliance that will examine the CEG report in detail.

#### **4. Landing Obligation; Experience to date**

##### a. Experience from members

All members were asked to summarise their experience with:

- The implementation of the LO,
- Examples of choke situations,
- Quota swapping experiences,
- Control and reporting issues,
- Other points that need to be discussed with the MS Group

Three case studies were presented where problems had been encountered since the implementation of the LO:

- Olivier Leprêtre indicated that within his organisation they have tried to implement the Landing Obligation. He will forward the report to the Secretariat;
- Alan Coghill reported that spurdog in the North West of Scotland is a serious problem as this species is being caught in large quantities and is difficult to get out of nets. Fishermen also indicated that hake will be a problem as they are being caught in large quantities and the UK (Scottish industry) will not have enough quota to retain these catches;
- Emiel Brouckaert indicated that the sole 7h-k stock has been reported as a choke for the Belgian beam trawl fleet. Consequently, Belgian vessels can no longer enter the area to fish for monkfish or cuttlefish. The potential of this stock being a choke was identified during the AC Advice Drafting Group on the Landing Obligation (ADGLO), in May. Members were reminded that based on the output of the ADGLO, the AC had written a letter to DG MARE requesting the evaluation of the possibility of removing this by-catch stock from the list of TAC species in this area ([link](#)).

The EC representative thanked the AC for this information and stated that DG MARE will investigate the proposal of removing by-catch stocks from the TAC in the broader context of the evaluation of measures to be considered in a “choke-toolbox”.

The chair appreciated this initiative from DG MARE and noted that the stocks that were brought under the Landing Obligation in 2016 were considered to be the ‘low hanging fruit’, and the appearance of this choke so early in the year was unexpected.

UK industry representatives further pointed out that the wider consequences of the Landing Obligation and the choke situation for sole in 7h-k should be investigated, e.g. the effect of this choke on the fishing pattern of targeting vessels (e.g. effort displacement) and alternative possibilities for the Belgian fleet, as well as the indirect consequences for other MS fleets.

Mr O'Donoghue pointed out that the cessation of fishing as a result of the effect of choke species appears contrary to the purpose of art 39<sup>2</sup> of the Consolidated Treaty on the functioning of the European Union. The AC should ask the EC for clarification on this matter and should such a contradiction exist, what this would mean in practice. Mr O'Donoghue offered to help the Secretariat to draft this request.

**ACTION:** Mr Leprêtre to send the report on his experience with the implementation of the Landing Obligation to the Secretariat for distribution;

**ACTION:** Mr O'Donoghue to help the Secretariat to write to DG MARE for clarification on the issue requiring clarification regarding art 39 of the Treaty on the functioning of the European Union.

b. List of trials (Secretariat)

Members were informed that the Secretariat was gathering information from each MS on all completed, on-going or planned projects on selectivity and/or survivability. Once collated, this list will be shared with the MS group and will be made available to NWWAC members.

## 5. Developing solutions for choke species

The Secretariat (Sara Vandamme) introduced the main points for discussion by presenting a summary of the different mitigation measure to resolve choke situations focussing on: (1) increasing selectivity and avoidance, (2) high survivability and *de minimis* exemptions and (3) other options as described in the paper by Barrie Deas "Chokes needn't be a problem" ([link](#)).

The chair informed members that the 'Access to Quota' workshop in Edinburgh (14<sup>th</sup> and 15<sup>th</sup> April) had been very constructive and that an input document had been developed and circulated to attendees before the meeting, to aid the discussion on choke species. The Secretariat was asked to contact the organisers for permission to distribute their report to NWWAC members.

Industry members indicated that any TAC species can become a choke species, either for individual fishermen or for all vessels. It was noted that it would be important to focus in the first instance on determining solutions to chokes that MSs are willing to put in place, in collaboration with the industry. It was the opinion of members that MSs were not considering any changes in quota allocation because it was unclear what would happen to their fleets later in the year, and what swaps might be needed in the near future.

The Group proposed that the most efficient way forward would be to:

- Set up a risk assessment matrix that identified choke species by Member State, area, gear, etc.;
- Identify the common choke species by fleet and MS;

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<sup>2</sup> During the meeting a reference was made to art. 37 of the Treaty. However, while writing of the letter and looking up the referred articles it became clear that the referred article should be art. 39.

- Identify solutions for the different categories of choke species.

Good background information for this process could be provided from: the DAMARA project, the results of the workshop on 'Access to Quota', and to a lesser extent the risk assessment matrix from the CEG report (by gear type). It was decided that the Secretariat, with the help of a number of AC Members, would collate this information for use by the ADG LO.

Members proposed the following possibilities for the choke toolbox that the ADG LO could consider:

- A less restrictive application of the *de minimis* interpretation by MS;
- An increase in the 9% inter-species-flexibility rule;
- A by-catch allowance for choke species (5-10%);
- A facility for fleets that can no longer operate due to choke species.

Jesús Lourido Garcia also referred to a presentation by the Spanish government on the use of an 'Others' quota. The presentation was in Spanish, but it could be distributed to NWWAC members.

Mr Deas reminded the members of the NWWAC that the MSs were planning to focus on a Choke Action Plan in the second half of 2016. The AC should emphasise the advantages of working together with MS on this issue, at the next MS Technical Meeting on 19<sup>th</sup> July, which the AC had been invited to attend.

Industry members suggested that an additional industry member should attend the NWW MSs meetings. Most meetings were attended by Bertie Armstrong and Liane Veitch, as chair and vice-chair, at the request of ExCom. A number of members proposed that since the Chair is a neutral office, both interest groups should be represented at MS meetings, alongside the chair. Ms Veitch emphasised that as the appointed AC representatives, both the chair and herself had delivered the consensus advice of the AC where there was consensus, and in case where no consensus had been reached, they each provided input on the respective opinion of their stakeholder group. In practice, therefore, both stakeholder groups had always been represented.

The Chair suggested that for the next MS Technical Group meeting a member of the industry could attend, in his place as his impartiality was compromised due to the uncertainty generated by the UK intention to leave the EU following the result of the referendum on EU membership.

Depending on the outcome of the MS meeting, the Secretariat will compile information on choke species and set-up a risk assessment matrix with the help of appointed members of the NWWAC and possibly the MS Group. The Advice Drafting Group (ADG) would then use this information to produce advice.

**ACTION:** The Secretariat to distribute the official report of the 'Access to Quota' workshop, once permission has been granted by the organisers of this meeting (i.e. UK administration).

**ACTION:** Mr Lourido Garcia to send the Spanish Government presentation on the use of an "Others quota" to the Secretariat, for distribution.

**ACTION:** If the need is identified at the Technical meeting, the Secretariat will collate data to identify choke species and their associated risk with the assistance of:

- BE and NL: Emiel Brouckaert and Geert Meun;
- IE: Sean O'Donoghue (Hugo Boyle and John Lynch);
- UK: John Anderson;
- SP: Huge Gonzalez and Puri Fernandez;
- FR: Julian Lamothe (Marc Ghiglia and Caroline Gamblin).

**ACTION:** The Secretariat will reconvene the ADG LO in the second half of 2016, after the next technical meeting of the MS.

## **6. Phasing for 2018; first draft action plan for 2018**

The Secretariat (Sara Vandamme) presented an overview of all the demersal TAC stocks in NWW by working group, that are yet to be introduced into the Landing Obligation or have been introduced into the Landing Obligation.

The chair reiterated the request from the MS group asking the AC to provide input on the future process to phasing-in new stocks into the Landing Obligation, after 2017. Industry members emphasised that part of the previous AC advice stated that the industry considered that there should be no further phasing-in of new stocks until there were solutions to deal with choke situations.

Other Interest Group representatives stressed that the MS have to move forward with phasing, and they considered it would be in the interest of the NWWAC industry members to be active in the design of guidelines and direction on phasing for 2018.

French industry representatives pointed out that they would have preferred a more industry driven process for the Landing Obligation, where the Landing Obligation was introduced on a fleet by fleet basis, instead of species by species. They suggested that expansion of the Landing Obligation should be considered for fleets that are already subject to the Landing Obligation, rather than adding new TAC species.

UK industry representatives were of the opinion that the next step would be difficult. A good starting point would be to consolidate advice on the TAC species currently subject to the Landing Obligation, reconsidering thresholds and developing solutions to handle choke species together with the MS group. They considered there was a lack of confidence in the choke toolbox and that only when a safety net for choke species is in place, would further progress on phasing-in be made. In order for the AC to provide guidance to the MS group, it was suggested that the AC start by identifying the most difficult species, (e.g. cod, 0-TAC species, skates and rays) and then categorise the remaining species (see action point under agenda 5).

The chair concluded that it would be very difficult to make progress on drafting advice for the phasing-in of additional TAC species, but recognised that failure to provide guidance on phasing would not be a preferred position for the AC. The Chair also stressed the need for the AC to provide input into the development of a choke toolbox and guidance on further phasing-in and considered that the next meeting of the ADG LO would provide the appropriate platform to initiate progress.

## 7. Summary of actions agreed and decisions adopted by the Chair

- ACTION 1:** The Secretariat will draft a formal letter of response to the CEG based on the output of the meeting, which will be finalised by correspondence.
- ACTION 2:** The Secretariat to look into options to set up a Focus Group on control and compliance that will examine the CEG report in detail.
- ACTION 3:** Mr Leprêtre to send the report on his experience with the implementation of the Landing Obligation to the Secretariat for distribution;
- ACTION 4:** Mr O'Donoghue to help the Secretariat to write to DG MARE for clarification on the issue requiring clarification regarding art 39 of the Treaty on the functioning of the European Union.
- ACTION 5:** The Secretariat to distribute the official report of the 'Access to Quota' workshop, once permission has been granted by the organisers of this meeting (i.e. UK administration).
- ACTION 6:** Mr Lourido Garcia to send the Spanish Government presentation on the use of an "Others quota" to the Secretariat, for distribution.
- ACTION 7:** If the need is identified at the Technical meeting, the Secretariat will collate data to identify choke species and their associated risk with the assistance of:
- BE and NL: Emiel Brouckaert and Geert Meun;
  - IE: Sean O'Donoghue (Hugo Boyle and John Lynch);
  - UK: John Anderson;
  - SP: Hugu Gonzalez and Puri Fernandez;
  - FR: Julian Lamothe (Marc Ghiglia and Caroline Gamblin).
- ACTION 8:** The Secretariat will reconvene the ADG LO in the second half of 2016, after the next technical meeting of the MS.

NWWAC Document  
Chairman: Bertie Armstrong  
Rapporteur: Sara Vandamme  
Review and editing: Conor P. Nolan



## Annex 1 – List of Participants

<b>NWWAC members</b>	
Bertie Armstrong (Chairman)	Scottish Fishermen's Federation (1)
Emiel Brouckaert	Rederscentrale
John Anderson	Scottish Fishermen's Federation
John Crudden	European Anglers Alliance
Severino Ares Lago	Fundación Rendemento Económica Mínimo Sostible e Social
Vera Coelho	The Pew Charitable Trusts
Despina Symons	European Bureau for Conservation and development
Marina Le Gurun	Bluefish
Francoise Paul	CDPMEM 14
Romain Le Bleis	CDPMEM du Finistère
Caroline Gamblin	CDPMEM
Olivier Leprêtre	CDPMEM du Nord / Pas de Calais / Picardie
Pascal Coquet	CRPMEM president
Vincent Lamidelle	CRPMEM Haute Normandie
Dominique Thomas	Coopératives Maritimes Etaploises & Armement Cooperatif Artisanal du Nord
Richard Brouzes	Copeport Maree OPBN
Francois Hennuyer	FROM Nord
Damien Venzat	OP COBRENORD
Olivier Le Nézet	CRPMEM de Bretagne
Marc Ghiglia	Union des armateur de la pêche en France
Julien Lamothe	Les Pêcheurs de Bretagne SA
John Lynch	Irish Fishermen's Organisation
John Ward	Irish Fish Producers Organisation
John Woodlock	Irish Seal Sanctuary
Hugo Boyle	Irish South and East Fish Producers Organisation
Sean O'Donoghue	Killybegs Fishermen's Organisation
Siobhán Egan	Birdwatch Ireland
Geert Meun	Stichting van de Nederlandse Visserij / Dutch Fisheries Organisation (2)
Hugo Gonzalez	Asociación Nacional de Armadores de Pesca de Gran Sol
Lydia Chaparro	Fundació ENT
José Luis Otero Gonzalez	Lonja de La Coruña S.A.
Juan Carlos Corrás Arias	Pescagalicia-Arpega-Obarco
Jesús Angel Lourido García	Puerto de Celeiro S.A. OPP-77
Patrick Murphy	Irish South & West Fish PO
Liane Veitch	ClientEarth
Paul Trebilcock	Cornish Fish Producers Organisation
Thomas Bryan-Brown	Mallaig and North West Fishermen's Association
Barrie Deas	National Federation of Fishermen's Organisations
Ross Dougal	Scottish Fishermen's Federation (2)
Jim Portus	South West FPO
Iain Young	The Scottish White Fish Producers Association (2)
Alan Coghill	Orkney Fish Producers Organisation
Debbie Crockard	Seas at risk Organisation
<b>Observers</b>	
Emily Baxter	Northwest Wildlife trust
Matthias Bigorgne	Head of Fisheries Control Unit
Paul Duane	Sea Fisheries Protection Authority
Jenni Grossmann	ClientEarth
Paul Duane	Sea Fisheries Protection Authority
Robert Griffin	European Commission
Mindagoa Kisieliauskas	European Commission

Juana Poza Poza	Mº de Agricultura, Alimentación y Medio Ambiente
Jane Macpherson	Head of Discard Policy Scottish Government
Glenn Quelch	EFCA
Stephau Beaucher	ENT
Franck Le Barzic	Cobrenord
Julian Robers	Chairman of NWW Control Expert Group
Lean Bouts	NLD Food Control Authority
<b>NWWAC Secretariat</b>	
Conor Nolan	Executive Secretary
Barbara Schoute	Deputy Executive Secretary
Sara Vandamme	Project Development and Communications Manager
Aibhin O'Malley	Financial Administrator and Event Manager