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NWWAC ADVICE

On the *Consultation on Fishing Opportunities for 2023 under the Common Fisheries Policy* COM(2022) 253

24 August 2022

1. Background

The North Western Waters Advisory Council (NWWAC) exchanged views with reference to the ICES presentation of scientific advice for fish stocks in North Western Waters (NWW) for 2023 and the Communication COM(2022) 253 from DG MARE at the hybrid meeting of the NWWAC Working Groups and Executive Committee (04, 05 and 06 July 2022).

Having collected the main inputs from these discussions, the NWWAC Landing Obligation Focus Group addressed in more detail the content of COM(2022) 253 and the implications for each NWW stock where fishing opportunities are set for 2023 according to the scientific advice and the Common Fisheries Policy.

This resulted in the development of this advice which represents the NWWAC's main contribution to the Commission for their work towards proposing the fishing opportunities in the North Western Waters for 2023 to the Council.

Given that ICES will issue advice for a number of stocks in Autumn, the NWWAC will consider options on how to discuss the remaining stocks and complete these recommendations.

2. General Comments

The NWWAC notes with surprise that the Communication COM(2022)253 does not address or mention Brexit implications, despite the substantial effect these continue to have on EU fisheries management.

3. Progress in achieving sustainable fishing in the EU

The NWWAC recognises and welcomes the long-term progress made overall towards more sustainable EU fisheries reflected in the Commission's Communication COM(2022)253. This is especially true in the Northeast Atlantic EU waters, where *"thanks to the efforts made by the sector,*



*in 2020 the overall fishing mortality ratio fell below 1 for the first time*¹. The NWWAC obviously takes into consideration the NWW stocks for own reference as well as the Western Waters Multi-Annual Plan (MAP). In this respect the AC recommends to also consider the MAP F_{MSY} ranges to accurately reflect the balance with the F established through scientific models. The NWWAC recommends that this is considered in the EU-UK consultations on future fishing opportunities.

Moreover, the NWWAC also acknowledges that trends in biomass in the Northeast Atlantic show a general increase over time since 2007, both for assessed stocks and for data limited stocks for which only a relative biomass index is available. For the Northeast Atlantic, the number of stocks having reference points (or indicators) has increased compared to last year's report. The number of TACs for which quantified assessments were available has also increased. Moreover, for stocks managed only by the EU, 2022 catch limits were set in line with MSY for all stocks where this ratio was available. It is noted that this is part of the legislative requirement for the Commission to report on this progress as it is on the balance between fishing capacity and fishing opportunities. The NWWAC appreciates that the reporting requirement is CFP based and points at the socio-economic and food production sustainability objectives, for which the progress reporting is equally important.

The NWWAC also acknowledges that for stocks shared with the UK, both parties agreed catch limits within the deadline set by the Trade and Cooperation Agreement (TCA), in line with MSY for most stocks where this advice was available. The NWWAC recommends continuing to pursue a level playing field between the EU and UK industries when aiming for high standards to ensure sustainable exploitation of resources.

4. State of the EU fleet

Referring to the EU fleet capacity and its balance with fishing opportunities, the Communication COM(2022) 253 reports that *“serious concerns exist on the accuracy and reliability of engine power declarations by Member States as well as regarding the data underpinning the national reports and the existence or accuracy of Member States action plans required under article 22 of the CFP Regulation.”* When considering the implementation of article 22, the AC questions the relevance of the basis used to set vessel capacity ceilings (gross tonnage (GT)) and engine power (kW). In order to adjust fleets' fishing capacity to their fishing opportunities, the focus should not be on vessels size, but on whether the different fleet segments have enough fishing opportunities to be economically viable. Fishing capacity rules should be adapted to reflect the reality of the sector, allowing to improve safety, working conditions and environmental sustainability towards the decarbonisation objective.

The NWWAC would like to point out that with the UK's departure from the EU, the consequent transfer of fishing opportunities to the UK is a legal requirement to be taken into account when assessing the balance between fishing capacity and fishing opportunities under article 22 of the CFP.

¹ Page 1 of COM(2022) 253



5. Economic Performance

The Communication mentions that “*after several years of affordable prices, fuel prices have increased sharply since March 2022, doubling compared to the average price in 2021*”. The NWWAC thanks the Commission for acknowledging the difficulties brought by the increasing operational costs and the prompt reaction demonstrated by adopting a Temporary Crisis Framework to enable MS to use the flexibility foreseen under State aid rules. However, lack of action from national governments in providing the aid is jeopardising the level playing field and creating competitiveness issues for the sector. Therefore, the NWWAC asks the Commission to urge the Member States to imperatively put into use the opportunities provided by article 26 of Regulation (EU) 2021/1139, (equivalent amendment of (EU) 508/2014) and/or (crisis state aid rule amendment). Moreover, the AC recommends that the Commission considers extending the emergency measures in place after their current deadline at the end of the year, as the effects of the crisis are likely still going to impact the sector in 2023. For other recommendations, we refer to the letter sent to the Commission in March 2022².

The NWWAC would like to highlight the urgent need for alignment of the report on the state of the EU fleet (STECF Annual Economic Report) with the scientific advice on Fishing Opportunities, as the former provides information two years behind in comparison to the year for which scientific advice is given. The AC recommends that this issue is tackled seriously. In this regard, it is relevant to mention the recommendation sent to DG MARE in May 2022³, advising for an update of the STECF AER data to reflect the current rising of operational costs. Recognising that 2022 data will not be available for two more years, the NWWAC recommends that the most recent available economic data are updated with realistic exploitation costs. We appreciate DG MARE’s reply⁴, confirming that the 2022 AER will consider the impact of rising operational costs through the analysis of the most recent available data, and that STECF experts have been requested to provide an indication of the main socio-economic impacts of the current crisis on the national fishing fleets. The NWWAC believes that a fundamental, permanent change along this line is needed in this system.

6. Landing Obligation

The NWWAC recognises that in Article 14 of the CFP selectivity is a key issue and is actively working on putting forward suggestions to achieve this. Indeed, frequently the AC has stipulated that avoidance and minimisation of unwanted catches are baseline tools to achieve the selectivity objective. Besides the issue of compliance with the Landing Obligation (LO), avoiding choke issues remains one of the biggest challenges in the mixed and dynamic NWW fisheries.

The work of the NWW Member States Group (MSG) on two draft Joint Recommendations (JR) for 2023, submitted this May to the European Commission, addresses respectively the exemptions to the

² [NWWAC letter to the Commission addressing aid to the fishing sector to tackle the current crisis](#)

³ [NWWAC recommendation to update the economic fleet data to reflect the current commodity price crisis](#)

⁴ [COM reply to NWWAC letter on STECF economic fleet data](#)



LO and the technical measures designed to increase the selectivity in key fisheries. This is much welcomed by the NWWAC. In the NWWAC advice on these JRs dated in May and June 2022, we stipulated again that priority should be given to avoidance measures that aim at unwanted marine organisms not entering the gear in the first place. We believe that the JR adequately reflect what is required to address the LO challenges. In the meantime, however, the AC has been informed that the Commission requested the NWW MS Group to amend some content of the JR on the draft Discard Plan. In view of the NWWAC's full support of the existing JR, we hope that such requests do not make it more difficult to address the many to achieve the objectives of the CFP.

In addition, the NWWAC recommends the continuation of the quota-exchange pool as mentioned in the Fishing Opportunities Regulations since 2019 to cover unavoidable by-catches by Member States that have no quota for such stocks. This also covers stocks with zero catch advice for which bycatch provisions are foreseen to avoid premature closures of mixed fisheries. In this respect, the NWWAC fully accepts that directed fishery on such stocks remains prohibited.

Ultimately, the NWWAC recognises that if the choke issues are to be resolved in the long-term, all stocks need to achieve a healthy state. An important part of this would be to address data gaps and ensure proper monitoring⁵.

The AC is currently updating the Choke Identification Tool⁶ and evaluating the mitigation measures included in the Joint Recommendation for 2023 to assess whether further recommendations to resolve choke issues in the NWW should be the subject of future advice. This topic will be examined separately if NWWAC advice to the Commission on "Addressing choke risk in the NWW after exemptions" is considered to be required and useful.

7. Key steps towards setting Fishing Opportunities 2023 in the NWW

As a consequence of Brexit, the bilateral consultations with the UK have become a key step towards setting Fishing Opportunities for the 75 shared fish stocks, whose majority are in the NWW. The NWWAC wish to emphasise the vital importance of stakeholder participation in future management and governance structures to be established for working in partnership with the UK. In particular, the NWWAC acknowledges that in line with the EU-UK Trade and Cooperation Agreement, the Specialised Committee on Fisheries (SCF) addresses issues including quota swaps, non-quota species and technical measures.

In February 2022, the NWWAC joint forces with the Pelagic, Long Distance, North Sea and Markets Advisory Councils on the topic of Brexit and established an informal "Inter-AC Brexit Forum". The ACs greatly appreciate that the Commission has welcomed this initiative and sees its potential as a good

⁵ The OIG wishes to add specifically that this should include the recording of protected species in bycatch records whether released or discarded.

⁶ The NWWAC, in co-operation with the NWW Member States Group (MSG), has developed a comprehensive tool (Choke Identification Tool), which serves to identify the choke risks at fishery level.



platform where most AC-Commission communications related to the EU and UK discussions in the SCF could be concentrated. In this regard, the NWWAC stands ready to continue the good cooperation with the Commission and the other ACs to explore possible avenues to ensure and strengthen stakeholder engagement in the context of the execution of the TCA and particularly the work of the SCF.

8. NWWAC comments to the ICES advice for 2023

The AC believes it is important to raise a point regarding ICES presentation of advice at NWWAC plenary meetings in July every year. While recognising the disruptions brought by the pandemic, the NWWAC wishes to emphasise the importance of ICES physical presence at such meetings, which allows for a more productive and engaging discussion on the advice. Moreover, the AC feels that more elaboration is needed on how the assessment was carried out and on how the advice was obtained for each stock. Overall, this would ensure a constructive dialogue and full understanding by participants, which in turn fosters trust and cooperation between scientists and stakeholders. The AC asks the Commission for support and to approach ICES in this regard.

The NWWAC continues to highlight the critical need for quality assurance across all stock assessments and appreciates the effort ICES has made in addressing this issue, including the adoption of a new Advisory Plan in 2019⁷ and the establishment of the Transparency Assessment Framework (TAF). Relevant discussions were held at MIACO in June 2022, where ICES recognised the challenges in implementing the Advisory Plan and acknowledged that the TAF only represents one aspect of quality assurance. The NWWAC believes that more effort is needed to achieve the full implementation of the Advisory Plan and that external help might be needed in this regard.

The lack of data for certain stocks is negatively impacting stock assessments and management, with potential impacts on the catch advice and the resulting fishing opportunities. The ICES advisory plan also recognises this as a quality assurance issue. In this regard, it is essential to consider partnerships between scientists and fishers as one of the main tools to boost data availability. Industry surveys and non-quantifiable information are an important part of this process. The NWWAC is willing to continue its collaboration with ICES in this remit, and specifically following the progress of the outcomes of the 2021 Workshop on Stakeholder Engagement Strategy (WKSHOES).

At several recent meetings members of the NWWAC have raised issues relating to stock identification and how uncertainty around the degree to which two or more stocks of the same species are mixed, may frustrate the stock assessment process. Mixing can also lead to problems with the setting of limit reference points and issues around management decisions due to mismatch between stock and TAC management areas. Currently, members are especially concerned about cod in 6a, cod in 7a, haddock in 7a, haddock in 7b-k, sole in 7h-k⁸ and plaice in 7h-k.

⁷ ICES. 2019. Advisory Plan. <http://doi.org/10.17895/ices.pub.5468>

⁸ The NWWAC would like to point out that work is progressing for the specific case of sole in 7h-k thanks to an ILVO-industry partnership project on genetic data collection.



In light of this, the NWWAC would like to make the following recommendations:

- Managers should ensure that the implementation of the Data Collection Framework is completed in order to improve data collection to inform science as a robust basis for sustainable fisheries management in line with the CFP.
- Genetic research should be used as a tool for informing fisheries managers in relation to stock structure and mixed-stock fisheries and for addressing management issues brought about by the mismatch between stock and TAC management areas. The NWWAC strongly reiterates its recommendation that genetic data is integrated into the Data Collection Framework⁹.

9. NWWAC main messages and orientations for 2023 fishing opportunities proposals

9.1. Ecosystem Based Fisheries Management

The NWWAC recognises that there are many pressures on the marine environment, for example climate change, pollution and other consequences of human activities, which pose a synergistic threat to marine ecosystems and their ability to deliver services such as food production and climate impact mitigation. Ensuring sustainable fisheries, including the setting of TACs in line with best available scientific advice and considering ecosystem dynamics, is essential to maintain and restore healthy and productive ecosystems which are resilient to other stressors such as climate change.

The NWWAC advises that the Commission makes use of all available scientific information on ecosystem-based management and mixed fisheries advice when proposing TACs for 2023 to the Council. The NWWAC highlights the significant advances made throughout the WKIrish process as described above. More specifically, the NWWAC recommends that ecosystem-based fishing mortality reference points (F_{ECO}) are incorporated as an option in the catch scenario table for each stock.

9.2. Skates and Rays

The recent advice for skates and rays¹⁰, produced by the dedicated Focus Group established jointly with the North Sea Advisory Council, includes a list of actions and considerations for increasing survival rates of skates and rays to be taken into account by both the Member States as well as the fishing industry. The NWWAC is keen to discuss this advice and progress the individual action points in cooperation with the Commission and the NWW Members States Group and hopes it is useful for the preparation of scientific advice for 2023 fishing opportunities expected in autumn.

⁹ [NWWAC letter to the COM requesting for genetic studies to be integrated into the Data Collection Framework, February 2020](#)

¹⁰ [Advice on best practice measures for the management of skates and rays in the North Western Waters and the North Sea](#)



The NWWAC wishes to reiterate the suggestion made in the joint NWWAC/NSAC request to the Commission from May 2021¹¹ that ICES evaluates the potential advantages and disadvantages of having different TACs for different skates and ray species or groups of species, both from a conservation as well as from an operational management point of view. The same letter also recommended the preparation of an overview of the potential advantages and disadvantages of size restrictions for each species. The NWWAC is aware that this topic is to be discussed under the SCF remit and remains available for future collaboration.

9.3. Seabass

The NWWAC intends to re-establish its Focus Group on sea bass with the aim of preparing advice to the European Commission on the measures to be taken in 2023 in both commercial and recreational fisheries to aid the recovery of sea bass stocks, reduce bycatch and improve monitoring and control. Moreover, the NWWAC is aware on the ongoing discussions in the SCF to progress the development of the sea bass catch allocation tool and would like to recall the letter sent in May 2022¹² on recommendations for improving such tool.

9.4. West of Scotland

ICES issued zero catch advice for cod in division 6a. The NWWAC agrees that management measures taken so far around this stock need to be questioned and evaluated, as they have not resulted in a recovery of the stock. A strong focus needs to be placed on rebuilding this stock, whilst the NWWAC recommends to also take into account the potential consequences of other aspects like climate change and predation.

The NWWAC is aware that the benchmark for 6a cod carried out in 2021 identified that the stock identity issues between the stock in the northern part of 6a and the one in the North Sea remain to be resolved. Should the stock in 6a be the same as the one in the North Sea, this would completely change the assessment. Thus, the NWWAC recommends again that further work on genetics is carried out to solve this important issue as a matter of urgency.

Referring to the benchmark for haddock in 6a, the NWWAC points out that, though there was a big upward change in the stock size and downward change in fishing mortality, the difference in the advice is only 6.5%. Looking at the retrospective in the advice sheet, it seems highly unusual that the lower the recruitment the higher the spawning stock biomass. The NWWAC highlights its members' concern for this unexpected advice.

9.5. Celtic Sea

The discrepancy between the larger haddock stock relative to the cod and whiting stocks and the difficulty of dealing with this in TAC-setting continue to pose challenges in the Celtic Sea mixed fishery. The 25% reduction in haddock advice for 2023 creates a serious mismatch with the technical measures

¹¹ [Joint NWWAC/NSAC request for updated scientific information on skates and rays, May 2021](#)

¹² [NWWAC advice on the Seabass Catches Allocation Tool](#)



in place (and in particular the raised fishing line), which cannot be operated if there is not enough TAC for the target species. The NWWAC wishes to draw attention to the impact of climate change, also in the Celtic Sea, which should be taken into consideration in the stock assessment in terms of how it might affect the reference points. Furthermore, the NWWAC recommends that mixed fisheries considerations as well as the ecosystem-based approach are considered when setting TACs for this fishery. Overall, the topic is further developed in a recent NWWAC advice on Technical Measures in the Celtic Sea¹³.

Regarding hake in areas 6 and 7, the NWWAC acknowledges that the advice for 2023 is 10.8% higher than last year's advice following the benchmark in 2022. However, the advice mentions that *"the new assessment tends to revise historical SSB downwards and F upwards when a new year of data is added. If this pattern continues, this may result in an inflated advised catch"*. The AC is concerned that this potential future inflation of the advice indicates a mistake in the assessment.

NWWAC members were surprised that ICES concluded that the cod quota was exceeded due to French fishing. According to fishers, the quota was actually underused. Thus, the AC recommends that the final numbers per MS in the fisheries description section of the advice are reviewed and possibly adjusted.

The concerns of the NWWAC for pollack in subareas 6 and 7 are the stock identity and the need for enhanced data collection to allow for an upgrading of the advice, as this stock is currently a data-limited stock (ICES category 4). Given that estimated recreational catches are significant, this should be considered in management in the next few years to avoid a scenario similar to seabass. Moreover, the NWWAC notes the vastness of the whole areas 6 and 7 and the issues that the combination of all the possible pollack stocks in the area might bring to the assessment. Finally, the AC highlights that pollack is included in the WW Multiannual Plan despite not being subject to a targeted fishery and seeks explanation and resolution of this incongruence.

The NWWAC would also like to underline the importance to urgently address the issue related to the assessment and advice for haddock 7b–k, including rectangles 33E2 and 33E3 in division 7a. This should be considered when setting TACs, as a portion of the 7a catch is considered to be part of the division 7b–k stock, and efforts to examine stock's genetics should be prioritised to solve this issue.

For the data poor plaice stock in 7fg the ICES catch advice is -77%. This is based on a biomass index established by a single survey (UKBTS) and the stock category 3 rfb formula. Whilst this is not a targeted stock, catches are unavoidable in some mixed fisheries and appear to be at an average level. The current TAC adequately covers the required bycatch level, but following the category 3 stock ICES advice for 2023 will jeopardise this situation. A 77% advice reduction, leading to a similar TAC reduction cannot be explained to the active fishers, as they appear to have much more relevant information on this stock than the index data coming from a single survey used in a theoretical formula. The NWWAC recommends avoiding TAC movements of this size and asks the Commission in its proposal to apply the stability clause limitation even if the condition based on poorly available data

¹³[NWWAC advice on Technical Measures in the Celtic Sea](#)



is not fulfilled.

9.6. English Channel

For sole in 7e, the NWWAC notes that fishing pressure is within MSY reference points and SSB is at the highest level in the time series. However, because recruitment in 2020 has been significantly reviewed downwards and in 2021 recruitment was extremely low, the top line ICES advice is a reduction by 23%. A roll over of the TAC would still lead to an SSB-level far above MSY $B_{TRIGGER}$. The NWWAC considers that such data should enable managers to apply a stability approach and avoid TAC movements of the kind advised for this stock.

The NWWAC wishes to reiterate its recommendation regarding 7d whiting, which for assessment is considered one stock with whiting North Sea but managed under a common TAC with whiting 7b–c and e–k. Management of this stock should be implemented at the stock level to ensure that fishing opportunities are in line with the scale of the resource for each of the stocks.

9.7. Irish Sea

The NWWAC would like to reiterate its concerns regarding several stock identity issues, as already mentioned in the Irish Sea paragraph in the NWWAC advice on Fishing Opportunities 2020¹⁴ and in a letter sent to the Commission in October 2020¹⁵, particularly between the Irish Sea and the Celtic Sea. This might have a relevant influence on the validity of the stock boundaries for cod, whiting and haddock and therefore according to the NWWAC and as frequently recommended, it is vital to address this through scientific analysis examining stocks' genetics. The NWWAC specifically notes the case of 7a haddock, which has been accounted for 68% of the reported landings in the statistical rectangles 33E2 and 33E3 traditionally included in the Celtic Sea management area. This should be considered when setting TACs for haddock in 7a and 7b–k, since changes in the TAC for the 7a stock may have implications for the fishing pressure on haddock in divisions 7b–k. This is a clear example of a stock where an identification genetic study is urgently needed.

Regarding Irish Sea cod, the NWWAC points out that the advice might be characterised by a retrospective issue, as it does not seem to highlight the advice changes to which it has been subjected in the past four years¹⁶. In particular after the benchmark in 2020, the stock has again a zero TAC advice for 2023. The NWWAC wishes to underline the great concern this has raised among members.

The NWWAC also recommends keeping a close eye on the zero catch options for cod and whiting, in view of the concern regarding the poor recruitment for haddock in 2020.

¹⁴ [NWWAC Response to the Consultation on Fishing Opportunities for 2020, September 2019](#)

¹⁵ [NWWAC letter to the Commission regarding TAC setting for cod, haddock and whiting in Irish Sea statistical rectangles, 33E2 and 33E3, October 2020](#)

¹⁶ Cod in 7a has been described as a Category 1 stock by the ICES advice in 2018, then as a Category 3 in 2019 and 2021, then again as a Category 1 in 2022.



In relation to Irish Sea whiting, the NWWAC highlights the need to review the technical measures introduced in 2019 for the *Nephrops* fishery and evaluate their efficiency in reducing whiting bycatch. The NWWAC will also liaise with the NWW Member States Group in this regard.

Regarding sole, NWWAC members feel that COVID related impacts on the timeline of survey data should be considered, as it seems there are inconsistencies between the survey results and the CPUE identified in a fisheries-science partnership project. In view of such available additional data, the NWWAC would support an initiative for a benchmark exercise for this stock. Considering the implication of the discard data in the assessment it would be worthwhile to take the survival of sole into consideration as well.

9.8. Joint-Recommendation NWWAC-PelAC on Greater silver smelt in areas 6 and 7

Following the newly established [Gentlemen's Agreement between the NWW and Pelagic ACs](#) agreed on 31 March 2022, both ACs acknowledge that any recommendation on Greater silver smelt in areas 6 and 7 falls under the direct competence of the NWWAC in accordance with Annex III of the CFP. The NWWAC proposes the following recommendation for this stock, which is endorsed by the Pelagic AC and the result of a joint exercise, whereby the NWWAC advises on bycatch issues and the PelAC advises on the directed fishery.

The NWWAC and PelAC recommend following the ICES MSY advice (17 078 tons) in areas 5b and 6a and the precautionary approach in subareas 7–10 and 12, and in Division 6.b (124 tonnes)¹⁷. It is worth noting that, from an NWWAC perspective, there is no bycatch issue in demersal fisheries in relation to this species.

The two ACs would like to point out that since 2016, unilateral quotas are set by the Faroe Islands and EU/UK separately, and the sum exceeds the recommended catches. The NWWAC and PelAC call on the European Commission and the Council of the EU to prevent overfishing and to reach an agreement on this shared stock.

In addition, in the context of improved management of the directed fishery, the PelAC will be examining the possibility of developing a management strategy for areas 5b and 6a, associated with developing measures to improve the reference data issue of the stock in the areas 6b and 7. Therefore, The NWWAC and PelAC underline the need for genetic analyses to be undertaken in order to ensure better identification of the stocks and of their distribution.

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¹⁷ ICES published advice on 30 June 2022, advising a MSY approach to be followed for Greater Silver Smelt in the areas 5b and 6a, with catches in 2023 to be no more than 17 078 tonnes. ICES also released advice for Greater Silver Smelt in subareas 7–10 and 12, and in Division 6.b (other areas), for 2022 and 2023 advising that the precautionary approach is applied and that catches should be no more than 124 tonnes in each of the years 2022 and 2023.