

DISCUSSION PAPER REGARDING INTERSPECIES FLEXIBILITY

Legal basis of Interspecies flexibility

Interspecies flexibility is set in the CFP regulation in Art15 (8) :

*“By way of derogation from the obligation to count catches against the relevant quotas in accordance with paragraph 1, catches of species that are subject to the landing obligation and that are caught in excess of quotas of the stocks in question, or catches of species in respect of which the Member State has no quota, may be deducted from the quota of the target species provided that they do not exceed **9 % of the quota of the target species**. This provision shall only apply where the stock of the non-target species is within **safe biological limits**.”*

In TAC and quota regulation 2016/72 of 22 January 2016 fixing for 2016 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters, and amending Regulation (EU) 2015/104, in Article 7.2 regarding to conditions for landing catches and by-catches, we can find the following:

*“The stocks of non-target species **within safe biological limits** referred to in Article 15(8) of Regulation (EU) No 1380/2013 are identified in Annex I of this Regulation for the purposes of the derogation from the obligation to count catches against the relevant quotas provided for in that Article”*

Analysis of different aspects related with Interspecies flexibility

In order to build a common procedure to apply this flexibility throughout the EU, all regional groups have been invited to participate in several workshops to discuss and study how to implement this flexibility due to the importance of addressing this matter properly.

For the moment, just a preliminary approach was reached in these workshops, and we are supposed to continue working on this matter because of the difficulties encountered.

As it was raised in the workshops, ISF could negatively affect and contribute to worsen the situation of some fish stocks. That's the reason why member states are working together to come to a compromise on how to proceed through a common approach.

What do cause concern is that in 2015 and 2016 TACs and quotas regulations, article 15(8) has been invoked already (See Annex 1) and we would like to study the situation of the art to avoid setting a precedent in the use of this article before having taken a decision on how to apply this flexibility.

We have to agree with the precaution set in the CFP regulation to constrain the use of ISF just if the stock of the non-target species is within safe biological limits. And at the same time, if it does is within a safe biological limit, we have to make sure that the use of ISF is not going to lead us to lose this good condition of the stock.

In fact in this NWW Regional group has analyzed which species are eligible for Interspecies flexibility (See Annex 3) and most of the stocks appearing in footnotes as recordable in the frame of the article 15(8) are not included in the eligible list (see Annex 1).

Without taking into account the possible synergy effects of different principal species covering the same stock against them, as an example:

- The conversion of a 5% of horse mackerel quota (JAX/2A-14) in boarfish as it is established in the current regulation could lead to a quota of 5.251,05 tons of BOR increasing the adopted quota of boarfish of 42.637 tons in 12%.
- The conversion of a 2% of sprat quota (SPR/2AC4-C) in whiting as it is established in the current regulation could lead to a quota of 6.600 tons of whiting, increasing the adopted quota of whiting of 12.610 tons in 33%.

All cases included in TAC and quotas 2016 are detailed in Annex 1.

The concerns of Spain have significantly risen when some proposals from the pelagic industry during the AC are trying to include hake in the footnotes in discussion.

CONCLUSIONS

- We have to use the ISF condition taking care we do comply with the provisions of the regulation in force.
- It is very important to make sure that the application of the ISF does not lead the receiving stock to a worse situation. If we are using species with big TACs, such as the pelagic ones in order to cover others with smaller TACs, such as some demersal or deep species ones, we would increase considerably the mortality rate and could lead stocks in good situation to depletion.
- It is essential to use that flexibility having agreed some principles:
 - Interspecies flexibility is a means of last resort.
 - Member States should notify in advance each other of their intention to use ISF.
 - Member States should take measures to avoid a severe increase of the mortality of by catch species by, for instance, adopting, on a case by case basis, particular ceiling to final national quotas both of targeted.

ANNEX 1 Species with Interspecies flexibility included already in R. (EU) 2016/72 and in R. (EU)2015/105 referred to article 15(8)

Target species	Area	Non-target species covered by ISF	Non-target species (Stock status)
Sprat Precautionary TAC 5% (OTH/*03A)	(SPR/03A)	Whiting	Whiting IIIa (WHG/03A.)→ Precautionary TAC
Sprat Analytical TAC Article 7(2) of this Regulation applies 2%(OTH/*2AC4C)	Union waters of IIa and IV (SPR/2AC4-C)	Dab	Dab for common dab Union waters of IIa and IV (DAB/2AC4-C) → Precautionary TAC
		Whiting	Whiting IV; Union waters of IIa (WHG/2AC4.) →Analytical TAC Article 3 of Regulation (EC) No 847/96 shall not apply Article 4 of Regulation (EC) No 847/96 shall not apply
Horse mackerel Precautionary TAC 5%(OTH/*4BC7D)	Union waters of IVb, IVc and VIId (JAX/4BC7D)	Boarfish	Union and international waters of VI, VII and VIII (BOR/678-) → Precautionary TAC
		Whiting	VIIb, VIIc, VIId, VIIe, VIIf, VIIf, VIIf, VIIh, VIIj and VIIk (WHG/7X7A-C) →Analytical TAC Article 12(1) of this Regulation applies Article 7(2) of this Regulation applies VIIa (WHG/07A.)→ Analytical TAC
		Mackerel	IIIa and IV; Union waters of IIa, IIIb, IIIc and Subdivisions 22-32 (MAC/2A34.) → Analytical TAC
Horse mackerel Precautionary TAC 5 % (OTH/*4BC7D)	Union waters of IVb, IVc and VIId (JAX/4BC7D)	Boarfish	Union and international waters of VI, VII and VIII (BOR/678-) → Precautionary TAC
		Whiting	VIIb, VIIc, VIId, VIIe, VIIf, VIIf, VIIf, VIIh, VIIj and VIIk (WHG/7X7A-C)→ Analytical TAC Article 12(1) of this Regulation applies Article 7(2) of this Regulation applies
		Mackerel	IIIa and IV; Union waters of IIa, IIIb, IIIc and Subdivisions 22-32 (MAC/2A34.) → Analytical TAC

Target species	Area	Non-target species covered by ISF	Non-target species (Stock status)
<p>Horse mackerel</p> <p>Analytical TAC</p> <p>5 % (OTH/*2A-14),</p> <p>Special conditions: 5 % in VIII (JAX/*07D.). by-catches of boarfish and whiting shall be reported separately under the following code: (OTH/*07D.).</p> <p>Special condition: 50 % may be fished in VIIIc (JAX/*08C2). by-catches of boarfish and whiting shall be reported separately under the following code: (OTH/*08C2).</p>	<p>Union waters of IIa, IVa; VI, VIIa-c, VIIIe-k, VIIIa, VIIIb, VIIIc and VIIIe; Union and international waters of Vb; international waters of XII and XIV (JAX/2A-14)</p>	Boarfish	Union and international waters of VI, VII and VIII (BOR/678-) → Precautionary TAC
		Whiting	<p>VIIa (WHG/07A.) → Analytical TAC</p> <p>VIII (WHG/08.) → Precautionary TAC</p> <p>VI; Union and international waters of Vb; international waters of XII and XIV (WHG/56-14) → Analytical TAC</p>
		Mackerel	<p>VI, VII, VIIIa, VIIIb, VIIIc and VIIIe; Union and international waters of Vb; international waters of IIa, XII and XIV (MAC/2CX14-) → Analytical TAC</p> <p>VIIIc, IX and X; Union waters of CECAF 34.1.1 (MAC/8C3411) → Analytical TAC</p>
<p>Norway pout and associated by-catches <i>Trisopterus esmarki</i></p> <p>5 % (OTH2/*2A3A4)</p> <p>Analytical TAC Article 3 of Regulation (EC) No 847/96 shall not apply Article 4 of Regulation (EC) No 847/96 shall not apply</p>	<p>IIIa; Union waters of IIa and IV (NOP/2A3A4.)</p>	Whiting	<p>Whiting IIIa (WHG/03A.) → Precautionary TAC</p> <p>Whiting IV; Union waters of IIa (WHG/2AC4.) → Analytical TAC Article 3 of Regulation (EC) No 847/96 shall not apply Article 4 of Regulation (EC) No 847/96 shall not apply</p> <p>Norwegian waters south of 62° N (WHG/04-N.) for whiting → Precautionary TAC</p>
<p>Sandeel (OTH1/*2A3A4)</p> <p>Analytical TAC Article 3 of Regulation No 847/96 shall not apply Article 4 of Regulation No 847/96 shall not apply</p>	<p>IIa, IIIa and IV</p>	Dab	Dab for common dab Union waters of IIa and IV (DAB/2AC4-C) → Precautionary TAC
		Whiting	Whiting IV; Union waters of IIa (WHG/2AC4.) → Analytical TAC Article 3 of Regulation (EC) No 847/96 shall not apply Article 4 of Regulation (EC) No 847/96 shall not apply
		Mackerel	VI, VII, VIIIa, VIIIb, VIIIc and VIIIe; Union and international waters of Vb; international waters of IIa, XII and XIV (MAC/2CX14-) → Analytical TAC

Annex 2

STOCKS REFERING TO ISF IN 2016

SPRAT (2 STOCKS) (See Footnotes(1))

Species:	Sprat and associated by-catches <i>Sprattus sprattus</i>	Zone:	IIIa (SPR/03A.)
Denmark	22 300 ⁽¹⁾		
Germany	47 ⁽¹⁾		
Sweden	8 437 ⁽¹⁾		
Union	30 784		
TAC	33 280		Precautionary TAC

⁽¹⁾ Without prejudice to the landing obligation, catches of whiting may be counted against up to 5 % of the quota (OTH/*03A), provided that not more than 9 % in total of this quota for sprat is accounted for by these catches and by-catches of those species that are accounted for under Article 15(8) of Regulation (EU) No 1380/2013.

Species:	Sprat and associated by-catches <i>Sprattus sprattus</i>	Zone:	Union waters of IIa and IV (SPR/2AC4-C)
Belgium	3 802 ⁽¹⁾		
Denmark	300 915 ⁽¹⁾		
Germany	3 802 ⁽¹⁾		
France	3 802 ⁽¹⁾		
The Netherlands	3 802 ⁽¹⁾		
Sweden	1 330 ⁽¹⁾ ⁽²⁾		
United Kingdom	12 547 ⁽¹⁾		
Union	330 000		
Norway	20 000		
Faroe Islands	5 500 ⁽³⁾		
TAC	355 500		Analytical TAC Article 7(2) of this Regulation applies

⁽¹⁾ Without prejudice to the landing obligation, catches of dab and whiting may be counted against up to 2 % of the quota (OTH/*2AC4C), provided that not more than 9 % in total of this quota for sprat is accounted for by these catches and by-catches of those species that are accounted for under Article 15(8) of Regulation (EU) No 1380/2013.

⁽²⁾ Including sandeel.

⁽³⁾ May contain up to 4 % of by-catch of herring.

HORSE MACKEREL (2 STOCKS) (See Footnotes(3))

Species:	Horse mackerel and associated by-catches <i>Trachurus</i> spp.	Zone:	Union waters of IVb, IVc and VIII (JAX/4BC7D)
Belgium	13 ^(?)		
Denmark	5 519 ^(?)		
Germany	487 ⁽¹⁾ ^(?)		
Spain	102 ^(?)		
France	458 ⁽¹⁾ ^(?)		
Ireland	347 ^(?)		
The Netherlands	3 323 ⁽¹⁾ ^(?)		
Portugal	12 ^(?)		
Sweden	75 ^(?)		
United Kingdom	1 314 ⁽¹⁾ ^(?)		
Union	11 650		
Norway	3 550 ^(?)		
TAC	15 200		Precautionary TAC

⁽¹⁾ Special condition: up to 5 % of this quota fished in division VIII may be accounted for as fished under the quota concerning the following zone: Union waters of IIa, IVa, VI, VIIa-c, VIIe-k, VIIIa, VIIIb, VIIIc and VIIIe; Union and international waters of Vb; international waters of XII and XIV (JAX/*2A-14).

^(?) May be fished in Union waters of IVa but may not be fished in Union waters of VIII (JAX/*04-C).

^(?) Without prejudice to the landing obligation, catches of boarfish, whiting and mackerel may be counted against up to 5 % of the quota (OTH/*4BC7D), provided that not more than 9 % in total of this quota for horse mackerel is accounted for by these catches and by-catches of those species that are accounted for under Article 15 (8) of Regulation (EU) No 1380/2013.

Species:	Horse mackerel and associated by-catches <i>Trachurus</i> spp.	Zone:	Union waters of IIa, IVa; VI, VIIa-c, VIIe-k, VIIIa, VIIIb, VIIIc and VIIIe; Union and international waters of Vb; international waters of XII and XIV (JAX/2A-14)
Denmark	10 415 ⁽¹⁾ ^(?)		
Germany	8 126 ⁽¹⁾ ^(?) ^(?)		
Spain	11 084 ^(?) ^(?)		
France	4 183 ⁽¹⁾ ^(?) ^(?) ^(?)		
Ireland	27 064 ⁽¹⁾ ^(?)		
The Netherlands	32 606 ⁽¹⁾ ^(?) ^(?)		
Portugal	1 068 ^(?) ^(?)		
Sweden	675 ⁽¹⁾ ^(?)		
United Kingdom	9 800 ⁽¹⁾ ^(?) ^(?)		
Union	105 021		
Faroe Islands	1 700 ⁽⁴⁾		
TAC	106 721		Analytical TAC

⁽¹⁾ Special condition: up to 5 % of this quota fished in Union waters of IIa or IVa before 30 June 2016 may be accounted for as fished under the quota concerning the zone of Union waters of IVb, IVc and VIII (JAX/*4BC7D).

^(?) Special condition: up to 5 % of this quota may be fished in VIII (JAX/*07D). Under this special condition, and in accordance with footnote (3), by-catches of boarfish and whiting shall be reported separately under the following code: (OTH/*07D).

^(?) Without prejudice to the landing obligation, catches of boarfish, whiting and mackerel may be counted against up to 5 % of the quota (OTH/*2A-14), provided that not more than 9 % in total of this quota for horse mackerel is accounted for by these catches and by-catches of those species that are accounted for under Article 15(8) of Regulation (EU) No 1380/2013.

⁽⁴⁾ Limited to IVa, VIa (north of 56° 30' N only), VIIe, f, h.

^(?) Special condition: up to 50 % of this quota may be fished in VIIIc (JAX/*08C2). Under this special condition, and in accordance with footnote (3), by-catches of boarfish and whiting shall be reported separately under the following code: (OTH/*08C2).

NORWAY POUT AND ASSOCIATED BY-CATCHES (See Footnote(1))

Species:	Norway pout and associated by-catches <i>Trisopterus esmarki</i>	Zone:	IIIa; Union waters of IIa and IV (NOP/2A3A4.)
Denmark	128 880 ⁽¹⁾		
Germany	25 ⁽¹⁾ ⁽²⁾		
The Netherlands	95 ⁽¹⁾ ⁽²⁾		
Union	129 000 ⁽¹⁾ ⁽³⁾		
Norway	15 000 ⁽⁴⁾		
Faroe Islands	6 000 ⁽⁵⁾		
TAC	Not relevant		Analytical TAC Article 3 of Regulation (EC) No 847/96 shall not apply Article 4 of Regulation (EC) No 847/96 shall not apply

⁽¹⁾ Without prejudice to the landing obligation, catches of whiting may be counted against up to 5 % of the quota (OT2/*2A3A4), provided that not more than 9% in total of this quota for Norway pout is accounted for by these catches and by-catches of those species that are accounted for under Article 15(8) of Regulation (EU) No 1380/2013.

⁽²⁾ Quota may be fished in Union waters of ICES zones IIa, IIIa and IV only.

⁽³⁾ Union quota may only be fished from 1 January to 31 October 2016.

⁽⁴⁾ A sorting grid shall be used.

⁽⁵⁾ A sorting grid shall be used. Includes a maximum of 15 % of unavoidable by-catches (NOP/*2A3A4), to be counted against this quota.

SANDEEL (See Footnote(2))

Species:	Sandeel <i>Ammodytes</i> spp.	Zone:	Union waters of IIa, IIIa and IV ⁽¹⁾
Denmark	0 ⁽²⁾		
United Kingdom	0 ⁽²⁾		
Germany	0 ⁽²⁾		
Sweden	0 ⁽²⁾		
Union	0		
TAC	0		Analytical TAC Article 3 of Regulation (EC) No 847/96 shall not apply Article 4 of Regulation (EC) No 847/96 shall not apply

⁽¹⁾ Excluding waters within six nautical miles of the UK baselines at Shetland, Fair Isle and Foula.

⁽²⁾ Without prejudice to the landing obligation catches of dab, whiting and mackerel may be counted against up to 2 % of the quota (OT1/*2A3A4), provided that not more than 9% in total of this quota for sandeel is accounted for by these catches and by-catches of those species that are accounted for under Article 15(8) of Regulation (EU) No 1380/2013.

Special condition:

within the limits of the abovementioned quotas, no more than the quantities given below may be taken in the following sandeel management areas, as defined in Annex IID:

Zone:	Union waters of sandeel management areas						
	1	2	3	4	5	6	7
	(SAN/234_1)	(SAN/234_2)	(SAN/234_3)	(SAN/234_4)	(SAN/234_5)	(SAN/234_6)	(SAN/234_7)
Denmark	0	0	0	0	0	0	0
United Kingdom	0	0	0	0	0	0	0
Germany	0	0	0	0	0	0	0
Sweden	0	0	0	0	0	0	0
Union	0	0	0	0	0	0	0
Total	0	0	0	0	0	0	0

OTHER CASES OF ISF NOT ADRESSED TO ART 15(8):

Species:	Herring ⁽¹⁾ <i>Clupea harengus</i>	Zone:	Norwegian waters south of 62° N (HER/04-N.)
Sweden	1 184 ⁽¹⁾		
Union	1 184		
TAC	518 242		Analytical TAC Article 3 of Regulation (EC) No 847/96 shall not apply Article 4 of Regulation (EC) No 847/96 shall not apply

⁽¹⁾ By-catches of cod, haddock, pollack and whiting and saithe are to be counted against the quota for these species.

Species:	Cod <i>Gadus morhua</i>	Zone:	Norwegian waters south of 62° N (COD/04-N.)
Sweden	382 ⁽¹⁾		
Union	382		
TAC	Not relevant		Analytical TAC Article 3 of Regulation (EC) No 847/96 shall not apply Article 4 of Regulation (EC) No 847/96 shall not apply

⁽¹⁾ By-catches of haddock, pollack and whiting and saithe are to be counted against the quota for these species.

Species:	Haddock <i>Melanogrammus aeglefinus</i>	Zone:	Norwegian waters south of 62° N (HAD/04-N.)
Sweden	707 ⁽¹⁾		
Union	707		
TAC	Not relevant		Analytical TAC Article 3 of Regulation (EC) No 847/96 shall not apply Article 4 of Regulation (EC) No 847/96 shall not apply

⁽¹⁾ By-catches of cod, pollack, whiting and saithe are to be counted against the quota for these species.

Species:	Northern prawn <i>Pandalus borealis</i>	Zone:	Norwegian waters south of 62° N (PRA/04-N.)
Denmark	357		
Sweden	172 ⁽¹⁾		
Union	529		
TAC	Not relevant		<div style="border: 1px solid black; padding: 5px;"> Analytical TAC Article 3 of Regulation (EC) No 847/96 shall not apply Article 4 of Regulation (EC) No 847/96 shall not apply </div>

⁽¹⁾ By-catches of cod, haddock, pollack, whiting and saithe are to be counted against the quotas for these species.

Species:	Saithe <i>Pollachius virens</i>	Zone:	Norwegian waters south of 62° N (POK/04-N.)
Sweden	880 ⁽¹⁾		
Union	880		
TAC	Not relevant		<div style="border: 1px solid black; padding: 5px;"> Analytical TAC Article 3 of Regulation (EC) No 847/96 shall not apply Article 4 of Regulation (EC) No 847/96 shall not apply </div>

⁽¹⁾ By-catches of cod, haddock, pollack and whiting are to be counted against the quota for these species.

Species:	Mackerel Scomber scombrus	Zone:	IIIa and IV; Union waters of IIa, IIIb, IIIc and Subdivisions 22-32 (MAC/2A34.)
Belgium	566 (?) (4)		
Denmark	19 461 (?) (4)		
Germany	590 (?) (4)		
France	1 781 (?) (4)		
The Netherlands	1 793 (?) (4)		
Sweden	5 389 (?) (2) (4)		
United Kingdom	1 661 (?) (4)		
Union	31 241 (?) (2) (4)		
Norway	185 639 (?)		
TAC	Not relevant		Analytical TAC

(1) Special condition: including the following tonnage to be taken in Norwegian waters south of 62° N (MAC/*04N-): 338
When fishing under this special condition, by-catches of cod, haddock, pollack and whiting and saithe are to be counted against the quotas for these species.

(2) May also be taken in Norwegian waters of IVa (MAC/*4AN).

(3) To be deducted from Norway's share of the TAC (access quota). This amount includes the following Norwegian share in the North Sea TAC: 53 826

This quota may be fished in IVa only (MAC/*04A.), except for the following amount, in tonnes, which may be fished in IIIa (MAC/*03A.): 3 000

(4) Within the limits of the abovementioned quotas, no more than the quantities given below may also be taken in the two following zones:

	Norwegian waters of IIa (MAC/*02AN-)	Faroese waters (MAC/*FRO1)
Belgium	76	91
Denmark	2 624	3 131
Germany	80	95
France	240	286
The Netherlands	242	288
Sweden	726	854
United Kingdom	224	267
Union	4 212	5 012

Special condition:

within the limits of the abovementioned quotas, no more than the quantities given below may be taken in the following zones:

	IIIa (MAC/*03A.)	IIIa and IVbc (MAC/*3A4BC)	IVb (MAC/*04B.)	IVc (MAC/*04C.)	VI, international waters of IIa, from 1 January to 15 February 2016 and from 1 September to 31 December 2016 (MAC/*2A6.)
Denmark	0	4 130	0	0	11 677
France	0	490	0	0	0
The Netherlands	0	490	0	0	0
Sweden	0	0	390	10	3 031
United Kingdom	0	490	0	0	0
Norway	3 000	0	0	0	0

Annex III
Species eligible for Interspecies flexibility according to
Annex 1, R. (EU) 2016/72.

Species	Area
Herring	IIIa (HER/03A)
Herring	IV North of 53°30' N (HER/4AB)
Herring	IIIa (HER/03A-BC)
Herring	IV, VIIId and IIa (HER/2A47DX)
Herring	IVc, VIIId (HER/4CXB7D)
Herring	VIIa (HER/07A/MM)
Herring	VIIg, VIIh, VIIj, VIIk (HER/7G-K)
Megrim	Vb and int. waters of XII and XIV (LEZ/56-14)
Haddock	IIIa, subdivisions 22-32 (HAD/3A/BCD)
Haddock	IV and IIa (HAD/2AC4)
Haddock	Vb and VIa (HAD/5BC6A)
Whiting	VIIb, VIIc, VIIId, VIIe, VIIf, VIIg, VIIh, VIIj, VIIk (WHG/7X7A-C)
Nephrops	VI and Vb (NEP/5BC6)
Plaice	Skagerrak (PLE/03AN)
Plaice	Kattegat (PLE/03AS)
Plaice	IV, IIa, part of IIIa (PLE/2a3aX4)
Sole	VIIe (SOL/07E)
Sprat	IIa and IV (SPR/2AC4-C)
Horse Mackerel (<i>Trachurus spp.</i>)	VIIIc (JAX/08C)
Northern prawn(<i>Pandalus borealis</i>)	IIIa (PRA/03A.)