



## Meeting Report

**Landings Obligation Focus Group  
DoubleTree Hilton, Amsterdam Central Station  
Tuesday 7<sup>th</sup> & Wednesday 8<sup>th</sup> October 2014**

**Rapporteur: Tony Hawkins**

**Draft (1)**

### **1. Welcome and Introductions**

- 1.1 Barrie Deas welcomed participants to the Landings Obligation Focus Group of the North Sea Advisory Council (NSAC). The purpose of the meeting was to develop NSAC advice on the implementation of the Landings Obligation in the North Sea.
- 1.2 Representatives of the Control Agency and Member State administrations were especially welcomed to the meeting and were invited to participate fully in any discussion.
- 1.3 The agenda was agreed.

### **2 Recap of previous meeting**

- 2.1 The report of the previous meeting was agreed as an accurate record. On the action points:
  1. Member States had been asked what scientific work they had commissioned on survival. A summary had been prepared. In addition a list of scientific publications on survival had been provided by STECF.
  2. We were refining our list of the key species that show high survival, and this was an ongoing process.

3. We had not developed any further our definitions and interpretation of the regulations, and Jane Sandell had now left the NSAC.
4. Guidance on zero TAC species would be developed further as a result of a meeting called by DEFRA (the UK Ministry) next week.
5. The Vision Paper had been completed, agreed and submitted.
6. A letter had been received from the Scheveningen Group on their expectations from the NSAC. Our initial thoughts were required by early November.

### **3. The TAC for North Sea Cod**

- 3.1 The TAC for cod had been discussed at the ExCom meeting in Stockholm. There had appeared to be little prospect of reaching agreement on the advice from the NSAC. A small group was to be formed to deal with this, but the problems were not just with drafting the advice, but also in gaining agreement. ICES scientists would be looking at MSY ranges in November. It was suggested that we should shelve this issue and return to it again at the next Demersal Working Group on the 12<sup>th</sup> November.
- 3.2 Andrew Clayton offered to explain the NGO concerns. It was clear that ICES had been asked to provide advice on the basis of achieving MSY in accordance with the cod management plan. The draft NSAC paper had not been based on that advice. Michael Andersen pointed out that the advice was based on an old management plan. Circumstances had changed. Michael Park added that positions were clearly entrenched on this issue. We either had to reach a consensus or submit a fishers' position and a minority position. Erik Lindebo thought that there were some things we could agree on, and it would be more productive to develop ideas on these. Barrie Deas agreed but concluded that we should redirect these discussions to the Demersal WG, when we would have more time to discuss the issues and would decide then whether we could reach a consensus position.

### **4. Update on Work with the Scheveningen Group**

- 4.1 The NSAC had been represented at a meeting of the Scheveningen Group on the 1<sup>st</sup> October, and Barrie Deas had prepared a summary note. Contrary to what we had been told in Stockholm, Member States had not yet reached agreement on defining the fisheries and deciding upon phasing.
- 4.2 Clara Ulrich from DTU Aqua had given a presentation on issues involved in defining the fisheries in the North Sea. She had pointed out that many different criteria could be used to define fleets. It would be easier to phase-in the landings obligation on the basis of species, as the level of complexity and difficulty of monitoring increases if fleets are defined:
  - By stock and by area

- By stock and by gear and by area
- By stock and by gear and by area and by targeted fishery

The total number of possible combinations amounts to 81 for the North Sea, with 39 definitions for cod fisheries alone.

4.3 The Scheveningen Group has delegated tasks to different lead Member States in preparing a discard plan. The UK is leading on roundfish and the Netherlands is leading on flatfish, taking different gear types into account. The Vision Paper from the NSAC had been well received and the group was now seeking advice from the NSAC on several key questions:

- Defining the fisheries
- Phasing of the landings obligation
- *De minimis* exemptions
- High survival exemptions
- Documentation of catches
- Minimum Conservation Reference Sizes
- The Science base
- Choke species

4.4 Barrie Deas underlined that our main task today was to develop the more detailed NSAC advice, taking account of the Scheveningen Group's deliberations and requests. He had produced a paper for discussion and had already received two written responses. It was remarked by some participants, however, that the content of the draft paper was controversial, and that only one vision was presented. More developed and focussed advice was needed. Barrie Deas replied that the paper had only been submitted to start discussion flowing. It was made clear at the beginning of the document that it was not yet even draft NSAC advice. The paper had now been available on the website for 8 weeks, and there had been an opportunity for everyone to comment. The document had not been submitted to the Scheveningen Group although it was available on the NSAC website along with all the other meeting papers.

4.5 There were several comments that the paper provided a useful starting point for discussion. However, it did require further development. We now needed to align the paper with the requirements of the Scheveningen Group. We should not follow the example of the Pelagic Advisory Council in producing a very long document, raising many points that the group had subsequently largely ignored. We perhaps need a series of very short sub-papers aimed at answering the specific questions asked by the Scheveningen Group. We could then supply someone to speak on each of those issues at a future meeting with the group. If anyone did not want to cooperate in arriving on an agreed position on these different questions then they could opt out and prepare a minority position. On the issue of the drift net ban the NSAC had arrived at a

common position, stimulated by an initial draft paper, which showed that agreement could be reached through this procedure. Some fishers were concerned that some of the environmental NGOs had come to the meeting with entrenched positions, whereas other members had not. The latter were willing to see a NSAC position evolve. We were not dealing with major policy issues here but seeking practical solutions to emerging issues.

- 4.6 Representatives of Member States emphasised that the Scheveningen Group had decided that the regulation is very clear on what should be included in a discard plan. Preparing a discard plan was now the group's priority, and the NSAC should concentrate on the 8 issues raised by the group. Fishers' representatives pointed out that the 8 questions do not cover all aspects of the Landings Obligation, however, and there would be other problems to address at future meetings – for example the issue surrounding storage of fish on vessels. This was likely to pose major problems for fishers, but was not being dealt with in the discard plan.
- 4.7 It was concluded that the meeting should move on to discussion of the 8 issues raised by the Scheveningen Group. We had already made considerable progress in preparing our Vision Paper, which was the preface to our more detailed advice. We would now move on to discuss each of the issues in turn.

## **5. Defining fisheries and the phasing of the Landings Obligation**

- 5.1 Defining the fisheries was a key issue. It was remarked that Article 15.1 of the regulation could be interpreted in several ways. It was for the regional bodies to define the fisheries and there was an opportunity for the Scheveningen Group to define the North Sea demersal fisheries in a way that made sense. There was some scope for adopting a creative approach. Some thought that the discard plan should apply to the fisheries for the four main species (cod, haddock, whiting, saithe) from day one. Another approach for the fishery targeting those four species would be to start with one or two species, including cod – the defining species for the North Sea, in the first year. Then additional species could be introduced progressively as experience was gained and problems resolved. It was suggested that this latter approach, which is set out in the draft paper from Barrie Deas, would be a more adaptive and managed approach. The *Nephrops* and flatfish fisheries might also need to be considered at an early stage, otherwise vessels might switch from one category to another as we have seen in the past.
- 5.2 There was some opposition to this approach. Some thought that all the key species should be brought into play in the first year. Others preferred the phasing in of species as experience was gained progressively. For the latter, the paper offered a very practical solution to the problems that might arise and would allow fishers to continue to fish while adapting their behaviour to the new regime. Fishers needed to be given time to find their own solutions to reducing discards, with the rules being formulated as a result of that experience. If fishers are given time they can solve the discard problems through improved selectivity and other measures.

- 5.3 It was suggested that the paper needed to be clearer on defining the fisheries themselves. The definitions of the fisheries should be linked more strongly to the fishing gears being used, though not necessarily using the definitions provided by the cod management plan as that could lead to chaos. We needed to start by defining the fisheries more carefully, in terms of the gears used, before we get into greater intricacies. Nevertheless, the suggested phasing provided an opportunity for further discussion. The paper opened up ideas on what might be done. It might not be possible, however, to resolve all the difficulties by 2016. There was a risk that in introducing the discard ban too quickly we would go back to the poor compliance that existed in the 1980s. The rules needed to be executable and enforceable.
- 5.4 It was remarked that concentrating on cod in all fisheries and in all areas is perhaps an over-simplification. Cod was likely to become a choke species in some fisheries and areas, but not others, and it might be a mistake to concentrate on cod as the main target. An alternative might be to begin with haddock, as this is the defining species in some North Sea fisheries. There might be a case for first defining areas, then the fisheries, and then the species and their phasing. A more complex approach may be necessary. Barrie replied that a species approach extending the landings obligation to cod in the first year would be easier for some fleets than others.. The logic of the species approach was that it would remove quota uplift complications, allow an adaptive approach and avoid different sets of rules applying to different vessels fishing alongside each other. It was suggested however that that if the quota uplift were allocated only to those fisheries subject to the no discards rule then that would take care of some of the problems, and could be dealt with at Member State level. Several participants stressed that the uplift of TACs on the basis of *total catches* rather than *landings*, had to be an integral part of the implementation of the Landings Obligation. Those fisheries involved in the discard ban must receive quota uplift if they are to continue to operate. Others however feared that Member States could not be left to manage quota uplift. The uplift had to be based on ICES advice. A Member State representative added that ICES will not provide advice on a fleet basis and will not allocate uplift to fisheries. Although it would seem sensible to allocate uplift only to the part of the fleet subject to the discard ban this could result in unused quota.
- 5.5 Danish fishers representatives remarked that we could not have as many fisheries defined as had been suggested at the earlier meeting, with 81 different fisheries. When the discard ban for the Skagerrak had been discussed with Norway it had been concluded that a discard ban could only be defined for species, not for fisheries. If it was based on fisheries then it opened the possibility of fishers switching between them. We should perhaps define the main fisheries through the species exploited. Others agreed. When you create fishery sub-sectors you create incentives, some of which will be inappropriate. Like the move of vessels to using smaller mesh nets under the perverse incentives provided by the cod management plan. We have to think about these kinds of issues if we create divisions in the fleet. Fishing systems are dynamic not static.
- 5.6 Barrie Deas summed up by saying that it was evident from these discussions that different views were held on defining the fisheries. There were 3 different approaches based on:

1. Species
2. Fisheries, defined by gear, area, and target species
3. A hybrid approach combining features from both the above

It should be possible to list the pros and cons of each of these. Barrie would make a start on this. We need to raise the important issues, so that any decisions are based on knowledge. Participants were invited to contribute their ideas. A new draft paper would be prepared that would then go through NSAC procedures for formal agreement.

Many additional issues had been thrown up in the discussions, including:

- The application of quota uplift to fisheries
- The creation of perverse incentives through the designation of fisheries categories
- Legal interpretation versus practicality

Our Vision Paper had emphasised that the Landings Obligation had to be workable, simple, adaptive, and enforceable. If it were to be effective it would need the implicit support of fishers. So far we were quite far apart in terms of adopting the best approach.

## 6. *De Minimis* Exemptions

- 6.1 Up to 5% of total catches may continue to be discarded. But there was an issue of interpretation: five percent of what? The wording of the regulation is very poor. The most liberal interpretation is 5% for all species landed by a Member State. According to Article 15 (5), *de minimis* exemptions of up to 5 % of total annual catches of all species subject to the landing obligation can be specified in discard plans where scientific evidence indicates that increases in selectivity are very difficult to achieve; or to avoid disproportionate costs of handling unwanted catches. STECF has concluded that any volume of catch derived from the application of *de minimis* exemptions in discard plans will need to be deducted from the advised total catches, but there are a number of ways of achieving this. It does not necessarily require 5% to be deducted from the TAC.
- 6.2 It was pointed out that any recommendations that the NSAC might make would need to be evaluated by STECF. Their interpretation will be important. The 5% has to be consistent with overall advice on the stock. The Scheveningen Group will want advice from the NSAC on the fisheries and candidate species for the application of *de minimis* exemptions. Identifying those fisheries and species will be difficult and we should leave any decisions on this to the end of the advice that we give.

## 7. High Survivability

- 7.1 ICES scientists have produced guidance on survival experiments. However, if experiments are to be done in line with this guidance it may take several years to compile a full knowledge base. STECF has pointed to the extensive literature on survival. The NSAC has compiled a list survival pilots already under way in different Member States. However, in preparing a discard plan it will be necessary to take decisions on the fisheries and species that will be nominated for exemptions.
- 7.2 There was support for the suggestion in the draft paper that the guiding principle within the North Sea Discard Plan should be that the decision to grant a high survival exemption should be taken in relation to whether evidence suggests that outcome would be an *increase* or *decrease* in fishing mortality. Where there is evidence of high survival in a fishery, priority should be given to avoiding any overall increase in fishing mortality. Concern was expressed over how *high* survival should be defined. A view was expressed that it would be difficult and unnecessary to define this precisely. If a species was more likely to increase fishing mortality if it was landed, then it should be released back into the sea. Fish that are likely to survive should be released. The pelagic conclusions were relevant to this. It had been suggested that survival of 70-80% of mackerel and herring was likely if the net was slipped. STECF had ruled that the evidence supported the 70-80% figure.
- 7.3 The draft paper listed the relevant considerations, and also listed several species that might be considered for exemptions. It was suggested that skates and rays should be added to the list. Any record of the survival of discards was positive evidence that fish could survive. Quite a small increase in survival would be important for some species if we were to keep stocks growing. There was no need to define high or low survival. In fact scientists seem to agree that the decision of high survival was subjective, not scientific. It was suggested that we should definitely list flatfish and *Nephrops* as candidates for exemption and we should focus on these species.
- 7.4 A contrary view was expressed. Minimal survival was not what was intended by offering this exemption in the regulation. Although the important point was not to increase fishing mortality through the landing obligation there were too many risks in leaving this to fishermen. Other steps like improved selectivity could achieve more in terms of promoting survival. Handling on board is a huge factor affecting survival of species like skates and rays. The care to be taken needs to be specified. The point was taken that even if only 5% of a large quantity survived this could be significant, but we should not be advocating business as usual by fishermen.
- 7.5 It was pointed out that fishers stood to benefit from releasing fish in good condition, as that would improve the stocks. There were incentives to treat fish well. There were also pressures for fishers to be selective as catching species they did not want posed problems for them. Fishermen want their businesses to survive and they already realise the advantages of fishing selectively. It was added that the key words for fishers are “avoid, reduce and incentivise”. Fishers wanted to increase the selectivity of their nets, but the issue of improving selectivity should not be mixed up with the discard ban. There was more respect for fishers in the Norwegian legislation. The rule is that they must land dead and dying fish. This is left to fishers’ discretion and the rule is not abused. We should mention this in our paper.

- 7.6 Barrie Deas thought that the views expressed were not too far apart. We could modify the draft paper to incorporate these views. It was pointed out by a Member State representative that most countries had listed flatfish and *Nephrops* and additional scientific work was currently being done on these. If the NSAC wished to add skates and rays then this would need to be flagged up quickly, as no one was doing any work on this. It was agreed that we should try to summarise the best available information and insert that into our paper. That is what has been done for the pelagic species.

## 8. Documentation of catch

- 8.1 Under the Landing Obligation all estimated discards above 50 kg live weight must be recorded. A project has been launched by the Control Agency to look at discard recording, and a document from EFCA has been circulated within the NSAC. Initial studies on the pelagic fisheries will now be extended to the North Sea and North West Waters. The Agency will be working with the Expert Groups of the regional groups (the Scheveningen Control Experts Group in the case of the North Sea) to prepare for the documentation of catches. Barrie Deas thought it would be important to involve fishers in these decisions, as they knew what was feasible and if they felt they shared the same objectives then the system might work. It will be difficult to estimate the discarded fish accurately and what was needed was effective means for documentation on the bringing aboard and retention of all catches. It was suggested that we could rely initially on the expert control group coming up with suggestions. The Pelagic Advisory Council had also put forward some well-expressed wording on this. We might steal some words from them.
- 8.2 It was suggested that some individual fishers had already come up with some very good ideas. David Steven of the vessel “Crystal Sea” had come forward with ideas that had been circulated within the NSAC. He had suggested that industry needs to take control of this situation, explain what it can achieve and what was stopping fishers from meeting the aims of the discards ban. Then the industry should guide the management side through the process of how to deliver a fully documented and clean fishery, through workable stock management and technical rules. There was strong support for experiments and trials conducted by fishers themselves, and projects and trials were now underway in several countries. Caution was expressed by some fishers’ representatives, who thought that selectivity is much easier in some fisheries than others. Separating out species was a massive problem in some fisheries and fishers were already steaming from ground to ground to avoid catching certain species. Some of the requirements of the Landing Obligation do not translate easily into real life.
- 8.3 Others stressed that faced with stocks that were not being fished sustainably, and where large quantities of small fish were being caught, something would have to be done. Fishers pointed out that these catches of small fish were often forced upon fishers by the regulations. If you want to catch sole you would inevitably catch some small plaice.

- 8.4 In relation to industry trials, Seafish had produced a summary document on what was being done in the UK. Lots of things were being trialled. Fishers added that much more could be done if funding were available to assist with these trials.
- 8.5 It was concluded that documentation of discards was important, but a balance would need to be reached between relevant documentation and full documentation. We would want to hear more from the Scheveningen Control Experts Group on this and would return to discussing this on the 12<sup>th</sup> November at the Demersal WG.

## **9.0 Minimum Conservation Reference Sizes**

- 9.1 The aim in setting minimum conservation sizes is to avoid the capture of small fish, although all fish will count against quota regardless of size. What are the necessary safeguards to be met in choosing these sizes? It was suggested that this is essentially a regulation on the use of dead fish. Danish fishers thought that such restrictions could now be removed completely, as there is no conservation value in setting such sizes. Under regional management in the North Sea we do not need minimum conservation sizes. The Scheveningen Group would like us to specify sizes but how can we do this? Is there any bearing on prices? If you land fish below the minimum conservation size fishers will certainly get a lower price. It was suggested, however, that if the minimum conservation size were dropped then smaller fish would in any case be sent to China, filleted, glued together, and then be sent back as larger fillets suitable for human consumption. There is a need for further discussion of minimum conservation sizes and the purposes they are meant to serve. In Norwegian waters the minimum sizes are higher than they are in the North Sea, which makes things difficult for fishers moving between waters.
- 9.2 In some cases, lists had been prepared for Minimum Conservation Reference Sizes for different areas and fisheries and these could be circulated to the NSAC. However, fishers were concerned at how these sizes had been arrived at. Were they based entirely on marketing considerations? They are not needed for conservation purposes. It was decided that the NSAC needed to take action on this, to discover why Minimum Conservation Reference Sizes need to be set, and on what basis they might be decided. Currently we have both MCRS and Minimum Landing Sizes and they are set differently. It was concluded that we should send a request to the Commission from the NSAC asking for a seminar on the setting of MCRSs, to involve processors, marketing people and fishers. It would need to be a broad forum, contributing to a wider discussion on the setting of such sizes for the North Sea.

## **10. The Science Base**

- 10.1 It is evident that some elements of the science base are at risk from the Landing Obligation. We need to understand what these risks are and how they can be dealt with. There is particular concern over scientific observer programmes. It is felt by scientists that they cannot perform both science and control functions and that science must be separated from control. There is also a need to build a science base up, as

currently monitoring of discards is done for only a small proportion of the fisheries. The Norwegian experience has been that if discarding takes place then it is concealed from scientists. There is a risk that there will be less data available from the fleet with the implementation of a discard ban.

- 10.2 Currently, the arrangements to take scientists on board fishing vessels are arranged informally. As the scientists do not have a control function the behaviour of the fisher does not change with a scientist on board. However, if scientists are being turned into policemen then fishers will refuse to take them on board unless they are forced to do so. The observer trips will no longer be representative of other trips by the vessel and there will be a breakdown in the provision of accurate information. There was a presentation on this at the Scheveningen Group and it has been discussed at the ICES Science Conference. Time series of scientific information will be disrupted. The Member States may also have to move away from using CCTV cameras. Although there is not a pushback against cameras *per se* their presence will simply shut fisheries down and fishers will not be prepared to have them on board. In the past incentives were provided in return for carrying CCTV cameras. That would no longer be the case. Large parts of the UK whitefish fleet currently have cameras on board in return for being granted more days at sea. These cameras work for a single species like cod but they may not work for multiple species. There will be kickback if the cameras are forced upon vessels. Also fishers in some Member States are strongly opposed to having CCTV cameras on board. If other things fit – if quotas are matched to the availability of fish and if fishing opportunities are improved - then vessels may be prepared to have cameras on board. There would also need to be a level playing field. Norwegian vessels fishing in EU waters do not carry CCTV cameras.
- 10.3 It was pointed out that once the discard plans have been defined and agreed the Commission will have to carry out an impact assessment. That should reveal any problems with respect to fleet viability, compliance, and erosion of the science base. Over the past 10 years there have been high levels of cooperation between fishers and scientists in some Member States and that may now be jeopardised. Member States will wish to carry out their own impact assessments of the Landings Obligation to evaluate whether discards have been reduced and to assess the overall impact of the policy. One way to mitigate unknowns is to phase the discard ban in gradually – to adopt an adaptive approach. The trials currently being carried out with some fleets will not give the whole picture.

## 11. Other Issues

- 11.1 A number of other issues were raised. Kenn Skau Fischer raised the question of disproportionate handling costs, which have a bearing on the *de minimis* exemptions. It is difficult to estimate these costs in advance, but it might be possible to draw up rules for deciding how these costs might be estimated. We should ask the Commission for some scientific data to be collected on this.
- 11.2 Barrie Deas pointed out that some industry practices might amount in the future to minor infringements. We need to identify these and list them. For example, shrimps

caught in the meshes of the net may be interpreted as discards, although they do not have major effects upon stocks. The Norwegian system generally recognises these problems and a delicate equilibrium has been reached with fishers. There are supportive elements in the Norwegian system. Practical enforcement officers would need to recognise these problems and build in pragmatic enforcement. It was pointed out that the Pelagic RAC had introduced the idea of *force majeure* – infrequent occurrences that should be ignored. We needed to register these issues.

## 12. Choke species

- 12.1 The NSAC began discussing choke species two years ago, and the problems with these species are set out in the NSAC Vision Paper. The term "choke species" describes the situation when the exhaustion of quota for one minor species in a mixed fishery prevents the full uptake of the remaining quota species that are the main targets. STECF has pointed out that choke species can have a strong negative economic effect - businesses may be unable to continue trading and large quantities of quota might remain uncaught. Different species may choke different individual vessels and/or groups of vessels operating in the same sea areas, depending on how access to quota is allocated, and which fishing gears are being used. STECF has highlighted the factors that might lead to choke species but on the basis of past experience. The drivers for choke species may change in the future, and we may not know which species are candidates until the Landings Obligation is implemented. Choke species may be ameliorated by quota flexibilities or by quota swaps, but it is not yet apparent what swap currencies will be available to Member States to achieve this, given that each member state is likely to face increased demand. Phasing may be critical in arriving progressively at lasting solutions.
- 12.2 The Shetland Fishermen's Association has produced a paper aimed at solving the problem of choke species. The Association has expressed its view that the landing obligation as currently framed is unworkable. They believe that implementation under the current management system would inflict serious damage on their whitefish fleet and island community. They are especially concerned over the 'choke species' problem. They have looked at discard rates in the Shetland fisheries, and quota uptake. In mixed fisheries, mismatches are inevitable and in some cases chronic. There is sometimes too much quota and sometimes too little. They have taken 4 species, cod, haddock, saithe and whiting, and have assumed these can be covered by quota uplift (a big assumption). Single-species quota management would still be required for those species, covering the directed fisheries. They have suggested however that the POs should have the option of grouping some of their quotas into a single, 'others' quota. That would solve the choke species problem. None of these pooled species are endangered. Such a pooled system would allow any outstanding problems to be resolved before 2019. Such a plan certainly works for Shetland and it might work for other areas. In essence they are proposing a grouping of by-catch species by the POs rather than Member States.
- 12.3 It was pointed out that a similar solution had been suggested by a small group of fishers in the Netherlands. Others thought this was an interesting idea but some

species would need safeguards. Some of the species might be endangered at a local level. It was recognised that this was an internal fix rather than an international solution, and that it would be good discipline for the POs to engage in such arrangements. However, it was thought that if all the POs did this then the quotas for the Member State might be hit. It could be done within existing legislation but it might need further approval. Internationally some species like hake could only be dealt with through international swaps. It was also pointed out that within a PO pot of “others” there might be species that are targeted elsewhere, like plaice. There might be a need to deregulate some species. Did that mean removal of the TAC? Yes! Turbot was given as an example. Such small quantities were landed in the northern part of the North Sea that removal of the TAC in those fisheries would not be a problem.

- 12.4 We had said in our Vision Paper that there might be scope for grouping quotas. Given the complexities of mixed fishery management, species management through TACs may not achieve the required recovery or sustainable exploitation for some species, notably non-target species. In such instances, setting of TACs for non-target species may no longer be appropriate and it may be necessary to reduce the number of TACs or combine TACs. In that eventuality it will be essential to provide safeguards for minor, non-commercial and by-catch species to ensure the sustainable harvesting of all stocks. This may be achieved through the application of alternative conservation and protection measures. One important question, however, was how do we seek the introduction of an “others” quota.
- 12.5 What kind of safeguards might be provided for those species whose TACs were pooled? Removal of the TAC might affect MCS certification for species like turbot. Barrie Deas reminded participants that Poul Degnbol of ICES had spoken of a risk-based approach to identify those species where an alternative approach is required. It was pointed out, however, that Poul was talking about data-deficient species, with low abundance, not species like turbot. Spatial factors might be important in this. In Shetland, a programme for acquiring information on data deficient stocks was being funded by fishermen.
- 12.6 There were still questions remaining over the pooling of species. There is a need to prevent ‘gaming’ by fishermen. It may be possible to do something, but we may need to find solutions during a transition phase, before a lasting solution can be found. With the new mixed fishery plans being proposed there will be some pooling of species in the transition phase. Pooling is a good solution for short-lived stocks. There was support for the idea of a transition phase. The Landing Obligation will change a large number of well-established practices and there will be unintended consequences. With a phase approach such problems could be dealt with sequentially.
- 12.7 A number of additional points were made. At some point we are going to have to look at Relative Stability. We should perhaps do some preparatory work on this. We should also consider relative value as well as volume in discussing choke species. Choke species were often those that were locally abundant. A paper by CEFAS had recently been published on this. There is also a German paper on this subject. We need to be transparent in setting criteria for choke species. We are finding it difficult, however, to move beyond the vision stage to putting forward solid proposals. Some choke species were not abundant – like ling – which could halt a fishery if they were caught. Others

like plaice were abundant but could still be a choke species in some areas. We need specific examples like this to enable us to get to grips with the problem. It was agreed that any stock that has a quota can become a choke species for a range of different reasons. We could certainly describe the problems that may arise, without concentrating on particular species. There were essentially 3 kinds of choke species:

- Unavoidable by-catch in mixed fisheries
- The result of mismatch between abundance and quotas in an area
- Paper fish, where TACs were set at a particular level for political reasons

We could then list potential solutions; such as grouping and pooling (at the PO, Member State or regional level), the default position of removing the TAC. A transition phase, allowing greater latitude to experiment with these would be a way forward.

12.8 Barrie Deas would prepare a sub-paper on this and we would look at it at the Demersal WG, which would give us time to discuss the options before the Scheveningen Group met on the 25-27<sup>th</sup> November to do more work on phasing.

### 13. Any Other Business

13.1 Kenn Skau Fischer said out that under Article 14 of the framework regulation Member States can carry out pilot projects to prepare for the Landing Obligation. It was necessary for the Member State to seek the advice of the NSAC on such projects. This had been followed when we had been given the presentation on pulse fishing but we have not been asked our advice on other projects. Why not?

13.2 It was pointed out that Member States only had to inform the Advisory Councils. The only time that advice would be sought was if there was a derogation being sought from the regulations. We did not want to create a bureaucracy to deal with this but it would be useful if information provided by Member States were circulated. It was emphasised that we all needed to know what others were doing in this area. We do need to share ideas on what Member States are doing. The UK is currently preparing a list of its own projects and the NSAC could ask to see that

### 14. Action Points

1. Guidance on zero TAC species will be developed further following a meeting called by DEFRA (the UK Ministry) next week (2.1).	Barrie Deas
2. We will shelve the issue of advice on the TAC for North Sea Cod and return to it again at the next Demersal Working Group on the 12 <sup>th</sup> November (3.1).	Barrie Deas Secretariat
3. A list of pros and cons of a species based approach; a	Barrie Deas

fisheries based approach; and a hybrid approach will be prepared. Participants are invited to contribute their ideas. A new draft paper will be prepared that will then go through NSAC procedures for formal agreement (5.6).	Members
4. We will leave any decisions on <i>de minimis</i> exemptions to the end of our deliberations (6.2).	Barrie Deas Secretariat
5. We will mention in our paper the Norwegian rule that fishers must land dead and dying fish (7.5).	Rapporteur
6. We will modify the draft paper to include the different views expressed on high survivability (7.6).	Rapporteur Members
7. As we may wish to include skates and rays among the species with high survivability we should flag this up with Member States conducting experiments on survival to ensure that these species are examined (7.6).	Secretariat
8. We wish to hear more from the Scheveningen Control Experts Group on the documentation of catches and will return to discussing this on the 12 <sup>th</sup> November at the Demersal WG (8.5).	Barrie Deas Secretariat
9. We will send a request to the Commission asking for a seminar on the setting of MCRSs, to involve processors, marketing people and fishers. It will need to be a broad forum, contributing to a wider discussion on the setting of minimum conservation reference sizes for the North Sea. (9.2).	Secretariat
10. The Commission and some individual Member States will wish to carry out their own impact assessments of the Landing Obligation to evaluate whether discards have been reduced and to assess the overall impact of the policy, including impacts on the science base. The NSAC will closely monitor those impact assessments (10.3).	Secretariat
11. We will ask the Commission whether scientific data is being collected on defining disproportionate handling costs, which have a bearing on the <i>de minimis</i> exemptions (11.1)	Secretariat
12. We will identify and list those industry practices that might be interpreted as minor infringements (stickers, slippage etc.). We need to register these issues and perhaps label them as <i>force majeure</i> issues (11.2)	Secretariat Members
13. At some point we are going to have to look at Relative	To be discussed

Stability. We should perhaps do some preparatory work on this? (12.7).	further
14. A sub-paper will be prepared on choke species and we will look at it at the Demersal WG, which will give us time to discuss the options before the Scheveningen Group meets on the 25-27 <sup>th</sup> November to do more work on phasing.	Barrie Deas

Nemecky	Stella	WWF
Kingma	Irene	Dutch Elasmobranch Society
Kokosis	Konstantinos	EBCD
Linebo	Erik	Environmental Defense Fund
Loveby	Henrik	Swedish Fishermen
Absil	Christine	Seas at Risk
Nuevo	Miguel	EECA
Adeock	Sarah	DEFRA
Hamilton	Heather	Client Earth
Andersen	Michael	Danish Fishermen
Offringa	Henk	Dutch Ministry
Andersen	Martin	Danish AgriFish Agency
Park	Michael	SFF
Batsleer	Jurgen	VisNed
Reunavot	Matthieu	DPMA
Berends	Derk Jan	Nederlandse Vissersbond
Stone	Samuel	Marine Conservation Society
Birnie	Anne	NESFO
van Tuinen	Durk	Nederlandse Vissersbond
Brouckaert	Emiel	Rederscentrale
Veitch	Liane	Client Earth
Clark	Ned	NFFO
Visser	Pim	Visned
Collins	Simon	SFF
Corbisier	Luc	SDVO
Deas	Barrie	NFFO (Chairman)
Duguid	Lorna	NSAC
Eliasson	Bengt-Olaf	Swedish Fishermen
Emeka	Carian	Danish Ministry
Fischer	Kenn Skau	Danish Fishermen
Gamblin	Caroline	CNPMEM
Goldmanis	Edgars	DG MARE
Hawkins	Anthony	NSAC Rapporteur
Meun	Geert	VisNed

