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BSAC replies

to the Commission's letter and questions about the SCIP

**[From Focus Group Meeting and web conference Tuesday 29th May 2018 from
Copenhagen,**

Danish Agriculture and Food Council]

Background

At its meeting on 8th May 2018, the Executive Committee supported the creation of a **Focus Group** to draft replies to the Commission's consultation paper about the Specific Control and Inspection Programme for pelagic and demersal fisheries in the Baltic.

The Focus Group met on 29th May 2018 in Copenhagen.

The participants at the meeting:

Michael Andersen, Demersal WG chair

Glenn Douglas (by web conference), European Anglers Alliance

Nils Höglund, Coalition Clean Baltic and chair of Ecosystem based WG

Lindsay Keenan, The Fisheries Secretariat

Staffan Larsson, Swedish Fishermen PO

Anton Paulrud, Sweden Pelagic Federation PO

Benjamin Schmöde, German Cutter-and Coastal-Fishermen's Association and Union of German Cutter Fishery

Justyna Zajchowska by (web conference), WWF [gave WWF mandate to CCB and support to the CCB document for the meeting]

Sally Clink, BSAC Secretariat

Ewa Milewska (rapporteur), BSAC Secretariat

The Focus Group drafted the input to the Commission's document (the four questions and some additional comments).

The Focus Group also referred to the problems in the Baltic, such as depleted fish stocks and the seals. These discussions are not reported here and are not part of the response to the Commission's consultations.

The Focus Group took note of the comments to the SCIPs consultation sent by Wolfgang Albrecht, Association of Fisheries Protection, Schleswig-Holstein. The group briefly discussed the content and noted that it refers more specifically to technical measures and does not directly refer to the landing obligation. It was decided to discuss the paper with Wolfgang Albrecht present.

The participants of the Focus Group appreciated the discussions and the atmosphere of the meeting and underlined that it had been a good and constructive way of working by including a web conference link to those who could not travel to Copenhagen, but that personal attendance in general is preferable.

It was agreed that the draft produced from the Focus Group would be sent to the participants at the Joint WG in Tallinn on 11th and 12th June 2018 for final presentation and, if necessary, final discussion.

The draft was presented to the Joint Working Group in Tallinn. Note was taken of the comments made by participants to the draft and it was decided to include them in the reply to the Commission.

It was confirmed that the draft reply from the BSAC will be presented to the ExCom meeting on 28th June 2018 for finalisation and adoption. It was adopted by ExCom on 28th June 2018.

General statement

The BSAC has already on several occasions underlined the need for a greater freedom for fishermen to avoid discarding in the first place. Moreover, there should be stronger penalties for discarding.

The fisheries representatives disagree with the conclusion in the Commission's paper and underline that new technical rules adapted to the landing obligation and more flexibility to the fishermen are a necessary precondition for improving compliance.

The fisheries representatives support an increase in control by using the tools currently available. If cameras were to be introduced, it should be done in a harmonised way, across the fleet and across an area, based on the high and medium risk assessment criteria.

Some OIG representatives are in favour of the use of remote monitoring (CCTV) and refer to the Commission's consultation paper which highlights that traditional control means such as inspections at sea are not effective to monitor the landing obligation.

BSAC replies to the Commission consultation paper on the SCIPs

1. Do you agree with the introduction of mandatory measures in the SCIPs for the application of CCTV technology across all MS and to specific fishing fleets, on a regional basis, according to harmonised risk management?

The BSAC is of the view that regionalisation has not managed to facilitate in a timely way the necessary adaptations to implement the landing obligation. It sees a clear problem in the legislative timeline of the ambitions of the landing obligation and the adoption of legislation to introduce the overarching technical conservation measures. This is a process in which the Member States should have taken more of a lead.

The BSAC has repeatedly called for more of a results-based management giving flexibility to the fishermen in relation to the technical measures, whilst at the same time ensuring full accountability of what the fishermen catch.

The BSAC clearly sees the merits of the SCIPs, the Joint Deployment Programmes, and there is scope for improvement and a better way of doing things together in the Baltic, especially concerning stronger harmonisation of how control is carried out in order to avoid different interpretations of the rules from one occasion to the next.

A representative of the pelagic fisheries points out that today, well above ninety percent of the total landings in the Baltic Sea region are carried out in line with the landing obligation (LO), with no discarding. For the other fishery, namely the demersal fishery, there are no clear trends on the results of the introduction of the LO. The demersal fishery has in many cases been struggling with current management to develop selective gear and other new techniques and to get them accepted. This is in order to better adapt to the LO, with no by-catch, and therefore no incentives to discard. In his opinion, the process of the LO has to be self-driven, and can go faster with proper management. It can also easily be stopped by stronger enforcement and monitoring of the rules.

Management with flexibility to adapt to the LO is a key issue for success. There is a will from all parties that both compliance with the LO is possible and that compliance with the LO can be met.

The BSAC is well aware of ongoing problems with discards in some Baltic fisheries as noted in the most recent ICES advice.¹

At the same time, **the BSAC** has differing views on the use and implementation of CCTV technology.

Fisheries representatives question the use of the SCIPs as a means to introduce mandatory measures for the application of CCTV technology. Furthermore, in their opinion, the timing of the proposal with the SCIPs is problematic. The Commission proposal for a revised EU fisheries control regulation is awaited, and there is the ongoing work on negotiating a new technical conservation measures framework regulation.

In the view of the fisheries interests, the introduction of CCTV technology will certainly not contribute to any higher compliance with the regulations or better management of fish stocks and it will most likely lead to new conflicts. CCTV is a new control instrument, which creates high additional costs and additional bureaucratic burden. Before introducing such new measure of this dimension beyond pilot projects, it has to be made clear which target shall be reached in relation to the overall CFP target, such as MSY for the stocks and the fishery.

There should be a clear outline of advantages and gains in terms of reaching a target and an open description of what it costs in all dimensions, including the loss of privacy and data protection. An impact assessment must also be carried out in terms of achieving sustainability targets.

In the view of the fisheries representatives the idea of “compliance through acceptance” should be more vigorously pursued. Updating the technical regulations in the light of the landing obligation and giving more responsibility to the fishermen is a necessary precondition for improving the acceptance of the rules. Fishermen should be given the possibility to use fishing gears that have been documented to produce less discard than the gears which are currently accepted.

Some OIG representatives support the introduction of measures in the SCIPs for the application of remote electronic monitoring (including CCTV, net sensors, and systems incorporating data storage and/or the ability to send camera footage in real time) based on a risk-based approach, across all Member States and on all vessels that are identified by control experts (EFCA) as being of medium, high or very high risk of non-compliance with the landing obligation. They point out that the CCTV technology has proved to be effective as a control measure since the reported catch composition of CCTV equipped trial vessels differs significantly from non-reference vessels engaged in the same fisheries.

The BSAC is of the view that any mandatory measures in the SCIPs should be introduced by means of a level playing field, as part of an EU harmonized procedure and not only on a regional basis.

The fisheries representatives highlight the current fisheries management system as part of the problem. In order to deal with vessels which are suspected of discarding, a risk-based assessment should be applied and appropriate penalties given.

2. What criteria should be used to determine the fisheries/fleet segments/vessels subject to control through CCTV? Should there be a threshold in fishing vessel's length?

The BSAC supports using a risk-based approach where all vessels are assessed (e.g. using the EFCA risk assessment model). The issue of vessel size is not a relevant parameter in relation to the landing obligation and can even raise concerns with vessel and fishermen's safety. A more appropriate approach would be to take a risk-based approach by gear type and use.

3. What do you believe will be the greatest technical and legal challenges and what do you think can be the solutions? (e.g. Installation and maintenance costs. Data access and exchange by flag and coastal state competent authorities. Technical specifications, implementing protocols. Privacy and data protection laws,...)

The BSAC highlights the personal integrity issues as the legal challenges that need to be solved with respect to remote monitoring technologies. Data transfer by satellite can be very costly. Whereas funding from the EMFF is available for acquiring the technology, the costs of transferring data have to be met by the fishermen. Data storage and protection are also identified as a challenge. Certain Member States have even higher requirements with respect to the use of personal data, or even forbid it (e.g. it is illegal to film employees in Germany).

An OIG representative highlights the need for a dialogue with the fishing industry. Whereas there is no agreement on the basic principles of having cameras onboard vessels, it is important to acknowledge the practical challenges that it poses for the fishermen.

The BSAC takes note of the tremendous advances made in technology and the technical solutions reached. Drone projects seem to be giving good results, and this could be extended.

The BSAC also points out that installing expensive systems on boats in a segment of the fishery that is today under considerable difficulties because of the state of the cod stocks may well be a waste of time and money.

4. Do you believe the use of some kind of incentives can be positive to start the process?

The BSAC is not in consensus on a proposal in terms of incentives. Moreover, regardless of whether CCTV is adopted as a solution to dealing with observing the landing obligation, the current technical rules in place are not conducive to complying with the rules in place in order to avoid unwanted catches.

Some OIG representatives put forward a reverse incentive whereby an REM system is a precondition for giving quotas and access to the fishery in the first place.

Fisheries representatives cannot see the relevance of incentives if CCTV is introduced on a compulsory basis. A system based on trust and accountability for the fishermen would become an incentive, whereby fishermen have more freedom in terms of gear use in return for full accountability.

The BSAC repeats earlier statements that the only way forward would be to give fishermen greater flexibility in modifying their gears to better meet the objectives of the

landing obligation. Fishermen should be allowed to use the fishing gear that gives maximum possibility of observing the law. However, at the same time stricter controls and penalties for infringements should be introduced.

The BSAC underlines that the problems with compliance with the landing obligation are to a large extent caused by the existing regulatory system within the CFP.

This system must change. The BSAC is willing to draft a longer and more thorough advice on what concrete steps are needed to improve the situation and change the Baltic region from being a constant pilot study for testing new things to a model for others to follow.

Other comments / considerations

Eel

The BSAC also agrees that the scope of the SCIPs and the JDP should include the eel.

Eel must be treated with a high degree of urgency and joint efforts must start now.

Eel has so far not even been risk assessed and considering the evidence from controls that have taken place, the illegal gears found along the coast lines in at least Sweden and Denmark clearly indicate that there is a big problem with IUU fishing, there is clearly a black market that must be addressed (traceability demands, tags) and it is likely that IUU fishing has an effect on the stock level, and is actually decreasing the chance recovery of the stock.

A regional strategy to address eel is needed and it must also cover not only the largest fishing member states, but also the market in a wider sense.

The representative of the anglers underlines the position of the EAA that with the current status of eel there should be no fishing, including recreational fishing. Moreover, immediate work must be undertaken to improve migration survival and river connectivity if the status of eel is to improve.

Other considerations

The BSAC points out that the contradiction between existing rules and the landing obligation do not appear in the pelagic fishery. The gears currently in use in the pelagic fishery do not cause discards.

The BSAC also agrees to the general approach based on risk based management, but notes a problem with the lack of harmonisation within the EU regulations. There is a need for harmonised rules. General deployment programmes need to be improved so as to be more consistent across the Baltic.

The need for compliance through acceptance and better governance is underlined.

The BSAC notes the merits of the SCIPs and the JDP, but underlines that there is a clear problem in the timeline of the landing obligation and the technical rules and that

the consultation on the new SCIPs should not precede the new Control Regulation which is further down the line.

The BSAC also points out that regionalisation has not been fully successful in relation to the necessary adaptation of technical rules. Member States have not taken enough responsibility, not only with respect to the landing obligation.

There is a need to strengthen the BALTFISH process and working procedures by establishing e.g. a permanent secretariat.

The BSAC is anxious to take a proactive role and seek to deliver solutions ahead of time. The recommendations given by the BSAC on technical measures and proposals for improved selectivity are an example of good and timely advice. Unfortunately, these recommendations have not been fully used, and the BSAC would appreciate a signal of what more is expected or what type of advice is wanted by managers. The BSAC is committed to make regionalisation work. The Baltic Sea region is held up as a model for good management and we should be able to do better.

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- ¹ Cod in SDs 24–32, eastern Baltic stock (eastern Baltic Sea): “The estimated discard amount of 3452 tonnes in 2017 (approximately 11%) was based on observer data. There have been increasing problems gaining observer access in some countries.”
 - Cod in SDs 22–24, western Baltic stock (western Baltic Sea): “...discarding still takes place despite the fact that the landing obligation has been in place since 2015. The estimated discard amount is 191 tonnes in 2017 (approximately 4.8%), based on observer data (an increase from 2.5% in 2016 due to the strong 2016 year class entering the fishery).”
 - Plaice in SDs 21–23 (Kattegat, Belt Seas, and the Sound): “The estimated discard amount, 998 tonnes in 2017 (approximately 23.5%), is based on observer data. ICES understands that this is not in accordance with the current regulations.”
 - Plaice in SDs 24–32 (Baltic Sea, excluding the Sound and Belt Seas): “The estimated discard amount of 408 tonnes in 2017 (approximately 38.6%) is based on observer data. ICES understands that this is not in accordance with the current regulations. Depending on market prices and the quota of target species (e.g. cod), discarding varies between quarters and years.
 - There is also discarding because some fishing nations have no quota for plaice. The discarded fraction can cover all length classes and comprise as much as 100% of the catch.”

In response to this, **the chair of the demersal working group** points out that problems with observer access to vessels cannot be used as an indication of discards. It is often more a problem of small vessels and lack of space, than it is a lack of will. He further states that the figures quoted for the Western Baltic are not of a quality that gives a sound statistical basis for arguing that discards have doubled. The argument that plaice discard can cover all length classes and comprise 100% of the catch is irrelevant. This can be the case for all species and it is just speculation. Moreover, if a vessel catches just one small plaice and releases it alive instead of killing it and it is brought ashore, it is indeed a 100% discard. It may even be considered a criminal act, but it is hardly an environmental disaster. It should also be remembered, that plaice in Kattegat (Subdivision 21) is not yet under landing obligation.