

Copenhagen 5th February 2015

**BSAC comments to the Baltic Multi Annual Plan
(COM (2014) 614 of 6th October 2014)**

1. The members of the BSAC welcome the proposal for establishing a multiannual plan for the main fisheries in the Baltic (COM (2014) 614 of 6th October 2014). The BSAC met twice in January 2015¹ to discuss the Management plan proposal. This document summarises the main points of the BSAC discussions.
2. The BSAC is unanimous in expressing its satisfaction that regulation of effort when fishing for cod – the benefit of which has long been questioned by scientific bodies – is now removed. The removal of current closed areas and seasons in the cod fishery is also welcomed. This is not because closed areas and seasons are always unconstructive, but it is good to revise them, rather than maintaining them just because of history.
3. The structure of the proposed plan – with a great number of issues being open to regulation through delegated acts – is welcomed by the fishing industry, which sees this as a possibility to act in a timely and focused way to unforeseen or unwanted trends. A prerequisite for the success of this procedure, however, is that an intensive debate with the stakeholders affected is undertaken BEFORE a proposal for a specific measure is finalised. It is not satisfactory if the only open consultation that takes place is held after the delegated act has been issued.
4. The fishing industry is keen to maintain focus in the plan on what they see as relevant matters. They see the plan as a replacement of a plan that initially worked rather well, but which over time became more and more “out of touch” with observed developments. They see the plan as a practical, technical way of regulating their activity. Political ambitions and targets that they see as more overarching are appropriately dealt with in the Basic Regulation. They would therefore welcome a plan that only deals with the direct effects of the fishery for the species concerned.
5. The environmental NGOs on the other hand, find that the plan lacks provisions for the landing obligation, some objectives for future technical measures and provisions for effects on other species from the fisheries covered by the plan. They conclude that the plan is not in agreement with the Basic Regulation or the Task Force agreement between the EP and the Council on the basis for multiannual plans. The proposal does not in an unambiguous way link to the objectives of the CFP,

¹ BSAC Joint WG 7th January 2015 and BSAC Ex Com 27th January 2015

including crucial wording in Articles 2 and 9 (1) about maintaining stocks *above* Maximum Sustainable Yield. They also believe that there should be clear reference to ecosystem-based management and to the MSFD in the scope and objectives of the plan.

6. The majority of the BSAC finds the constant attempts of some NGOs to introduce a reference to “stocks being above levels” to be a gross misuse of the compromises that were made during the political process of establishing the new CFP. They highlight that the scientific bodies used by the Community to provide advice for the management of fisheries have clearly stated that biomass levels are not apt as management targets.
7. As a compromise, the BSAC can agree that the plan should take account of the ecosystem approach, for example by adding a new article 1(3): “The plan shall apply the ecosystem-based approach to fisheries management in order to minimise the impacts of fishing activities on the marine ecosystem and shall seek to ensure alignment with other regulations regarding impacts from fishing.”
8. This was endorsed by all.
9. The environmental NGOs consider the wide use of delegated acts complicating, as there are no clear timelines for when a more comprehensive management system will be in place. They believe that it would have been preferable to have at least some targets related to future technical measures in the plan, for example catch metrics targets.
10. A unanimous BSAC finds it important that the plan is adaptive and that biological target and reference points can be adapted to encompass the most recent knowledge. The BSAC would therefore like to see a specific article stipulating a procedure for adjusting such values. The BSAC does not say that targets should be aligned with the latest biological advice in an automatic way, but on the other hand, there could be a need for changing targets without necessarily revising the whole plan.
11. The BSAC also recommends that the actual values of the F targets and conservation reference points are not fixed until after the ICES benchmark workshop on cod has taken place in March this year.
12. After this general introduction, the individual articles are commented on in the following paragraphs.

Article 1)

13. At the Joint WG on 7th January 2015, the members of the BSAC had a discussion about § 2. Some expressed the view that the plan should only focus on the stocks concerned and suggested deleting § 2, whereas others believed that § 2 was needed in order to allow for intervention if the fishery for the stocks concerned had unwanted effects on flatfish and other species affected by the fishery, for example birds and mammals.
14. A compromise proposal was reached by suggesting the text is changed to:
15. *The plan can also take into account the effects on other species, such as plaice, flounder, turbot and brill, caught when fishing for the stocks concerned.*
16. A minority preferred to use the wording “The plan shall also take...”

Article 2)

17. Definitions need to be improved in order to be more precise. Rather than referring to existing text in a regulation that is expected to be revised within a foreseeable future (2187/2005), it could perhaps be useful to copy that text.
18. Definitions of a number of gears (fyke nets, poundnets) are lacking in the proposal.

Article 3)

19. The environmental NGOs found the text in Article 3 not to be in line with the text of the Basic Regulation, stipulating that multiannual plans shall: “...*contain conservation measures to restore and maintain fish stocks above levels capable of producing maximum sustainable yield in accordance with Article 2(2).*” and the objectives of the plan do not address the requirements in Article 2(3) to minimize the impact on the ecosystem.
20. The majority of the group, however, found this to be redundant, as reference to Article 2 of the Basic Regulation is already made in the first sentence of § 1.
21. The fishing industry suggests removing *litra (b)* (ensuring the conservation of the stocks of plaice...) as the plan is not intended to be a management plan for flatfish. They find this objective to be in conflict with the scope of the plan.

Article 4)

22. The group agreed not to embark on a discussion on the suggested values in the table, but had a discussion on the principle of managing by means of ranges rather than point estimates. Although some members did not see how this would apply to practical management and the setting of annual TACs, there was not a general resistance to the principle, which was strongly supported by others. They argued that managing with ranges would deliver some of the flexibility that was called for by the industry.

23. All agreed that it would be premature to fix the target mortality ranges for all species, knowing that ICES is arranging a benchmark workshop for Baltic cod in March 2015. In continuation of this point, it was agreed that the plan would be improved by introducing a section with a description of a procedure for how targets (and other relevant biological reference points) could be aligned with the latest available information.
24. In the absence of biological advice regarding a particular stock, scientists at the meeting suggested that an interim target could be set at a value close to that of a neighbouring stock. This would imply that the target for Bothnian Bay herring is set at the same level as that for Bothnian Sea herring.
25. The environmental NGOs would like to see targets for B_{MSY} , also possibly presented in ranges, and they argued that this was in line with the Basic Regulation and important for implementing the MSFD and achieving Good Environmental Status (GES) referred to in recital (3) of the plan. This was fiercely opposed by others who pointed to several scientific investigations, documenting why this would not be practical (or even achievable). It was also pointed out that the text in the Basic Regulation (Article 2(2)) specifically uses the phrase “shall aim to ensure” rather than “shall achieve”.

Article 5)

26. Without going into the details of the actual values, the principle of introducing biomass reference points which would be used to trigger extraordinary measures was broadly supported by all. As was the case with the target points in the previous Article, a procedure for changing the values was desired. It was also recommended to await the results of the upcoming benchmark on cod before fixing the values.
27. Some members would like to see the specificities of measures to apply if limits were transgressed. Others thought that such measures would have to be discussed on a case-by-case basis and that listing a long range of measures would not be helpful.

Article 6)

28. In line with the aforementioned reluctance to include management of flatfish in a multiannual plan for cod and pelagics, the BSAC would like to see the text in Article 6 (1) reduced to the following:

Measures in case of threat to plaice, flounder, turbot and brill

- 1. When scientific advice states that the conservation of any of the Baltic stocks of plaice, flounder, turbot or brill is under threat, the Commission shall be empowered to adopt delegated acts in accordance with Article 15 on specific conservation measures concerning the stock under threat.*
- 2. The measures referred to in paragraph 1 shall be based on scientific advice.*

3. *The Member States concerned may submit joint recommendations in accordance with Article 18(1) of Regulation (EU) No 1380/2013 for specific conservation measures as referred to in paragraph 1.*

29. A minority did not accept this, since some of the technical measures listed under Article 6 are not listed under Article 9 and serve a different purpose.

Article 7)

30. Poundnets and fyke nets need to be inserted in the gears that are exempted from the landing obligation.

Article 8)

31. Many of the members of the BSAC were concerned that the new MCRS for cod, which is currently only mentioned in the Discard Plan for the Baltic, will have to be specified in a regulation after the repeal of the Delegated Act. If a coherent set of technical rules – including MCRS for the concerned stocks – is to be negotiated after the adoption of the management plan, what will be the situation in the meantime?

Article 9)

32. In continuation of the confusion regarding the MCRS from the above paragraph, the BSAC is anxious to learn how a comprehensive set of technical rules (which presumably would regulate all fisheries) could be adopted through an act that is based on the fishery for just a few target species.

33. That being said, the BSAC is not opposed to the idea of regulating the technicalities of the fishery through delegated acts. This support is of course conditional on the formalised inclusion of stakeholder input in the process of drafting the regulation.

34. There is broad consensus that the existing technical regulation is far too detailed on a number of points. If the landing obligation is to incentivise fishers to avoid catching unwanted fish, it is crucial that they have the freedom to manipulate their fishing gear.

Article 10)

35. Although it may be convenient for some people to restrict the input from Member States to align with the periodic revision of the plan, the BSAC finds that it would be inappropriate to reject (or to allow someone to reject) a constructive proposal merely on the basis of a legal formality.

36. On the other hand and based on the concern to avoid “legal limbos”, it is fine to encourage Member States (and stakeholders) to start working on the agreement of a new set of technical rules as soon as possible.

CHAPTER VIII, Articles 11, 12 and 13

37. Representatives of the fishing industry expressed their discontent that the plan maintains specific control measures, such as prior notification and designated ports for cod and pelagics, which are not under recovery. However, as the proposed text is only intended to reduce the impacts of the Control Regulation, the BSAC has no further comments to the paragraphs at this stage.

Article 14)

38. The BSAC understands that if the impacts of the plan are to be evaluated in the light of the development of the stocks concerned, then a somewhat longer time scale than the standard 3 years is needed: Against this stands the need to also evaluate the impact on the fishery as well as the wider ecosystem, which could be obvious in a much shorter timescale. The BSAC therefore recommends that a more frequent evaluation is carried out. It is also important to point out that an evaluation is not necessarily the same as a revision. If an evaluation indicates that the plan works well, why revise it?