



NSRAC Position Paper

On the Commission's proposal for a Council Regulation amending Regulation (EC) No 423/2004 as regards the recovery of cod stocks and amending Regulation (EEC) No 2847/93

Approved by ExCom

1. General comments

- 1.1 The NSRAC welcomes the Commission's proposals for modifications to the cod recovery plan. It notes, especially, that the Commission has accepted advice from the NSRAC that:
- the cod recovery plan must be reviewed;
 - the target of cod recovery should be changed from one based on biomass to one based on fishing mortality rate;
 - a more graduated approach to cod recovery is required, which takes account of stock recovery;
 - simplification of the effort management regime is required;
 - attention must be focused on reducing discards and encouraging cod avoidance;
 - weaknesses in the stock assessments should be addressed and improvements made to the data on which these are based;
 - the division of cod into separate stocks, in different geographical areas, must be recognised.
- 1.2 The NSRAC notes that the Commission has also paid attention to the views of stakeholders expressed at the cod recovery symposium and has accepted that cod can recover; although, given environmental changes, recovery may not be to former levels.

- 1.3 The NSRAC notes that the latest scientific advice for cod from ICES in June 2008 has shown that cod is now recovering in the North Sea, continuing the trend noted in 2007. This latest advice is not taken into account in the Commission's plan, which paints too bleak a picture. In fact, fishing mortality rate for cod in the North Sea has fallen significantly and biomass is increasing. It is expected that more than 60% of the 2005 year class will mature during 2008. The spawning stock biomass is expected to be above B_{lim} by 2009.
- 1.4 Nevertheless, the NSRAC notes that fishing mortality upon cod is not falling as fast as expected. Because of their abundance in relation to the TAC, large numbers of cod are being discarded in the North Sea as a result of over-quota catches. High-grading takes place as a direct result of the catch composition rules under the technical measures regulation (850/1998). That problem must be addressed. The NSRAC therefore emphasises that the key to ensuring full cod recovery in the North Sea is to reduce discarding and promote mechanisms for avoiding the capture of cod over and above the legitimate quota.
- 1.5 The NSRAC notes that the Commission has accepted the need for a graduated approach; where adjustments in management measures are made as cod recovery is achieved. ***The NSRAC therefore suggests that, for the North Sea, the cod recovery plan must place stronger emphasis on managing the increasing numbers and biomass of a recovering stock, through discard reduction and cod avoidance, rather than the more extreme and blunt measures required to initiate cod recovery, which is the current emphasis of the plan.***

2. Wider issues

- 2.1 The NSRAC notes that the revised recovery plan applies to a series of cod stocks, in different geographical areas. However the RAC is disappointed that emphasis has not been placed upon the need to seek regional solutions to the long term management of cod stocks. The NSRAC has emphasised that 'one size does not fit all'. It is evident that cod is recovering in the North Sea and that different measures are appropriate in these circumstances.
- 2.2 The NSRAC notes that some regulations outside the scope of the cod recovery plan may hinder cod recovery. In particular, there is a need to look at Regulation 850/98, (the technical measures regulation), to remove any measures which hinder cod recovery. Regulations which encourage unnecessary mortality must be changed, for example, where catch composition rules *require* discarding.
- 2.3 The NSRAC notes that there is currently overlap between management plans. The flatfish plan contributes to cod recovery. It is best to avoid having two management plans applying to the same fishery.

3. Control of fishing effort

- 3.1 Given the strong signs of recovery, the NSRAC believes it is no longer appropriate to impose extreme measures to reduce fishing effort in the North Sea.
- 3.2 Indeed, the NSRAC is concerned at the permanent nature of the current modifications, which now form the basis for a long term management plan for the cod and other fisheries, rather than a cod recovery plan. No justification has been provided for the permanent imposition of effort controls. Yet the regulation will now change the temporary effort controls introduced to bring about cod recovery into a rigid and lasting effort control regime. No time limit has been placed on the recovery plan or the imposition of effort controls. The NSRAC suggests that as cod stocks recover it will be appropriate to relax effort controls and that provision must be made within the plan to permit this.
- 3.3 It is especially important that the effort should be adjusted upwards in the event of fishing mortality being below the target.

4. Setting targets

- 4.1 Although the plan now steps away from spawning stock biomass as a long-term target, the plan is still using biomass as a trigger for change within the harvest control rules. The NSRAC suggests that as stocks change in the light of climate change and other factors there will be a need to review reference levels; so that they are matched to fishing opportunities. The NSRAC proposes that reference points should be reviewed by ICES as an integral part of the Benchmark Assessments that are proposed within the new advisory structure.

5. Specific comments on the text

- 5.1 On page 8, the 'Whereas...' section:
 1. Paragraph (1), in the light of the most recent ICES advice, the recovery of cod in the North Sea is understated
 2. Paragraph (2) does not provide an exit plan, describing what will happen when the objective of ensuring that cod stocks are within safe biological limits has been achieved. The lack of consideration paid to what will happen next gives the plan an air of permanence. It must also be recognised that the reference points for taking decisions need periodic revision. The minimum and precautionary levels set in Article 5 may change.
 3. Similarly, paragraph (3) acknowledges that long term levels of biomass cannot be fixed with accuracy, but does not propose a mechanism for revising those levels – which will still be used as benchmarks for action. As we have suggested above, we believe reference levels should be revised

during each Benchmark Assessment by ICES and that consideration should be given to replacing biomass by F_{lim} and F_{pa} .

4. The NSRAC agrees with the sentiment in paragraph (5) that fishers must be encouraged to engage in cod-avoidance programmes. However, this critically important theme is seriously underdeveloped in the draft proposal. From a NSRAC perspective, avoidance of cod catches over and above a vessel's legitimate quota is the key to moving beyond TACs and effort control to a more tailored and effective set of arrangements adapted to the recovery phase, where the primary challenge is discard reduction. The principles of cod avoidance are quite straightforward: a fleet or vessel that undertakes to follow a verifiable pattern of fishing that ensures that catches of cod are restricted to the vessels' legitimate quota would be rewarded through exemption from days at sea limitations or an additional allocation of days. The mechanism through which additional days are provided is critical but this aspect of cod avoidance is almost invisible in the proposal. It is being devolved to member states to use their national allocation of days to encourage cod avoidance and other activities deemed desirable by the Commission. There are however two important issues to address here: the first is the extent to which member states will have sufficient headroom in their effort allocations to reward cod avoidance, without unduly impacting on the rest of the fleet. This issue, when a zero sum game means that there will be casualties as well as beneficiaries from cod avoidance, is potentially highly divisive and not consistent with building a consensus on cod recovery. Notwithstanding its many complexities and perversities, the Annex II approach to cod avoidance avoided this problem as additional days were not granted at the cost of other vessels. One possible solution could be an allocation of days over and above national allocations that member states could draw on to support verifiable cod avoidance. The second issue is the question of transparency. (See below)
- 5.2 Article 2b sets out a method for the estimation of fishing effort. Whilst moving to a kW.day system potentially allows for increased flexibility it is important that this is matched with full transparency in how it is applied in each member state. As it is open to member states to adopt different approaches, equity demands that there must be openness and transparency about the process.
- 5.3 With reference to Article 5, there must be provision for revising reference levels, as suggested in 5.1.2 above, to ensure that they have been set appropriately.
- 5.4 Article 6 sets out a procedure for setting TACs. The NSRAC welcomes the three step approach, where fishing mortality is adjusted by means of a factor determined by the perceived level of spawning stock biomass. However, in the case where fishing mortality is below the target of 0.4 but the biomass is below B_{lim} it seems unnecessarily harsh to aim to reduce fishing mortality still further. That reduction would be especially draconian if the link between F and effort reduction was maintained.
- 5.5 The NSRAC has grave misgivings about the freedom given in Article 6.5 for the Commission to propose its own quantities, or fudge factors, in estimating removals. Adjustments should be based on accurate knowledge.

- 5.6 In relation to Article 6b, the NSRAC again emphasises the need for the Commission and member states to take steps to improve the quality of the stock assessments. Fishers have shown that they are willing to play their part in this process.
- 5.7 On Article 6a, the NSRAC also emphasises that the proposal to invariably reduce the TAC in cases where science is unable to provide an analytical assessment should be resisted. The lack of an analytical assessment does not always mean that a stock is in a poor state. Each case needs to be decided on its merits, and provisional assessments, with information on the stock gathered from a wide range of sources, may play a valuable role. Reductions in the TAC should only be considered where there are indications of a decline but the analytical assessment is unable to determine the magnitude of the decline.
- 5.8 The scope of Article 7 is excessively wide. Clear criteria must be provided to guide STECF on how it is to decide whether a stock has 'failed properly to recover'. In addition, paragraph 7.3 should not give STECF a mandate to decide that reference levels and the level of fishing mortality is inappropriate. Such important advice must be provided by independent scientific advisers, not the agents of the Commission.
- 5.9 The NSRAC welcomes the application of the principle of subsidiarity in Article 8. The listing and differentiation between different fishing fleets is sound. However, the NSRAC is opposed to the implicit assumption in this paragraph that effort regulation is a permanent feature, applicable to all fishing fleets. It is implicit in Article 8 that effort levels are set for all time. The NSRAC accepts that effort levels require discussion as part of a move towards long term planning for each fishery. However, it does not accept that levels should be set for all North Sea fisheries as part of a cod recovery plan.
- 5.10 The NSRAC believes that within Article 8 there should be provision for reviewing procedures and removal of restrictions in regions where cod spawning stock biomass rises above B_{pa} for two consecutive years.
- 5.11 Article 8a, paragraph 2(b), requires clarification. The baseline is set on the basis of the years 2005-2007, but the maximum refers to the previous year. The NSRAC would prefer the maximum to be set on the basis of an average of several years. It is also unclear whether this paragraph refers to effort ceilings for sectors, or whether it applies to all effort. It would be useful to see a worked example. Some fishers would like to see 2004 included when the average is determined, on the basis that it would be perverse to provide benefit to those who have increased their effort in recent years, rather than those who have not.
- 5.12 Article 8a, paragraph 3, pools the fishing effort within 10 gear categories but thereby creates anomalies and appears inequitable. In some areas, some fleets which have minimal impact upon cod will be adversely affected as all vessels will be limited. There are strong grounds for the Commission to introduce an exemption for vessels which have no impact upon cod.

- 5.13 Article 8b, paragraph 2, requires all vessels to carry special fishing permits even if they are not engaged in fishing for cod. The measure should be restricted to demersal fisheries.
- 5.14 The NSRAC believes that paragraph 8e is overly restrictive and that greater responsibility for re-allocating effort should be given to member states. Indeed, as a general conclusion the NSRAC believes that the effort restrictions are not sufficiently well thought out, are inequitable, and require further development.
- 5.15 Article 9, dealing with the weighing of cod at first sale, applies to all cod landings, whereas currently only 20% must be weighed. Moreover, formerly, landings of less than 50kg were exempt. These new measures will penalise fishers unnecessarily. The NSRAC would prefer the current measures under the control regulation to be maintained.
- 5.16 Annex I needs some reconsideration. Within the beam trawl grouping, for example, there is a need to distinguish between V nets and chain mats. The Commission should examine the relevance of introducing the 'metier' notion to define effort groups.

6. In conclusion

- 6.1 The NSRAC wonders whether the Commission might have achieved a more satisfactory outcome if it had produced a new set of regulations rather than seeking to modify, old, obsolete regulations which are no longer fit for their purpose.
- 6.2 The NSRAC would prefer a less formulaic approach to the setting of management measures. Although the RAC notes the wish of the Commission to resist changes to measures within the Fisheries Council, it must be recognised that *ad hoc* changes can be important, and that final positions will continue to be negotiated within the EU/Norway round. Some flexibility is required to allow fisheries ministers to play their role and it is also important to allow some scope in the mechanisms for setting TACs in the context of the EU/Norway talks.
- 6.3 The NSRAC believes that the current revisions to the cod recovery plan focus too strongly on paper aspects of regulation related to the past state of cod stocks, rather than the changes which are currently taking place in the North Sea fisheries. Discarding of cod is now a major problem as cod stocks recover. A new set of measures and incentives are required to prevent the needless loss of recovering biomass.
- 6.4 The NSRAC welcomes the impact assessment of the cod recovery plan by the Commission but deplores the lack of a full evaluation of the economic and social impact of the proposals.
- 6.5 The NASRAC queries the need to weigh all catches on shore now that technical developments allow accurate weighing of catches at sea. There is a need for further discussion of weighing the catch.

6.6 Finally, the NSRAC would like to see, for the North Sea, a cod recovery plan which:

- Does not penalise vessels which have minimal impact upon cod
- Places the need to avoid the capture and discarding of cod that are caught over and above legitimate quota at the heart of the new arrangements
- Provides effort incentives for those who participate in cod avoidance initiatives

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