Scheveningen Group

# Joint Recommendation of the Scheveningen Group: Implementation of EU-Norway Agreement on Technical Measures in the Skagerrak

## 1. Background

One of the main objectives of the Common Fisheries Policy (CFP) reform, introduced by Regulation (EU) no. 1380/2013 (the "Basic Regulation"), is to ensure that fishing and aquaculture activities are environmentally sustainable in the long-term and are managed in a way that is consistent with the objectives of achieving economic, social and employment benefits, and of contributing to the availability of food supplies. At the same time this regulation defines the general framework for regional cooperation on conservation measures.

Article 9 and 10 of the Basic Regulation provides that multiannual plans shall be adopted including conservation measures to restore and maintain fish stocks above levels capable of producing maximum sustainable yield as well as conservation measures to gradually eliminate discards and minimise the negative impact of fishing on the ecosystem, where appropriate, in accordance with Article 18.

Regulation (EU) no. 2018/973 establishes such a multiannual plan for demersal stocks in the North Sea and the fisheries exploiting those stocks. Article 9 of Regulation (EU) no. 2018/973 empowers the Commission to adopt delegated acts in order to supplement this Regulation regarding technical measures in accordance with Article 16 of this Regulation. Such technical measures may entail specifications of characteristics of fishing gears and rules governing their use, as well as limitations or prohibitions on the use of certain fishing gears and on fishing activities, in certain areas or periods.

Where the Commission has been granted powers to adopt measures by means of delegated acts, Article 18 of the Basic Regulation provides that Member States with a direct management interest may submit joint recommendations (JR) to achieve the objectives of the relevant Union conservation measures, the multiannual plans or the specific discard plans. Upon agreeing a JR the Member States may propose to the Commission to translate it into a delegated act.

Against this background the Scheveningen group adopts the following JR with a view to implement measures consulted and agreed with Norway in 2018[1]. These measures result from the work in the EU-Norway working group on technical measures in the Skagerrak and were agreed upon in formal consultations between EU and Norway on the 5th and 6th of September 2018 in Göteborg, Sweden, and in line with art 3 and 4 in the EU-Norway Agreement on reciprocal access to fishing in the Skagerrak [2].

## 2. Scheveningen High-Level Group

Following Article 18 of the Basic Regulation, the Fisheries Directors of the North Sea Member States cooperating in the Scheveningen Group since 2004 established a High Level Group (HLG) in December 2013 and agreed on a Memorandum of Understanding setting out the principles and working methods of the Group. Members of the Group are Belgium, Denmark, France, Germany, the Netherlands, Sweden and the United Kingdom. The group is chaired by an annual chair, with Denmark chairing from 1 January 2019 to 31 December 2019. The HLG is assisted by a technical group for the development of joint recommendations.

## 3. Consultation with relevant Advisory Councils/ industry

The Scheveningen Group is aware of the importance of a meaningful input from stakeholders in the process of drawing up joint recommendations, in light of Article 18(2) of the Basic Regulation.

There has been regular and detailed engagement with stakeholders during the work of the EU-Norway working group and EU-Norway consultations on technical measures in the Skagerrak that led to this JR. In particular, the working group had wide-ranging discussions with members of the NSAC Skagerrak and Kattegat Working Group and Norwegian industry affected by this JR, in particular during EU-Norway consultations on the 25th of April in Skagen, Denmark and on the 26th of May in Göteborg, Sweden. Additionally, Member State representatives have attended meetings of the NSAC Skagerrak Kattegat working group.

[1] Agreed record of fisheries consultations between the European Union and Norway on technical measures in Skagerrak. Göteborg, 6 September 2018

[2] Agreement between the European Union and the Kingdom of Norway on reciprocal access to fishing in the Skagerrak for vessels flying the flag of Denmark, Norway and Sweden

On 10th of July 2018 the EU-Norway working group sent a draft of their report to affected fisheries POs for consultation (for Sweden: Sveriges Fiskares Producentorganisation, Havs- och Kustfiskarnas Producentorganisation, Swedish Pelagic Federation; for Danmark: Danmarks Fiskeriforening Producent Organisation). Written comments by concerned PO's to this report draft were attached to the finalized report before EU-Norway consultations in September 2018.

## 4. Implementing authority

On the basis of the European Commission's authority to adopt technical regulations by means of delegated acts, granted by Article 9 of Regulation (EU) no. 2018/973 and 18(1) of the Basic Regulation, the Member States of the North Sea submit a joint recommendation to the European Commission, as per Article 14(2) of Regulation (EU) No 2018/973, for technical measures for demersal fisheries in the North Sea.

## 5. Objectives and scope

### 5.1. Objectives

This joint recommendation concerns the implementation of a formal agreement between EU and Norway[1] in EU law.

During consultations on technical measures in the Skagerrak the 5th and 6th of September 2018 in Göteborg, Sweden, the EU and Norway agreed upon the implementation of a joint Real Time Closure (RTC) system for the Northern prawn (Pandalus borealis) fishery in the Skagerrak no later than the 1st of July 2019. The details of this RTC system are outlined in Annex I in the agreed record of these consultations[1] and have as main objective to limit capture of large concentrations of juvenile Pandalus. This objective is achieved by introduction of conservation measures in line with art 9 in Regulation (EU) No 2018/973 that will limit the use of less size-selective fishing gears in areas with large aggregations of small Pandalus.

Following consultations on gear selectivity, Norway confirmed they do not object to a reduction of the mesh size from 120mm to 105mm for the Danish anchor seine fishery in EU waters of the Skagerrak, based on the review of the gear selectivity characteristics by the EU/Norway working

group on technical measures in the Skagerrak[3] which systematically indicate that Danish Anchor seine is a size-selective fishing gear. To this end the JR recommends allowing the use in fisheries for demersal species, other than plaice, of a mesh size of 105mm for the Danish anchor seine fishery in EU waters of the Skagerrak.

As part of the discussions on harmonization of technical measures in the Skagerrak, the EU informed Norway of its intention to review the existing gear exemptions for Pandalus and *Nephrops* fisheries within the existing RTC system for the protection of juvenile cod, haddock, saithe and whiting in EU waters, as set out in Regulation (EU) No. 724/2010. The working group concluded in their report that the fishery with Pandalus trawls equipped with a Nordmøre grid without a collecting bag as well as the fishery with *Nephrops* trawls equipped with a species selective grid should be allowed to continue within RTC closed areas for cod, haddock, saithe and whiting due to documented small by-catches of fish. To this end the JR recommends supplementing the existing gear exemptions set out in Regulation (EU) No. 724/2010, accordance with Article 9(1)(a) of Regulation (EU) 2018/973, with these additional two gears.

### 5.2. Scope

Unless otherwise specified, this JR will apply to demersal fisheries that catches species subject to catch limits in EU waters in area 3a as defined in Regulation (EU) No 218/2009. In this,

‘Skagerrak’ means the geographical area bounded on the west by a line drawn from the Hanstholm lighthouse to the Lindesnes lighthouse and on the south by a line drawn from the Skagen lighthouse to the Tistlarna lighthouse and from that point to the nearest point on the Swedish coast;

This JR will apply to all fishing vessels engaging in the specified demersal fisheries in the Skagerrak without prejudice to rules applicable outside the aforementioned Union waters under Member State jurisdiction.

Part of area 3a lies within the Norwegian zone and is hence subject to Norwegian legislation. This JR only concerns the EU waters in area 3a outside 4 nautical miles from the coastline. However, the

[3] EU-Norway working group report on technical measures in Skagerrak, Gothenburg, August 2018. (Delegates portal doc. WK 9041 2018)

underlying EU-Norway agreement posits that Norway plans to implement the same RTC system for the Pandalus fishery in the Norwegian part of the Skagerrak.

## 6. Technical measures for Skagerrak

### 6.1. Real-time closures for the Pandalus fishery

The Agreed Record of the Conclusions between the European Union and Norway of 6 September 2018 lays down the procedures and sampling methodology for the adoption of real-time closures for Pandalus in the Skagerrak. The Scheveningen group recommends that these measures are transposed to EU legislation on the basis of article 9.1.c of the multiannual plan for demersal stocks in the North Sea (Regulation (EU) No 973/2018).

The system builds on the Real Time Closure system which is laid down in Commission Regulation (EU) No 724/2010, amended through Regulation (EU) No 783/2011.

#### *6.1.1. Source of information*

The basic source of information shall be inspections at sea on commercial fishing vessels conducted by control authorities.

#### *6.1.2. Targeted inspection resources*

A risk-based strategy should be applied to identify areas and time periods where there is a risk of catching numbers of Pandalus below trigger length which exceed the threshold level. Inspections shall be carried out in particular in these areas to measure whether the percentage of small Pandalus exceeds the threshold level, including through Joint Deployment Plans.

#### *6.1.3. Trigger length*

6.1.3.1 The trigger length shall be 14,8 mm carapace length.

6.1.3.2 Carapace length of a Northern prawn shall be measured as the length of the carapace, parallel to the midline, from the back of either eye socket to the distal edge of the carapace (in accordance with Regulation (EC) 850/98, annex XIII, for Norway lobster).

*6.1.4. Threshold level*

The threshold to define samples with an excess number of Pandalus under the trigger length shall be 20% in numbers.

*6.1.5 Inspection and reporting*

6.1.5.1 Control authorities will inspect Pandalus trawl catches using the sample procedure outlined in Annex I.

6.1.5.2 If the quantity of Pandalus in a haul is less than 100kg, that haul shall not be taken as a basis for recommending a closure.

6.1.5.3 Inspection details and the number of Pandalus in the sample under the trigger level shall be recorded in the report set out in Annex II.

6.1.5.4 If the sampling results from at least 2 hauls taken within a time span of 96 hrs show that Pandalus below the trigger length is exceeding the threshold level, the body responsible for the sampling shall either, where appropriate, recommend an RTC, or forward the relevant sampling report(s), to the competent authority of the coastal Member State which should consider whether a RTC should be established. The decision on the shape of the area should take into account physical factors, inter alia depth contours, and other factors such as catch compositions, fishing activity etc. However, if the proportion of Pandalus below the RTC trigger length is more than 40%, a closure can be established on the basis of one sample.

6.1.5.5 When the sample results show that the threshold has been exceeded, or in case the Inspection body decides to recommend a closure, the report(s) shall be completed immediately and sent to the contact point in the coastal Member State.

*6.1.6 Decision to close*

6.1.6.1 The coastal Member State shall immediately publish the decision regarding an RTC.

6.1.6.2 Neighbouring coastal Member States and/or third countries may seek cooperation to initiate an RTC closure using sample results originating from both sides of the border, for the purpose of the criteria set out in article 6.1.5.4.

6.1.6.3 If the area to be closed straddles jurisdictions the coastal Member State shall without delay inform the neighbouring Member Coastal State and third countries of the findings and the decision to close. The neighbouring Coastal State shall then consider a closure in its waters.

6.1.6.4 A coastal Member State can invite neighbouring Coastal State(s) to take samples on its behalf.

### *6.1.7 Size and shape of the closed area*

6.1.7.1 The geographical boundaries of a closed area shall be based on the following criteria:

a) The area definition shall take into account the haul trajectories that led to the decision for closure, depth curves and other relevant information.

b) The closed area shall have an upper area limit of 50 square nautical miles.

### *6.1.8 Notification of entry into force of the closure*

6.1.8.1 The coastal Member State shall without delay:

a) Post a notification of the closure on its website including a map, coordinates and the underlying sampling report(s), and

b) Inform vessels in the vicinity of the area to the extent possible, and

c) Inform, as appropriate, the Directorate of Fisheries in Norway and the European Commission (DG-Mare) and Fisheries Monitoring Centres (FMCs) in relevant countries by email. The Notification shall contain information on the date and time when the closure is in force, the coordinates delimiting the closures and web address to find more information.

6.1.8.2 The relevant FMCs shall inform vessels that are affected by the closure to the extent possible.

### *6.1.9 Entry into force*

The closure shall enter info force at midnight UTC on the day of decision. There should be sufficient time between the decision and the entry into force for vessels to be informed.

*6.1.10 Duration and scope*

6.1.10.1 The area shall be closed for 14 days and thereafter automatically reopened.

6.1.10.2 The closure is limited to demersal trawls within the mesh size range 35-69 mm targeting Pandalus and does not affect fishing activities targeting other species.

6.1.10.3 The closure shall apply to Pandalus trawl vessels flying any flag.

6.1.10.4 Notwithstanding paragraph 6.1.10.3, vessels fishing for Pandalus using a size selective gear according to the specifications outlined in Annex III are to be allowed to continue fishing for Pandalus in the RTC closed area. Vessels wishing to use this exemption are to notify their intention and gear use to the respective coastal Member State FMC before entry in a closed area.

6.1.10.5 If a control of a vessel with an exempted gear according to article 6.1.10.4 within an RTC area still shows a catch with Pandalus below the trigger length which exceeds the threshold level this vessel is obliged to move out of the RTC area for the remainder of the closure period. However, after having adjusted the gear, the vessel can return to the RTC area with the permission of the control body, and then remain in the area provided that the next haul is controlled by the control body and the catch composition is in line with the criteria.

*6.1.11 Review*

The joint Real Time Closure system for Pandalus in Skagerrak shall be evaluated and if necessary reviewed no later than three years after the date of the implementation.

**6.2. Real-time closures for the protection of juvenile cod, haddock, saithe and whiting in the North Sea and Skagerrak**

The RTC system for the protection of juvenile cod, haddock, saithe and whiting in the North Sea and Skagerrak, as set out in Regulation (EU) No 724/2010 was implemented by EU as a result of discussions between Norway and the EU regarding an RTC system protecting juveniles of these species in Skagerrak and the North Sea. According to art. 53 of Regulation (EU) 1224/2009 RTC systems shall only apply to fishing vessels that are equipped to catch the species concerned and/or which have an authorisation to fish on the fishing grounds concerned.

Given the conclusions of the scientific review concerning its selectivity in reducing fish bycatches the Scheveningen group recommends to supplement the provisions set out in Article 7(1) of Regulation (EU) No 724/2010, by adding the gears set out in (e) and (f). Thereby the RTC for cod, haddock, saithe and whiting shall apply to any fishing gear other than:

(a) pelagic trawls, purse seines, driftnets and jiggers targeting

herring, mackerel, and horse mackerel;

(b) pots;

(c) scallop dredges;

(d) gillnets;

(e) demersal trawls within a mesh size range 35-69 mm targeting Pandalus equipped with a Nordmøre sorting grid with a maximum bar spacing of 19 mm without a fish retention device; and

(f) demersal trawls within a mesh size >70 mm targeting Nephrops equipped with a species selective grid with a maximum bar spacing of 35mm.

For the purpose of this regulation, the areas Skagerrak (3a) and the North Sea are defined as in Regulation (EU) No 218/2009.

A number of scientific studies show significant reductions in the fish bycatches in Pandalus trawls using a 19 mm Nordmøre sorting grid in the absence of a fish retention device (Annexes IV, V and VI). Landings from vessels using unblocked grids comprise 99% of Pandalus shrimp, and approx. 74% for vessels using Nordmøre grid in combination with a fish retention device (Swedish FDI data 2016).

Similarly, bycatch of fish is significantly reduced by species selective grids with a bar distance of 35mm in the Nephrops fisheries (Annex VII, VIII, IX). Of the 764,2 tonnes landed in 2016 by Nephrops trawls fitted with a 35 mm Nephrops grid, 733,3 tonnes were Nephrops (96%), 547 kg (0.1%) cod, 103 kg (0.01%) haddock, 0 kg saithe and 4.5 tonnes (0.6%) whiting (Swedish FDI data 2016).

### 6.3. Selectivity in the fishery with Danish anchor seine in the Skagerrak

The EU/Norway working group on technical measures in the Skagerrak in 2018 reviewed available scientific evidence of the gear selectivity characteristics of Danish anchor seines in Skagerrak. Danish anchor seine is a fishing method which involves the use of an anchor where the fishing vessel is stationary whilst hauling the gear. The fishery with Danish anchor seines in Skagerrak is conducted by approximately 20 small-scale vessels targeting demersal species, fishing mainly in the EU-waters of Skagerrak.

The fishing carried out with Danish Anchor seine is widely recognized in the scientific literature as a relatively sustainable gear with a minimal bottom impact. The selectivity studies furthermore systematically indicate that Danish Anchor seine is a more size-selective fishing gear than an otter trawl.

Scientific work carried out by DTU Aqua in Skagerrak furthermore confirms that the use of a smaller mesh size than 120 mm in the Danish Anchor seine fishery for demersal species, other than plaice, does not compromise the selectivity requirement set by the standard of 120 mm for the demersal trawl fishery. Allowing a mesh size of minimum 105 mm in the Danish Anchor seine fishery, in fisheries for demersal species, other than plaice, would support a positive development for this fleet and raise awareness of the potential benefits of this fishing method. Besides a high selectivity, the benefits include fuel-efficiency and a very limited bottom impact during fishing.

Based on these findings Norway did not object to a reduction of the mesh size for this fishery in the EU waters of Skagerrak.

Given the conclusions of the scientific review concerning the selectivity of Danish Anchor seine with a mesh size of 105 mm in in Skagerrak, the Scheveningen group recommends to supplement the provisions set out in Regulation (EC) 850/1998, in accordance with Article 9(1)(a) of Regulation (EU) 2018/973, by adding this gear for fisheries for demersal species, other than for plaice, in EU-waters of Skagerrak.

**Annex I - Sampling Methodology**

Samples shall be taken and measured in accordance with following provisions.

1. Whenever possible, samples shall be taken and measured in close cooperation with the master of the fishing vessel and his crew. The master of the fishing vessel and his crew shall be encouraged to participate in the process. They shall also be encouraged to share any information that could be relevant with respect to the delimitation of a closed area.

2. The total catch in the haul shall be used as the basis for the catch composition estimation.

3. A sample shall be taken in accordance with following procedure:

a) The sample must be taken in such a way that it reflects the catch composition of Pandalus in the haul. To achieve that, the skipper, or a person he designates, shall assist when the sample is taken.

b) The minimum size of the sample shall be 2 kg or 1 litre of Pandalus.

4. The quantity of Pandalus under trigger length shall be calculated as a percentage of the total number of Pandalus in the sample.

5. The sampling report form, presented in Annex II shall be duly completed immediately after the sample has been measured.

**Annex II**

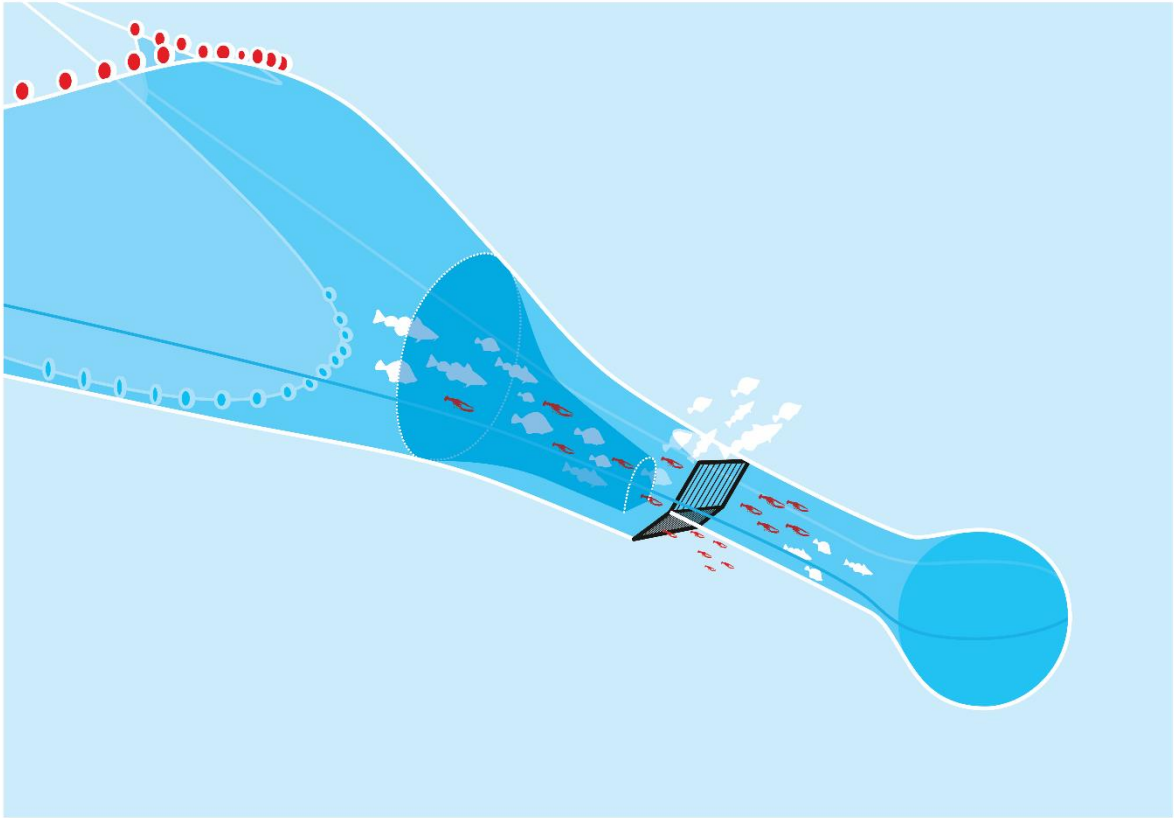
| **REAL-TIME CLOSURES - SAMPLING REPORT TO THE COASTAL STATE PANDALUS in relation to trigger length.** | | | | | | |
|---|---|---|---|---|---|---|
| **Inspection/ observation details** | Inspection platform | Inspector/observer name | Inspector/observer name | Date and time ([1]) of inspection/ observation | Position ([2]) of inspection/observation | |
| | | | | | | |
| **Fishing vessel details** | Name | Call sign | Registration number | Flag state | Type of gear Single/Double | Mesh size mm |
| | | | | | | |
| **Selection measures** | Grid (for sorting out Pandalus) | Grid, mm | Other | | Collection bag | Mesh size in collection bag |
| | | | | | | |
| **Fishing operation details** | Start | Date and time ([1]) | Position ([2]) | | | |
| | | | | | | |
| | Stop | Date and time ([1]) | Position ([2]) | Duration of fishing operation ([3]) | | |
| | | | | | | |
| **Catch details** | Estimated total catch in the haul (kg) | | | | | |

| | | |
|---|---|---|
| | Estimated Pandalus catch in the haul (kg) | |
| | Size of Pandalus sample (kg/litre) | |
| | Total number of Pandalus in sample | |
| | Number of Pandalus below trigger size in sample | |
| | % of undersized Pandalus (number below the trigger size/total number) | |
| **Observations and additional information** | Additional information from other sources, e.g. received from master. | |
| **Inspector Signature** | Not required if completed electronically and transmitted to coastal state by e-mail | |

([1]) dd/mm/yy hh mm (local time 24 hours).

([2]) e.g. 56°24' N 01° 30' E.

([3]) hh mm.

**Annex III - Selective grid in the fishery for Pandalus to be allowed in the RTC**

Bottom trawl with a mesh size in the extension piece and codend of at least 35 mm, equipped with a sorting grid with a maximum bar spacing of 19 mm in the upper part of the grid and a minimum bar spacing of 9,5 mm in the lower part of the grid. Behind the lower part of the grid is an unblocked outlet to the seafloor. Mesh size of at least 35 mm applies posterior to the sorting grid.