

**To ExCom 14/5/19 Annex 5
ExCom: please see esp. pages 12 and 13**

BSAC Working Group on Ecosystem Based Management

13th March 2019

Danish Agriculture and Food Council, Axelborg, Axeltorv 3, 1609 Copenhagen V.

1. Welcome

Nils Höglund, Chair of the working group on ecosystem based management welcomed all the participants to Copenhagen. He noted the strong attendance and welcomed all participants, in particular the representatives of the Member States and HELCOM. The representatives of DG MARE and DG Environment were expected to join by Webex in the afternoon. He stated that the main item of the meeting is to update and discuss an overview of the fisheries management measures in Natura 2000 areas in the Baltic.

2. Formalities for the start of the meeting:

Apologies and adoption of the agenda

The BSAC Secretary informed that the apologies are contained in the list of participants (on website).¹ The agenda was adopted without changes.

3. Status of fisheries management measures in Natura 2000 areas in the Baltic

- **Introduction by the WG chair of the background to and purpose of this exercise**

The WG Chair referred to the marine protected areas and their legal framework. The Habitats and Birds Directives, along with the Marine Strategy Framework Directive (MSFD), are the environmental pillars for establishing and monitoring Natura 2000 sites. With the entry into force of the Common Fisheries Policy Basic Regulation (Articles 11 and 18), new dedicated rules apply for the adoption of conservation measures necessary for compliance with Union environmental legislation².

The BSAC Secretariat has contacted the Member States to ask what fisheries management measures are already in place in the Member States or at the planning stage.

¹ <http://www.bsac.dk/getattachment/Meetings/BSAC-meetings/BSAC-Working-Group-on-Ecosystem-Based-Management/ParticipantsListFOREBMWG130319FINAL.pdf.aspx?lang=en-GB>

² Regulation (EU) No 1380/2013 of the European Parliament and of the Council on the Common Fisheries Policy (the CFP "Basic Regulation")
http://www.bsac.dk/getattachment/BSAC-Resources/Documents-section/European-Parliament-and-Council/BR1380_2013UK.pdf.aspx?lang=en-GB

A note on Natura 2000 and fisheries management measures in the Baltic Sea was produced by the Secretariat as the background to the discussion and distributed before the meeting³.

He noted that this meeting provided the opportunity to deepen knowledge on which fisheries management measures are already in place or are planned at the moment in the Baltic, how the European law and guiding principles are applied and implemented in the Member States, to discuss whether there is a sufficient socio-economic impact assessment and to look at the relevant control measures.

The wish is to conclude on some basic principles concerning fisheries management measures in protected areas.

- **Presentations by Member States**

SWEDEN

Malin Wilhemsson, Swedish Agency for Marine and Water Management (SWAM) presented the status of the fisheries conservation measures in marine protected areas in Sweden⁴. She explained that the SWAM works on conservation of aquatic living resources and marine ecosystems and focuses on fisheries conservation measures in marine protected areas according to the CFP, with a clear link to the MSFD. Sweden has a unique co-operation on fisheries and conservation in the same Agency. Few processes have yet been finalized on fisheries conservation measures in MPAs according to Articles 11 and 18 in the CFP. Article 11 refers to conservation measures necessary for compliance with obligations under Union environmental legislation and Article 18 focuses on regional cooperation on conservation measures. She referred to the Commission Staff Document on the establishment of conservation measures under the Common Fisheries Policy for Natura 2000 sites and for Marine Strategy Framework Directive purposes (from May 2018)⁵, produced to describe good practices on the elements to be considered by the Member States when preparing joint recommendations for the adoption of conservation measures. There is an agreed Terms of Reference for the Baltic which focuses on procedures and dialogue with stakeholders for the implementation of necessary fisheries conservation measures in MPAs (ToR CFP-article 11 Baltic technical expert group working under BALTFISH).

A technical expert group is working on this within BALTFISH.

³ <http://www.bsac.dk/getattachment/Meetings/BSAC-meetings/BSAC-Working-Group-on-Ecosystem-Based-Management/BSACSecnoteNK2managementnmeasuresExComnoted290119REV130319.pdf.aspx?lang=en-GB>

⁴ All presentations can be found at: <http://www.bsac.dk/Meetings/BSAC-meetings/BSAC-Working-Group-on-Ecosystem-Based-Management>

⁵ [Staff Working Document on the establishment of conservation measures under CFP for Natura 2000 sites and MSFD-relevant measures](#)

In Sweden, the target to protect at least 10 % of the marine environment has already been achieved, thanks mainly to the relatively newly designated Natura 2000 sites, designated mainly to protect harbour porpoise. The quality aspects associated with the network of marine protected areas are quite difficult to assess. Malin Wilhemsson presented some Swedish marine protected areas, their conservation targets (reefs, bubbling reefs, sandbanks, deep soft seafloor, seabirds, harbour porpoise and natural food webs) and fisheries measures (no-take zones, compulsory use of AIS as a complement to VMS for all vessels fishing in the area, fishing with hooks, pot fishing and pelagic trawl, no physical impact on sea floor, no by-catch of birds or harbour porpoises). The challenges include, among others cooperation on fisheries and conservation, getting sufficient scientific data, stakeholder involvement and transparency. The process is time consuming. The proposals for fisheries conservation measures in MPAs should be prepared in a transparent way by all Member States and stakeholders simultaneously. It is recommended to organise dedicated consultations with stakeholders on an ad hoc basis (NGOs, ACs, fisheries organisations) and to maintain informal dialogue with the Commission during the process.

Discussion

A representative of the German Federal Ministry of Food and Agriculture appreciated the insight provided by Sweden and the overview of the legal framework. He underlined that the process of setting fisheries management measures in marine protected areas is very complex. He noted that the Member States are obliged to prepare joint recommendations for the adoption of conservation measures. He underlined that this meeting of the BSAC EBM Working Group gives a unique opportunity to exchange the views among the Member States and the stakeholders.

Some fisheries representatives appreciated the process of setting the necessary fisheries management measures in Swedish protected areas. They noted that the measures are aligned with clearly defined environmental protection goals.

Referring to the questions on timelines, Malin Wilhemsson stated that the consultation process for Baltic protected areas will probably start in 2019.

Several participants, including the representatives of the Member States, noted that the consultation process should involve the European Parliament Fisheries Committee at an earlier stage, so as to avoid unfortunate situations where the Committee rejects proposed delegated acts after the two month deadline.

An OIG representative referred to the need to explore the use of funding from the EMFF for facilitating projects. In the course of the discussion, it was noted that EMFF funding could be used by the administration, science and the fisheries sector to collect and gather data e.g. on bycatch.

Referring to the question on data collection, Malin Wilhemsson stated that it can sometimes be a problem to get sufficient data on the small scale fisheries (SSF).

The representative of Low Impact Fishers of Europe referred to the need to use local information from small scale fishermen in establishing fisheries measures. This data is based on traditional knowledge. Small scale fishermen should be closely involved in the consultation process.

A representative of the Danish Ministry of Foreign Affairs referred to the need to maintain an open, non-discriminatory dialogue between the Member States and the stakeholders in establishing the management plans. The work on every plan is complex and involves at least two full-time people as well as scientists. The process of data collection from vessels with VMS is formalised. Fisheries organisations should be asked to provide data from small vessels which are not obliged to use VMS.

DENMARK

Anja Gadgård Boye, Danish Ministry of Foreign Affairs presented the status of the fisheries conservation measures in marine protected areas in Denmark⁶. She referred to the legal framework of the Danish proposals for fisheries management measures for protection of MSFD and Natura 2000 MPAs. She presented the terms of references for regional organisation for developing joint recommendations (Art. 11 and 18 of the CFP). At regional level, the BALTFISH High Level Group is composed of fisheries directors. A Technical Expert group is composed of officials and provides overviews of the initiatives taken up by the Member States. Ad hoc groups are created and chaired by the initiating Member State and include Member States with direct management interests until the Joint Recommendation is agreed on. Advisory Councils are asked to provide input to these groups. The Danish proposals are prepared in cooperation between the Danish Ministry of Foreign Affairs and the Ministry for Environment and Food of Denmark. Most of the marine habitat types in Denmark can be protected and are protected through the Habitats Directive in Natura 2000 marine sites. The regional coordination process has so far been with Sweden and Germany and other Baltic Sea Member States. The marine Natura 2000 network in Denmark consists of 97 sites, of which 46 are located in the Baltic Sea. By mid - 2019 all 43 sites designated for reefs in the Baltic will be protected by means of fisheries measures either through delegated act or national order. Denmark follows a thematic approach where the most vulnerable habitats are protected first, e.g. reef structures (H1170 and H1180)..

According to the Danish model applied to marine protected areas, area specific protection needs to be based on scientific evidence. There must be a reason and need for specific protection. Definitions by Member States of required actions vary; hence the proposals for fisheries measures vary. There must be a clear rationale and aim for the proposed fisheries management measures. Best available scientific evidence and knowledge must serve as the basis. Mapping of marine habitats is crucial. The consequences of the measures for the fishing industry must be taken into account. Socio-economic consequences can be used when discussing measures, e.g. measures must be proportional and non-discriminatory. Control measures vary between the proposals. Denmark has not yet proposed specific control measures for fisheries, because there is no fishing activity on the protected reef structures.

Among the key points, Anja Gadgård Boye mentioned the need for transparency in the process of establishing management plans, involvement of other Member States and

⁶ <http://www.bsac.dk/Meetings/BSAC-meetings/BSAC-Working-Group-on-Ecosystem-Based-Management>

stakeholders, maintaining informal dialogue with the Commission, data calls at every stage and the need for a thematic approach when managing a large network. She also noted that the MSFD is implemented in different ways in the Member States and therefore the implementation of conservation measures also differs.

Discussion

The participants agreed that the processes of establishing conservation measures are based on the same legal framework, but their implementation differs among the Member States. It was noted that each area is unique, and each process has commonalities, but also differences. This makes it difficult for Member States to take a regional approach, e.g. in terms of mapping and documenting the areas.

A fisheries representative noted that the fisheries management measures in protected areas should have a clear rationale and a measurable effect. The impact of these measures on people who live from these areas should be taken into account. The use of socio-economic considerations is a good example of a win/win solution. In his view, fisheries and nature conservation can co-exist.

A representative of the anglers underlined that the decision on the ban on angling in German protected areas was taken without any scientific basis.

Anja Gadgård Boye noted that a total fisheries ban, including angling was introduced in no-take zones established to protect bubbling reefs. Angling is allowed on stone reefs. She noted that fisheries management measures should be implemented in accordance with Article 6.2 of the Habitats Directive⁷.

Some participants asked how the effect of the protective/conservation measures can be assessed or measured. They mentioned the need for continuous monitoring of the closure in order to ensure that activities are not being carried out, as well as the need for an evaluation and measurement of whether the closure is producing a positive improvement.

GERMANY

Bruno Hoffstadt, Federal Ministry of Food and Agriculture introduced the status of fisheries management measures in Natura 2000 areas in Germany. The proposals for fisheries management measures for the German EEZ in the Baltic have been developed and the consultation process is being carried out in accordance with Article 11 of the Basic Regulation. The entire process is aligned with the requirements laid down in the Habitats Directive. A national process has been carried out. The process will include bilateral consultations between the Member States.

Dr. Christian von Dorrien, Thünen Institute of Baltic Sea Fisheries presented the proposed management measures Natura 2000 areas in the German Baltic EEZ⁸. There are

⁷ Habitats Directive Article 6.2: Member States shall take appropriate steps to avoid, in the special areas of conservation, the deterioration of natural habitats and the habitats of species as well as disturbance of the species for which the areas have been designated, in so far as such disturbance could be significant in relation to the objectives of this Directive.

⁸ <http://www.bsac.dk/Meetings/BSAC-meetings/BSAC-Working-Group-on-Ecosystem-Based-Management>

six Natura 2000 sites in the German waters. The proposals are for parts or entire areas to be closed for mobile bottom contacting gears. Data on fishing effort and revenues had been received from Denmark, Poland, Sweden, Finland and Germany and assessed before proposing fisheries measures. The consultation process in the framework of BALTFISH is under preparation.

Discussion

A fisheries representative drew attention to the fact that the planned no-take zone in the Ferhmanbelt covers the main trawling grounds of the Danish fishery. A ban on trawling will create devastating conflicts in this area. In his view, there is a need to carry out a socio-economic impact assessment of this measure. A corridor where trawling would be allowed could also help to solve the problem.

Bruno Hoffstadt noted that the proposals for fisheries measures for the German protected areas are based on scientific assessment and advice. Data was collected from the neighbouring Member States and assessed against the fishing effort. He underlined that the German presentation focuses on the status of fisheries management measures in Natura 2000 areas in the German EEZ. He was not prepared to discuss the rationale of the proposed fisheries measures. The official consultations of the management plans for German Natura 2000 sites have started and the BSAC could get involved to discuss fisheries measures.

Another fisheries representative noted that in Germany, the protected areas lying within the 12 n.m. zone are under the responsibility of the federal states and the protected areas in the EEZ are under the responsibility of the federal government. Fisheries measures introduced by particular German states in the Natura 2000 sites should also be subject to consultation and discussion in the BSAC and should be brought to BALTFISH to ensure full transparency and openness of the process.

The representative of Low Impact Fishers of Europe referred to the voluntary protection of harbour porpoise and diving ducks in Schleswig Holstein as a result of a commitment made by small scale coastal fishermen ⁹.

POLAND

Pawel Lazarski, the Polish Ministry of Maritime Economy and Inland Navigation referred to the status of the Natura 2000 sites and fisheries measures in Poland. Draft conservation plans have been prepared for the Natura 2000 sites under the supervision of Maritime Offices in Gdynia and Szczecin, but still require revisions. In general, specific conservation measures regarding fisheries have not been introduced in the Polish waters as a result of designated Natura 2000 sites. Some fisheries restrictions have only been introduced in the Słowiński and Woliński National Parks.

Piotr Gruszka, Polish Ecological Club noted that the measures introduced in the national parks cover the obligatory use of pingers (protection of harbour porpoise) and obligatory

⁹ http://www.bsac.dk/getattachment/Meetings/BSAC-meetings/BSAC-Working-Group-on-Ecosystem-Based-Management/story-germany-harbour-porpoises_en.pdf.aspx?lang=en-GB

reporting on any fishing activity in these areas. The draft management plans for the Polish Natura 2000 sites in the Pomeranian Bay, which lie next to the Natura 2000 sites in the German part of the Bay, now also include some fisheries measures. These plans were already subject to consultations, as in the case of other marine Natura 2000 sites in Poland, except the Słupsk Bank, for which the elaboration of the plan has just started. This plan will be subject to consultations. He referred to the brochure on Polish marine Natura 2000 areas. The brochure includes a map and a list of the areas¹⁰.

- **Presentation by HELCOM**

Jannica Haldin, HELCOM Secretariat presented “HECOM and marine protected areas. MPAs as measures and measures in MPAs”.¹¹ She referred to the work on marine protected areas done by the HELCOM Working Group on the State of the Environment and Nature Conservation. Fisheries management topics are dealt with under the HELCOM Group on Ecosystem-based Sustainable Fisheries. Jannica Haldin noted that HELCOM consists of the Contracting Parties to the Convention, in other words the governments of all the states around the Baltic Sea and the EU, and is an organisation focused on policy. The HELCOM Secretariat facilitates the work of the Contracting Parties and the working groups. All HELCOM Contracting Parties are included in the work on spatial conservation measures. This also includes Russia. HELCOM has established a network of Baltic Sea Marine Protected Areas (HELCOM MPAs). In 2018, the HELCOM MPA network covered 13% of the Baltic Sea area (54.000 square km). The majority of HELCOM MPA’s are also Natura 2000 sites protected under the Habitats and Birds Directives. Direct targets are included in the HELCOM convention and recommendations on protected areas, among others recommendation 35/1 which obliges the contracting parties to manage the protected areas effectively and develop and apply management plans. 64% of these areas have monitoring in place. HELCOM strives to evaluate the effectiveness, network effectiveness and management effectiveness of the MPAs, with a currently ongoing project looking into the management effectiveness. The network of HELCOM MPAs should fulfil the criteria of ecological coherence (representativeness, replication, adequacy and connectivity) and thereby contribute to the protection of the entire ecosystem. Two of these aspects were evaluated to be at an acceptable level for supporting a coherent MPA network: the areal representation of different types of geographical features and broad scale habitats, and the replication of a set of indicative species and biotope complexes, as well as broad scale habitats. Evaluations of adequacy, which considers the quality of the network, and connectivity, and which measures how well the network supports the migration and dispersal of species, indicate that the network is not yet ecologically coherent.

¹⁰ The brochure: <http://www.bsac.dk/getattachment/Meetings/BSAC-meetings/BSAC-Working-Group-on-Ecosystem-Based-Management/Poland-Morskie-obszary-Natura-2000.pdf.aspx?lang=en-GB>

A more interactive map where different forms of protected areas in Poland can be marked and viewed is available here: <http://geoserwis.gdos.gov.pl/mapy>

¹¹ <http://www.bsac.dk/Meetings/BSAC-meetings/BSAC-Working-Group-on-Ecosystem-Based-Management>

The protected areas are also considered in the context of climate change and vice versa. One of the identified aims of HELCOMs recently started climate change work is that policies and measures be reviewed in the light of a changing climate; this includes conservation objectives and associated measures. The Baltic Sea Action Plan (BSAP) is currently being updated and the new BSAP due to come into force in 2021 has been updated accordingly.

Discussion

Responding to a question put forward by a fisheries representative on the evaluation of the effectiveness of HELCOM MPAs, Jannica Haldin explained that it is an internal evaluation process, often project based. Overall the assessment of the effectiveness of MPAs is often made more difficult as there is rarely comparative data inside and outside the MPA. The data quality and quantity vary between areas and across the region.

In its coherence assessment and in the recently started HELCOM project on management effectiveness, the NK2000 areas and network are evaluated concomitantly with the HELCOM MPA network. A fisheries representative asked about establishing large networks of protected areas and the need to ensure connectivity between the areas. In his view, connectivity between the protected areas is less important at sea than on land.

Jannica Haldin underlined that according to HELCOM, connectivity and coherence between the protected areas should be further strengthened in order to ensure the protection of the ecosystem, and that connectivity and coherence are related to the species or habitat one is trying to conserve, as it is dependent on and defined by e.g. dispersal rates, which can vary greatly.

Another fisheries representative asked about the role of HELCOM in the Natura 2000 process and what is the legal basis for HELCOM MPAs.

Jannica Haldin replied that HELCOM, as a policy entity, has no legislative power but provides a platform for the states around the Baltic Sea and the EU to agree on policies and develop guidelines etc. that the Contracting Parties can use when making decisions in the future or at national level. However, HELCOM, being the Contracting Parties, works to ensure that these policies and guidelines are aligned with the legal standards that these parties have to conform to. It is up to the Contracting Parties to decide how to implement the recommendations adopted by HELCOM. For example, HELCOM Recommendation 40/1 contains the following recommendation: For those Contracting Parties being also EU Member States, to ensure that the implementation of this Recommendation is consistent with the implementation of relevant EU regulations, in particular Habitats Directive (HD, 92/43/EEC), Birds Directive (2009/147/EC), Marine Strategy Framework Directive (MSFD, 2008/56/EC), Water Framework Directive (WFD, 2000/60/EC), EU Directive establishing a framework for maritime spatial planning (2014/89/EU) and the Common Fisheries Policy.

With regard to cooperation with other organisations she referred by way of example to the HELCOM Recommendation 40/1 adopted on 7th March 2019¹² on conservation and

¹² Extracts of HELCOM Recommendation 40/1, adopted 7 March 2019, having regard to Article 15 and 20 (1), Paragraph b) of the 1992 Helsinki Convention: **CONSERVATION AND PROTECTION OF MARINE AND COASTAL BIOTOPES, HABITATS AND BIOTOPE COMPLEXES CATEGORIZED AS THREATENED ACCORDING TO THE HELCOM RED LISTS**

protection of marine and coastal biotopes, habitats and biotope complexes categorised as threatened according to the HELCOM Red List. The recommendation encourages other international organisations or bodies to promote and strive to take all appropriate measures in areas of their specific competence, such as in fisheries management or shipping, in order to reduce pressures and impacts on HELCOM threatened marine biotopes, habitats or biotope complexes. It also encourages the establishment of a permanent dialogue and exchange of knowledge related to the topic between HELCOM and relevant stakeholders, such as recreational and commercial fishermen.

The WG Chair noted that the BSAC working group aimed at discussing protected areas in a wider context. However, the Chair reiterated that HELCOM is an established, region-wide policy organisation, which has existed a long time before the Natura 2000 process began. In his view, there is an overall need for more coherence between different spatial protection measures. There could be significant benefits from expanding the use of HELCOM and the HELCOM process in the work on Ecosystem Based Management under the BSAC. The aim should be to bring fisheries closer to the environment and the environment closer to fisheries.

A representative of the Danish Ministry of Foreign Affairs underlined that environmental and fisheries administration seek and have a closer co-operation and have aligned their work on protected areas. The fisheries administration has a more pragmatic approach and has to implement the legislation into practice.

A representative of the Swedish administration expressed the view that there needs to be dialogue at all levels and at all times in order to ensure a good coordination between fishery and environmental authorities at Member State level and with stakeholders.

- **Presentations by DG Mare and DG Environment**

The WG Chair welcomed the representatives of the European Commission, **Fotios Papoulias from DG Environment and Ula Linkute from DG MARE**, who joined the meeting via web conference. He pointed out that several questions had emerged from the discussion after the presentations on the status of fisheries management measures in Natura 2000 areas in the Baltic made by Sweden, Denmark, Germany, Poland and HELCOM.

He asked the representatives of European Commission to inform the meeting what the Commission has done to support and facilitate co-operation in the work conservation measures in Natura 2000 sites.

Fotios Papoulias from DG Environment explained that the conservation measures necessary for compliance with obligations under the Union environmental legislation are a priority for DG Environment. As fishery is often the primary pressure on protected habitats, the work on conservation measures is carried out in close co-operation with DG MARE. The BSAC is cordially invited to join the work of experts in the framework of expert groups working on conservation measures for particular Natura 2000 sites. The Commission is supporting the efforts made by the Member States.

Ula Linkute from DG MARE underlined that DG MARE works according to the rules set out in Article 11 of the Basic Regulation in order to facilitate the work on joint recommendations. Representatives of DG MARE attend the meetings in person or via Webex and try to follow the draft proposals for conservation measures from very early stage. She noted that the representatives of the European Parliament are invited to the fisheries expert groups established with the aim to discuss the draft delegated acts based on joint recommendations, prior to their adoption.

The WG Chair thanked the representatives of the European Commission for their explanations. He noted that the guidance document, that is the Commission Staff Working Document on the establishment of conservation measures under the Common Fisheries Policy for Natura 2000 sites and for Marine Strategy Framework Directive purposes, was produced late (May 2018 – see footnote 5). He recalled that the aim of this document is to describe good practices on the elements to be considered by the Member States when preparing joint recommendations for the adoption of conservation measures under the Common Fisheries Policy.

Fotios Papoulias from DG Environment explained that the representatives of the Commission are engaged from the early stage of the consultation process, including the meetings held in the framework of Scheveningen Group and BALTFISH. The Commission welcomes all comments and suggestions on how to improve the work on establishing the conservation measures.

The WG Chair asked the Commission about lessons learnt from existing and already adopted processes carried out under Article 11 of the Basic Regulation, including those that have not been adopted by the European Parliament (e.g. the Belgian proposal for a delegated act that the EP rejected).

Ula Linkute from DG MARE noted that the Commission takes every opportunity to remind the representatives of the European Parliament Fisheries Committee to take part in the consultation process from an early stage in order to avoid rejections of the proposals for delegated acts by the European Parliament. The Commission takes into account the lessons learned related to the obligations under Article 11, mainly consisting of improving the consultation process. Other lessons learnt relate to obtaining the most up-to-date data by the Member States. The Commission works closely with all Member States on this.

Fotios Papoulias from DG Environment stated that the process is lengthy and timing is crucial. The most up-to-date data facilitates the process and makes it faster. The aim of the Staff Working Document is to describe good practices on the elements to be considered by the Member States when preparing joint recommendations for the adoption of conservation measures and should be followed as closely as possible. The Commission is concerned that so far, very few joint recommendations have been adopted. All efforts should be put in making the best use of the guidelines and in preparing the joint recommendations.

The WG Chair noted that during the discussions, the BSAC members had raised the question as to whether the Member States are interpreting the rules in the same way, as there appear to be differences in the approach to work with the process laid down in Article 11. There are, for example different interpretations of the “reef” or “sandbank”.

Fotios Papoulias from DG Environment noted that there should be a common understanding of the definitions of the relevant habitat types as outlined in the EU “interpretation manual” updated by the “marine N20000 guidelines”¹³. The European Commission is constantly trying to share good practices and approach and has a facilitating role in the process. However, it is up to the Member States to implement the conservation measures in Natura 2000 areas.

The WG Chair raised the issue of control and monitoring. He pointed out that the Member States do not ask for specific control measures, as the control in place is sufficient. He asked the representatives of the Commission for comments regarding the need for any additional control measures, in particular in the event of the lack of VMS data.

The representatives of DG MARE and DG ENVI noted that control is part of the Commission Staff Working Document on the establishment of conservation measures. The recommendations on control and enforcement are part of the elements of good practice regarding the information to be provided by the Member States with the submission of the joint recommendations. The proposed control and enforcement measures should be clearly set out by the Member State. The Commission has not received many remarks from Member States concerning control and enforcement. The representatives of the Commission expressed the view that the existing measures are sufficient. Some Member States, for example Sweden, have proposed more stringent measures of control, such as the AIS.

The WG Chair thanked the representatives of the European Commission for joining the meeting via web conference links. He expressed the hope to see the representatives of COM in person at the next meeting of the Working Group.

4. Discussion of the questions asked in the BSAC overview:

- Which fisheries management measures are already in place or are planned at the moment in the Baltic?
- Do we see a proper use of European law and the guiding principles in the Member States? (e.g. mapping of habitats, databases on conservation status etc.)
- Is there a sufficient socio-economic impact assessment? (This is something where the fisheries sector is invited to add information)
- Control measures

The WG Chair pointed out that discussion of the issues raised in these questions had been dealt with in the course of the meeting. There were some outstanding issues not discussed so far. He referred to the different views and approaches to the interpretation of the European law. Early stakeholder involvement in the consultation process is crucial for proper implementation of conservation measures. He asked whether there is a proper use of European law and the guiding principles in the Member States.

¹³ http://ec.europa.eu/environment/nature/natura2000/marine/index_en.htm

An OIG representative underlined that constant dialogue between the Member States, the European Commission and all stakeholders is essential for understanding the rationale between the measures. In her view, there is a need for a more regionalised approach, which is not always easy due to the fact that each area is unique, and each process has commonalities, but also differences. But a regional approach would be useful for example for mobile species such as harbour porpoises. Referring to the socio-economic considerations, she referred to Article 2.3 of the Habitats Directive¹⁴, which clearly states that the measures taken pursuant to this Directive shall take account of economic, social and cultural requirements and regional and local characteristics. Referring to the control, she stated that from an OIG point of view there is a need for more stringent measures, proposed under the revised control regulation, such as CCTV.

A representative of the Danish Ministry of Foreign Affairs noted that CCTV systems have proved to be efficient in controlling the by-catch of harbour porpoise. She informed the meeting that updated maps of the Danish protected areas, including the network of reefs within 3 nm and 12 nm and a map showing which areas are protected according to Danish government orders and according to Commission Delegated Acts will be sent to the BSAC Secretariat after the meeting.

The WG Chair thanked the Member States for their participation and presentations, and all the participants for their active approach.

The Working Group appreciated the fact that this meeting had provided an opportunity for a dialogue between stakeholders and the Member States on conservation measures in protected areas. It also appreciated the presentations given by the Member States on the status of Natura 2000 areas and the implementation and frank discussion. It was important to identify the gaps and learn about best practices. The meeting regretted that the Commission had not appeared in person and had not participated in the entire meeting. The meeting applauded the good dialogue between stakeholders and the Member States on conservation measures in protected areas and agreed to continue it in the future.

The meeting was able to define some basic principles for work concerning fisheries management measures in protected areas:

- There is a need for full transparency of the work being done.
- There is a need for dialogue with the stakeholders (including the Advisory Councils). There is a need to have the Advisory Councils involved in this process at an earlier stage, as a lot of the work is done nationally and at an early stage, and the Advisory Councils are not always aware of this.
- It is important for the Member States to explain the processes followed - depending on whether are applying legislation under Natura 2000 or the Marine Strategy Framework Directive. This includes information on how the areas have been designated, using which criteria and approaches followed. It also includes giving

¹⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31992L0043&from=EN>

information on the work going on in the EEZ's of the Member States and in the coastal areas of Member States.

- The Commission's involvement, where possible in meetings and processes is encouraged.
- There must be feedback on the work being done and processes being followed– this tends to get overlooked.
- Member States working on this should come to the Advisory Councils at regular intervals to inform and update.
- The use of funding from the EMFF for facilitating projects: the administration, science should be further explored and the sector can use this to collect and gather data e.g. on bycatch.
- Each area is unique, and each process has commonalities, but also differences. This makes it difficult for Member States to take a regional approach, e.g. in terms of mapping and documenting the areas. But a regional approach would be useful for example for mobile species such as harbour porpoises.
- An iterative and joint approach, covering the Baltic is required.
- There is a need to have good and adequate data - it can sometimes be a problem to get it from the small-scale fishery. There is a need for data calls at a very early stage and at every stage of the process.
- The fishing sector – especially the SSF – should be closely involved and provide necessary data – and this should be part of the consultation process.
- The European Parliament Fisheries Committee needs to get involved at an earlier stage, so as to avoid unfortunate situations where the Committee rejects proposed delegated acts after the 2-month deadline.
- How to assess the effect of the protective/conservation measures? Some are calling for continuous monitoring of the closure in order to ensure that activities are not being carried out; also need for an evaluation and measurement of whether the closure is producing a positive improvement.
- Control measures must be proportionate and depend on the type and extent of the fishery being carried out, or not.
- Continuous formal and informal contact with the Commission is necessary.
- There is a need for more coherence between different spatial protection measures. The aim should be to bring fisheries closer to the environment and the environment closer to fisheries and improve the co-operation between the fisheries and environmental sectors.
- There is a need to share knowledge and best practises.

5. AOB

Marcin Rucinski, Baltic Sea and North Sea Coordinator, Low Impact Fishers of Europe informed that he was for the last time representing LIFE at the BASC meeting, as he is leaving the fisheries world to undertake new challenges in a Baltic Gas Pipe project. He thanked all BSAC members for good co-operation and for being part of an important process. Participants reciprocated with applause.

An OIG representative presented new models of acoustic devices, seal-safe high frequency pingers, which have proven to be an efficient conservation measure in reducing bycatch of harbour porpoises in gillnets. High frequency pingers are inaudible to seals and therefore do not act as “dinner bells” attracting seals to the fishing gear, but have an alerting effect on harbour porpoises. The new pingers will be tested in 2019.