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Copenhagen Monday 28th February 2022

Implementation and revision of the CFP with a Baltic perspective
BSAC white paper to the Commission

Dear Ms Vitcheva,

In its work programme for 2019 – 2020, the BSAC committed to produce a communication to the Commission on the implementation and revision of the CFP with a Baltic perspective. This commitment was made in relation to the Commission's task to report on the functioning of the CFP by the end of 2022, with focus on the implementation of the policy agreed with the CFP reform in 2013.

We are pleased to attach at the end of this letter the BSAC White Paper. It was adopted on 14.2.22 after written procedure with the BSAC Executive Committee. The BSAC General Assembly was informed of the outcome on 16.2.22.

Our White Paper is the culmination of BSAC work that started with a CFP Theme Session in Helsinki on 3rd September 2019, then expanded and developed by topic-specific Theme Sessions, and put together and consolidated in a drafting process. This is explained in the introduction to the White Paper.

We are satisfied that this has been an inclusive process involving BSAC members as well as observers taking an active role in the discussions and the formulation of the recommendations, including representatives from EU institutions.

It is a holistic paper that takes into account and reflects the broad interests and concerns of the BSAC. Emphasis is on consensus views throughout the paper.

The White Paper starts by underpinning the importance of the ecosystem-based approach to fisheries management and the areas of action that should be taken, including the need to incorporate the impacts of climate change.

The BSAC underlines the need to make the best use of the scientific advice and suggests that the Commission puts forward a green paper on the functioning of the scientific advisory system and possible ways in which to improve it. The BSAC states that the objective of reaching MSY has posed some problems, and it suggests actions towards a robust MSY policy, as well as the need to evaluate and assess the MSY principle.

With respect to the landing obligation (LO), the BSAC makes the point that implementation of the LO is a challenge, and it suggests several actions in order for it to work better.

Decision making through regionalisation is an ongoing process. The BSAC is happy to have established a closer contact with BALTFISH. We will continue to work for a clear and transparent process under regionalisation, and we hope that the Baltic Member States will fully implement the CFP provisions with respect to regionalisation.

Recreational and sports fisheries play a key role in the fishing community and in the exploitation of several stocks, and as a consequence, they should be part of the CFP and be clearly defined within the CFP.

The final sections address subsidies, where the BSAC suggests further discussion together with knowledgeable experts, as well as the social dimension where there needs to be a clear link between setting priorities, analysing and documenting the social and economic consequences of decisions taken.

We commend this White Paper to you as the BSAC communication. It also contributes to the Commission Consultation on the functioning of the CFP.

Kind regards,



Esben Sverdrup-Jensen
BSAC Executive Committee Chair

Copy to: BALTFISH Member States, Fisheries Council of the European Community, European Parliament, European Fisheries Control Agency, ICES and HELCOM

Implementation and revision of the CFP with a Baltic perspective

BSAC white paper

Background

The Commission must report on the functioning of the CFP by the end of 2022. It is expected to focus on the implementation of the policy agreed with the CFP reform in 2013.¹

The BSAC has committed to produce a communication / white paper to the Commission on the implementation and revision of the CFP with a Baltic perspective.

Implementation of the CFP 2013

The CFP reform in 2013 entailed a fundamental change in the management principle. MSY was instituted as the guiding principle for the utilisation of fish stocks; catch quotas instead of landing quotas were introduced, together with the landing obligation (LO); and regionalisation acknowledged subsidiarity as the basis for management decisions.

In her mission letter to Virginijus Sinkevičius, the Commissioner for the Environment, Oceans and Fisheries,² Commission President Ursula von der Leyen asked him to focus on full implementation of the Common Fisheries Policy, and to evaluate the Common Fisheries Policy by 2022. She also highlighted the social dimension, climate adaptation and clean oceans as new points to consider in the CFP 2022 discussion.

A discussion in the BSAC on the future Common Fisheries Policy began in September 2019, and it continued in March 2020. The moderator of the meeting produced a frame document³ based on the discussions held at a CFP Theme meeting on 3rd September 2019, and referring to input provided by BSAC members to a focused questionnaire. The frame document attempts to balance views from the fisheries interests and other interest groups.

¹ CFP Basic Regulation 1380/2013

http://www.bsac.dk/getattachment/BSAC-Resources/Documents-section/European-Parliament-and-Council/BR1380_2013UK.pdf.aspx?lang=en-GB

² http://www.bsac.dk/getattachment/Meetings/BSAC-meetings/Future-Common-Fisheries-Policy-Session-3/mission-letter-virginijus-sinkevicius_en.pdf.aspx?lang=en-GB

³ <http://www.bsac.dk/Meetings/BSAC-meetings/BSAC-meeting-on-future-Common-Fisheries-Policy>

Specific topics had already emerged. These topics were dealt with in three dedicated Sessions held in January and February 2021:

Session 1: the living conditions for fish and address ecosystem-based management

Session 2: scientific advice, landing obligation, MSY, overall management principles

Session 3: decision making, regionalisation, recreational fisheries and subsidies

The Secretariat produced three reports from the Sessions⁴.

In drafting the white paper, the Secretariat has made use of the frame document and the reports from the three Sessions.

⁴ The three reports are here:

<http://www.bsac.dk/Meetings/BSAC-meetings/Further-work-on-developing-input-to-the-CFP>

BSAC White Paper - Implementation and revision of the CFP with a Baltic perspective

Introduction

The objective of the Common Fisheries Policy (CFP) is to ensure sustainable fisheries, to achieve economic benefits and to secure a blue food supply [to help achieve the UN Sustainable Development Goals]⁵ and to enable recreational fishing opportunities through the highest possible sustained catches of commercial fish stocks and the least possible unwanted effects on the environment. One main objective of the Marine Strategy Framework Directive (MSFD)⁶ is to ensure good living conditions for fish stocks, for example to secure a healthy age and size distribution in exploited fish stocks.⁷

Wild fish is an important natural capital public-owned resource. A clear call for action should be sent to the decision makers to come up with faster and more adaptive solutions. Delayed management actions are detrimental to effective management. The policies managing and influencing the exploitation and use of this resource should be based on the following:

- An ecosystem-based approach to the management of fisheries and commercial fish stocks and species and habitats affected by fishing. The management of fisheries and fish stocks should ensure a maximum sustainable yield and recreational fishing opportunities with the qualification that catch opportunities in mixed commercial fisheries should take into account the choke species problem. Strong fluctuations in stocks should, if possible, not be directly reflected in the TACs. TACs should be calibrated in such a way as to take into account the precautionary principle and the ability for the industry to adapt to such fluctuations. This should not pose an unacceptable risk to the health and resilience of the fish stocks or the ecosystem; Minimum Conservation Reference Sizes (MCRS) should not be set below the spawning size of species, and mesh sizes should be aligned to respect the MCRS.
- An ecosystem-based approach to the management of economic uses of the sea as well as fishing, taking into account natural conditions in setting realistic targets for the management of stocks. In the Baltic Sea, the reproduction of fish is influenced by environmental effects, some of which are induced by human activities, and by fluctuations in natural conditions.

⁵ <https://bluefood.earth/what-we-do/>

⁶ [http://www.bsac.dk/getattachment/BSAC-Resources/Documents-section/Council/MSFD2008_56_EC-\(1\).pdf.aspx?lang=en-GB](http://www.bsac.dk/getattachment/BSAC-Resources/Documents-section/Council/MSFD2008_56_EC-(1).pdf.aspx?lang=en-GB)

⁷ Ref: COM Decision 2017_848, Descriptor 3
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32017D0848>

- A management, control and enforcement that ensure that the policy objectives are met, that a level playing field is observed and that fishermen are given the incentive to fish in a sustainable manner as individuals and collectively.
- Scientific advice that informs about the actual situation of commercial fish stocks and about human and natural factors influencing the development of these stocks.

Ecosystem based approach to fisheries management

The ecosystem-based approach to fisheries management is not given a clear definition in the CFP and is not readily understood by all actors. However, business as usual is not an option. Management and decision-making should be more progressive and innovative and include the ecosystem impact in the management.

The BSAC highlights that there are two approaches to defining EBM management:

- the broader approach as provided by the MSFD⁸, taking all elements into account in order to ensure overall Good Environmental Status, and
- the narrower one of the CFP (Basic Regulation, Article 4⁹) which is more about managing fisheries, but in relation to the elements from the environment which affect fisheries.

The agreed understanding by the BSAC tries to reconcile both approaches. Ecosystem-based fisheries management is about **balancing human activities and environmental stewardship in a multiple use context, and about ensuring fish for the future.**

The BSAC suggests that ecosystem-based management may be considered in 3 areas of action:

- Multispecies management of fish stocks, taking into account both the prey/predator relationship and harvesting patterns, and how environmental conditions affect the conditions of the stocks. This is a core element of the CFP and it relates to the definition of MSY. New knowledge should be assessed with a view to refining the provisions on MSY in the Basic Regulation, or to allow for more flexibility in the EU multiannual management plans (MAPs).

⁸ MSFD Whereas § 8 *By applying an ecosystem-based approach to the management of human activities while enabling a sustainable use of marine goods and services, priority should be given to achieving or maintaining good environmental status in the Community's marine environment, to continuing its protection and preservation, and to preventing subsequent deterioration*

⁹ Basic Regulation Article 4 (9) 'ecosystem-based approach to fisheries management' means an integrated approach to managing fisheries within ecologically meaningful boundaries which seeks to manage the use of natural resources, taking account of fishing and other human activities, while preserving both the biological wealth and the biological processes necessary to safeguard the composition, structure and functioning of the habitats of the ecosystem affected, by taking into account the knowledge and uncertainties regarding biotic, abiotic and human components of ecosystems;

- Minimising the unwanted/undesired effects of fishing on protected species and habitats. This is a CFP matter, but it also relates to the MSFD and the Biodiversity Strategy for 2030.
- Where appropriate, strategies for the active rebuilding of fish stocks, including protecting and restoring habitats.

Prioritised areas of action under ecosystem-based management

Fisheries management should follow rapid changes in the ecosystem. It is important to have an adaptive and fast decision-making process at regional level. The interactions between sea uses should be taken into account in fisheries management. Moreover, the effort involved towards reaching decisions needs to be brought together: this means TACs and quotas, technical measures, as well as environmental and other interactions (mammals, birds, fish, energy etc.).

Getting all the required knowledge on the ecosystem

Scientific knowledge should be promoted in the fisheries sector, and the knowledge from the fishers (commercial and recreational) is essential. Dialogue and co-operation between scientists and fishers is very important and facilitates carrying out effective data collection programmes. Fishers are willing to cooperate with the scientists, and would like to see that the data they deliver is used in the decision-making process without delay. Data on species interaction is missing and this is a problem, in particular for mixed fisheries management.

Ineffective rules and poor decision-making are counter-productive and can be detrimental to the ecosystem.

Climate adaptation

Climate change has already influenced aspects of the Baltic Sea ecosystem, and the fisheries have also been impacted. Climate-driven changes in water temperature (including changes in ice cover), together with oxygen levels and salinity, are having an increasing influence on the ecosystem's structure and function.¹⁰

The ICES ecosystem overviews are providing a comprehensive account of the changes that are taking place in the respective ecosystems¹¹, but more knowledge is still needed in relation to climate change.

¹⁰ <https://www.ices.dk/sites/pub/Publication%20Reports/Forms/DispForm.aspx?ID=38467> [last updated 9.12.21]

¹¹ <https://www.ices.dk/sites/pub/Publication%20Reports/Forms/DispForm.aspx?ID=38467> [last updated 9.12.21]

The BSAC takes note of the EU Strategy on adaptation to climate change and its objectives¹².

Decision makers are urged to incorporate the impacts of climate change into the management decisions as soon as more management options are understood.

Make best use of the scientific advice and overviews

The advice from science is the basis for supporting and establishing the quality and appropriateness of management decisions, and to enable fishers to optimise the output of their efforts.

The commitment behind the CFP is for it to be based on the best available scientific advice. However, the best advice available does not always match the challenges inherent with ecosystem-based management, such as natural stock fluctuations and ecosystem regime shifts.

The process of developing and providing advice can be improved. The BSAC suggests that we initiate an improvement and modernisation of the biological advice and its format in order to address the following issues:

- Member States need to supply data over a broader range with a higher quality and in a real-time format to the extent where technologies make this possible.
- The provision of consistent advice should have priority.
- The processing of data into advice must be modernised, especially with a view to short-cut lengthy processes in ICES advice Working Groups and in the ICES Advisory Committee ACOM¹³. Modelling based on AI (artificial intelligence) should be developed.
- The Advisory Councils should be more involved in the discussion of the format and the content of advice.

The BSAC agrees that the current system of scientific advice should include more options and include an explanation of the consequences of each option. The advice should also reflect the changes in the ecosystem.

The BSAC suggests that the Commission puts forward a green paper on the functioning of the scientific advisory system and possible ways in which to improve it.

¹² https://ec.europa.eu/clima/sites/clima/files/docs/eu_strategy_en.pdf

¹³ <https://www.ices.dk/community/groups/Pages/ACOM.aspx>

The BSAC agrees that the data collection programme in its current form is very valuable and should continue to be an integral part of the CFP. At the same time, this can be further improved by including the knowledge of the fishers (commercial and recreational) from all areas around the Baltic Sea, because the conditions are not the same in the different areas.

Overall management principles and compliance with the Landing Obligation

The 2013 reform of the CFP entailed a transition from landing quotas combined with technical rules in order to reduce the amount of unaccounted fish (discards). The new policy is based on full catch accountability.

The landing obligation has been a major game changer. A distinction should be made between the obligation to account for all catches and to land all catches.

Full catch accountability is the tool which can ensure that fish stocks are actually managed by quantities of output. The Landing Obligation relates to making full use of marine resources.

The most obvious and critical issue related to the Landing Obligation is whether it is controlled and/or complied with. Neither is the case.

The failure to meet the objectives of the Landing Obligation should be considered in the context of the fisheries management set-up as a whole. The BSAC suggests that in order for the Landing Obligation to work better, two things are needed:

- focus on technical measures,
- improve fisheries monitoring and control.

The BSAC is of the opinion that in order for catch accountability to work, the fishers (commercial and recreational):

- should be given the freedom to choose the fishing gear that best matches their specific conditions. Within the matrix of quota availability, season and area there are literally endless combinations, and it makes little sense to restrict the fisher's attempt to avoid catches of unwanted species/sizes through rigid rules on mesh sizes, gear design and catch composition.

At present, none of these conditions is met. Given this, the current situation with regard to controlling the Landing Obligation is that Member States have a more relaxed position, and they have not established a more precise account of catches.

As long as management insists that freedom of operation cannot be granted to fishers until catch accountability works, while fishers are not prepared to assume responsibility unless the freedom is granted, and TAC/quotas reflect the actual situation experienced at sea, it seems very difficult to move forward. The BSAC therefore suggest that a middle way approach is attempted.

The BSAC suggests that the implementation of catch accountability is intensified and that the responsibility of Member States is activated, for example by establishing a catch account based on last-haul catch corrections. A correct catch account will incentivise Member States to contain discarding, and to use the opportunities in the Technical Measures Regulation Article 23¹⁴ to develop fishing methods. Article 23 contains provisions on pilot projects on full documentation of catches and discards. At the same time, fishers are allowed to experiment with the gear designs, as long as they maintain a mesh size of 120 mm. in the cod end. Mesh sizes less than this should only be used in fisheries with low catches of cod.

The BSAC agrees that the conditions needed for the fishers to observe the landing obligation must be in place, and that there are solutions available to improve implementation. These require further discussion, in particular on how to deal with the problem of choke species.

Control and implementation can be improved through a revision of the Control Regulation and the Technical Measures Framework, whereby gear changes and developments can be more swiftly implemented.

Maximum sustainable yield (MSY)

The objective of reaching MSY has posed more problems than anticipated, especially in the context of catch accountability in areas with mixed fisheries and in situations where there are stock fluctuations not caused by fishing, as in the Baltic Sea.

An increased number of fish stocks are now managed in accordance with MSY.¹⁵ It is not clear whether further improvements in meeting the MSY target can be obtained. The reason for this is lack of consistent biological advice, the European Council's policy to base TACs on the assumption that all catches are counted and landed, and lack of compliance with and control of the landing obligation.

In order to establish a robust MSY policy, the BSAC finds it necessary to ensure that:

- it is based on sound and timely advice that reflects overall stock abundance and composition when fishing takes place. This is not the case for several stocks in the Baltic.
- it has a decided effect on stock development. This is not the case for Baltic cod management. Recruitment to the Baltic cod stock is highly dependent on infrequent recruiting year classes. This indicates that MSY should be applied over a period of time. MSY is a sound principle, but applying it on a yearly basis is not suitable for the Baltic.
- the regulatory framework allows for fishermen to adapt to changing circumstances. This is not the case in the Baltic.
- TACs are sufficiently respected and accounted for. This is not the case in the Baltic.

¹⁴ http://www.bsac.dk/getattachment/BSAC-Resources/Documents-section/European-Parliament-and-Council/Techmeasures2019_1241ENG.pdf.aspx?lang=en-GB

¹⁵ <https://ec.europa.eu/transparency/regdoc/rep/1/2020/EN/COM-2020-248-F1-EN-MAIN-PART-1.PDF>

In order to improve the situation, the BSAC suggests that:

- Member States in the Baltic, in collaboration with ICES, improve the process/method of data surveys and sampling and data sharing and include recreational fisheries data;
- the commercial fisheries and recreational sectors are involved in this work;
- modelling of scientific advice takes into account and specifies hydrographic and environmental factors;
- the multiannual management plan for the Baltic is revised in order for it to be more adaptive;
- full catch accountability and the Landing Obligation are properly enforced.

In order to evaluate and assess MSY, the BSAC suggests:

- to assess the present way in which MSY is applied in general, given the Basic Regulation and the range options provided according to the Baltic MAP;
- to consider the need and form of text changes on MSY and F_{MSY} in the Basic Regulation, and propose new wording;
- to assess the specific situation in the Baltic. Take post-reform knowledge into consideration.

The BSAC agrees that the MSY principle needs to be better adapted to the current situation in the Baltic, including data on fishing mortality, and to provide more flexibility.

Decision making and regionalisation

Regionalisation plays an important role in securing influence by Member States and interest groups with a direct interest in the region. Regionalisation should be retained, and at the same time be optimised.

The experience with regionalisation so far can be grouped into:

- the institutional cooperation,
- the level of real influence and
- the areas of formal competence.

Regionalisation in the Baltic is split between cooperation by the respective Member States in BALTFISH, and the cooperation within the Baltic Sea Advisory Council. Member State cooperation may take various forms ranging from agreements on Joint Recommendations for Delegated Acts, to establishing common positions on Council issues. BALTFISH has a strong and direct influence on implementation of the CFP in the Baltic. The BSAC as an advisory body is not part of the formal decision-taking on CFP implementation.

BALTFISH and the BSAC have established a well-functioning dialogue on general Baltic management issues. However, in relation to the work on concrete actions, the BSAC agrees that there is a need for more coordination and more transparency by making meeting reports and other documentation available.

Through regionalisation, the BSAC wants to see a more coherent, transparent and effective management in the Baltic. This would enable a more adaptive fisheries management, with a faster decision-making process. The BSAC supports more management decisions being taken at regional level, even under the present legislative framework. The BSAC supports stronger cooperation with BALTFISH, assisted by ICES and HELCOM.

The BSAC suggests that:

- the BALTFISH Forum and the BALTFISH High Level Group, together with the BSAC discuss management issues, including TAC/quotas in a common forum, without prejudicing final positions on the issues raised.
- a format for an improved cooperation between BALTFISH, the BSAC, ICES and HELCOM is developed.

Some members propose the establishment of a regional Task Force, with a strong mandate, to help rebuild cod and western Baltic herring. According to its mandate, the Task Force could take fast and adaptive decisions on technical rules and come up with an effective long-term strategy. Scientists should be invited to come up with innovative solutions.

The BSAC is aware of the limitations of the current legal and institutional structure. To bring about true regionalisation would require a change to the current legislation.

Recreational fisheries

Marine recreational fishing is a growing sector that supports hundreds of thousands of jobs, in particular in rural and remote areas, and has positive benefits to physical and mental well-being. Recreational fishing can though have a significant impact on fish resources, especially where species are under conservation measures.

The BSAC agrees that the management of these fisheries should be compatible with the objectives of the CFP and that recreational fishing should, as an important part of the catching sector, be part of the CFP.

The BSAC suggests that recreational fishing be covered by and managed within Member State quotas for selected stocks where a significant portion of the catches is taken by recreational fishermen. The BSAC takes note that the Member States are not unanimous on this issue due to the foreseeable difficulties in quota allocation, and so suggests that more discussion is needed before including recreational catches in the quota system.

The BSAC believes it important to clearly define within the CFP the different recreational fishing sectors e.g., charter boats, marine recreational angling, marine recreational net-fishers (nets, pots, traps, etc.) and other users. This will give fisheries managers and member states the ability to address control and regulation to the correct sector within marine recreational fishing.

The BSAC takes note that the recreational fishermen are also affected by measures such as fishery closures. Members of angler organisations voluntarily support the recovery of several fish stocks including cod, salmon and eel in the Baltic. Therefore, in the view of the BSAC, recreational fishermen should also benefit from the EMFAF, for example in terms of reporting, environmental restoration, research and data gathering.

- The BSAC agrees that recreational fishing should be part of the CFP.
- Recreational fishing sectors shall be clearly defined within the CFP.
- EMFAF funding should be made available for certain aspects of recreational fishing.

Subsidies

The fishing industry is heavily regulated by prescriptive management at EU as well as at national level. At the same time, the availability of the resources is strongly influenced by other human activities. Given this, the BSAC suggests looking at the effect of subsidies in relation to:

- For the fishing industry to adapt to a rapidly changing ecosystem and rapidly changing legislation in the Baltic. There is a need for targeted subsidies supporting the industry through transition phases and that will allow existing businesses to adapt to new legislation or to transform towards new maritime activities.
- The fishing industry is interested in developing more selective fishing gear and in transitioning into greener fuel technology. The BSAC finds it important to initiate and target support towards the development of new fisheries, selective fishing gear, and in technology that drives development towards minimising CO₂ emissions from fisheries.
- The restoration and conservation of habitats, species, water quality and migration routes: the BSAC thinks that these deserve public funding.

The BSAC suggests further discussion on subsidies together with knowledgeable experts. These discussions must cover environmental goals, emergency measures, engines, capacity and selectivity.

The social dimension

The BSAC agrees that benefits in terms of jobs and social well-being are one of the key outcomes of a sustainably managed fishery. However, this is not a given thing, due to the fact that there are variations in fishing methods and opportunities. There needs to be a clear link between setting priorities, analysing and documenting the social and economic consequences of decisions taken. Ensuing costs are both economic and social, and these need to be clearly described, accounted for and included in management decisions. The transparent implementation of Article 17 of the Basic Regulation and funding from the European Maritime Fisheries and Aquaculture Fund (EMFAF) ¹⁶ can contribute to the social dimension of fisheries management. In this connection, the Producer Organisations also play an important role

Fisheries management impacts fish stocks and the greater ecosystem and vice versa, but management decisions also impact coastal communities and their resilience, especially in the Baltic this also includes recreational fisheries. A responsible and long-term approach to secure a better balance between the quest for MSY, with economic, environmental and social elements of fisheries management could be integrated in future Multi Annual Plans for the Baltic stocks / ecosystem.

Multiannual management plans should include economic and social considerations as part of the long-term objective of securing both environmental and local economic sustainability

¹⁶ https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2021.247.01.0001.01.ENG