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**COMMUNICATION FROM THE COMMISSION TO THE COUNCIL
AND THE EUROPEAN PARLIAMENT**

**Review of certain access restrictions in the Common Fisheries Policy (Shetland Box and
Plaice Box)**

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BACKGROUND

Article 19 of Council Regulation (EC) No 2371/2002¹ requires an assessment of the justification for restrictions on access to waters and resources outside of the 12 mile zone. According to Article 19, the Commission should have submitted its report to the Parliament and the Council by 31 December 2003 and proposals for any adjustments to those access restrictions should have been tabled by 31 December 2004.

The process was delayed for a number of reasons. One was that the work commitments of the scientists involved made it difficult to convene an expert working group of the Commission's Scientific, Technical and Economic Committee for Fisheries (STECF) to advise the Commission. The working group eventually met in February and May 2004. Another reason for the delay is that the Commission decided that there should be a wide consultation with the industry and with the Member States before forming an opinion on this important topic.

SCOPE OF THE REVIEW

The scope of such a review is potentially very large. Following discussions with the Member States in 2003, it was decided for practical reasons to limit this exercise to a consideration of access rules that aim to limit the fishing effort of certain categories of vessels. This excludes such measures as closed areas to protect juveniles, or areas where fisheries on certain species are prohibited (for example, the Norway pout box or areas where fishing for sandeel is prohibited). Also excluded are rules of access that have recently been revised under the western waters Regulation, such as those relating to the Irish Box. The scope of the review is therefore restricted to a consideration of the Shetland Box and the Plaice Box.

Shetland Box

The Shetland Box was introduced on July 31 1983 by Article 7 of Council Regulation (EEC) No 170/83², managed by a special licensing system for "species of special importance in the region ... which are biologically sensitive because of their exploitation characteristics". The licensing system restricts access to fish for demersal species (other than Norway pout and blue whiting) by vessels over 26m in length between perpendiculars. Only vessels from the UK, France, Germany and Belgium may fish in the Box, with the number of vessels fishing at any one time restricted to 62 UK, 52 French, 12 German and 2 Belgian. This allocation was based on the track records of fishing activity in this area, by Member State. Article 7 of Regulation 170/83 also contained a clause that would allow the licensing system to be extended to other classes of vessels if any increase in fishing effort was observed following the introduction of the box.

¹ Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy OJ L 358 , 31.12.2002 P. 59 - 80

² Council Regulation (EEC) No 170/83 of 25 January 1983 establishing a Community system for the conservation and management of fishery resources OJ L 024 , 27.01.1983 P. 1 - 13

The provisions of Article 7 of 170/83 were carried over largely unchanged as Article 7 in Regulation 3760/92³, except that the clause allowing for the extension of the licensing system to other classes of vessels was removed, and were once again carried forward as Article 18 of Regulation 2371/2002.

Plaice Box

The North Sea flatfish fisheries generate considerable numbers of discards, especially of plaice in coastal waters. In 1987, the ICES North Sea Flatfish Working Group advised that by closing a coastal area between 53°N and 57°N, the discard rate would decrease substantially.

Based on this advice, the Commission established in 1989 an area closed to beam trawlers of more than 300 horsepower (hp), or 221 kW, during the 2nd and 3rd quarter. This area has become known as the Plaice Box. In 1994 the closure was extended to the 4th quarter, and since 1995 the box has been closed to those vessels during the whole year.

The provisions concerning the Plaice Box are currently laid down in Article 29 of Council Regulation (EC) No 850/98⁴.

EVALUATION OF THE BOXES

The boxes were not set up with pre-established criteria to assess their effectiveness, nor with control areas against which to judge their effectiveness. It is therefore impossible to assess what the current situation would have been had they not been established. This made it difficult for the working group to give any definitive assessment of the impact of the boxes. The approach taken was therefore to look at trends in stock parameters before and during the existence of the boxes, and inside and outside the areas covered by the boxes. The main results are summarised below.

Shetland Box

There are five main commercially important demersal species exploited in the Shetland Box and surrounding area, namely haddock, cod, whiting, saithe and monkfish. There is a disproportionate abundance of mature haddock and whiting in the box compared to the surrounding areas, and also a disproportionate concentration of juvenile haddock and monkfish.

The working group could not demonstrate any positive effects of the box on the development of these stocks, which have generally declined in abundance since the box was introduced in 1983. Nor could the working group find clear evidence that the access restrictions were effective in limiting fishing effort. Most of the analysis was based on UK vessels, for which disaggregated fleet data were available. The activity of larger UK demersal fishing vessels in the Shetland Box declined in the late 1970s, before the introduction of the Shetland Box, and again immediately following its introduction, and has been maintained at relatively low levels since. There is some evidence of displacement of fishing effort into the area in the

³ Council Regulation (EEC) No 3760/92 of 20 December 1992 establishing a Community system for fisheries and aquaculture OJ L 389 , 31.12.1992 P. 1 - 14

⁴ Council Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms OJ L 125 , 27.04.1998 P. 1 - 36

immediate vicinity of the Shetland Box, but it is not possible to conclude that these changes occurred as a direct result of the Box. Moreover, the working group found no evidence of any frustrated demand to fish in the Box on the part of Member States eligible to fish under the licensing scheme, at least in recent years.

Between 1974 and 1995 there have been changes in the activity of other components of the UK fleet both inside and outside the Box. In particular, fishing effort by light trawlers has increased in the Box, such that total UK fishing effort (measured as days absent) in the Shetland Box has remained relatively constant since 1974. For these light trawlers, the annual landings per unit effort (LPUE) when fishing in the Shetland Box are consistently higher than when fishing outside the box.

The majority of these smaller vessels are Scottish, but this cannot be interpreted as a beneficial effect of the box for the local fleet for two reasons. One is that there is no evidence that the increase in effort by the smaller boats was facilitated by the reduction in effort of the larger boats; it seems that the increase would have happened in any case. Secondly, there are no particular access restrictions on the smaller vessels from other countries that have quotas on the same stocks, so the predominance of Scottish vessels seems to be purely for geographical reasons.

This does imply, however, that if the licensing system for vessels of greater than 26 metres in length were now to be relaxed, there could be an increase in their activities to their pre-Box levels, even though for the last few years there has been no frustrated demand for licences. The VMS data analysed by the working group show that there is much activity of these larger vessels on the shelf edge at the periphery of the Box, and in the absence of any access restriction they could divert their effort to the relatively rich fishing grounds around Shetland. Even if many of these vessels had no quotas for the key stocks, allowing them to fish freely for non-quota species could lead to the problem of by-catches and discards.

Plaice Box

The parameters that were examined to assess the effectiveness of the Plaice Box were landings and effort, discard rates, growth rates and spatial distribution of juveniles, and environmental parameters such as water temperature and productivity.

Fishing effort was significantly reduced in the Plaice Box following its closure to beam trawlers of more than 300 hp. When the Plaice Box was partially closed in 1989, the total effort (in hp days at sea) from the international otter and beam trawl fleet decreased to 69% of the pre-box level. After the complete closure, effort decreased further to 23% of the pre-Box level. However, the fishing activity by beam trawlers of less than 300 hp and by other fleets (otter trawls, shrimp fleet) has increased in the Plaice Box. And many of the vessels concerned may have an engine power that is significantly higher than the normal amount. The extent of this problem is difficult to estimate, because the engines can usually be very easily tuned or detuned to adjust the power rating.

The percentage of plaice discards (as a percentage of the numbers caught) in the beam trawl fishery increased from 77% between 1976 and 1990, to 93-96% in 2003. Percentages of plaice discarded outside the Box also increased, from 31% in 1976-1990 to 84% in 2003. Both in terms of numbers and in biomass, plaice discard percentages in the 80 mm beam trawl fishery are higher inside the Box than outside. One explanation could be that the growth rate in the area started to decrease around 1980. A similar trend has been observed for sole, and

may therefore reflect changes in growth conditions in the coastal waters of the south-eastern North Sea. The lower growth rate in the Plaice Box means that plaice are susceptible to discarding for a longer period. In the 100 mm fishery, discard percentages are lower inside the Box than outside, which may be partly explained by the smaller sizes that are caught and discarded inside the Box.

The working group found clear evidence that the spatial distribution of juvenile plaice has changed such that the importance of the Plaice Box for juvenile plaice has decreased. When the Plaice Box was established about 90% of all undersized plaice were found inside the Box but due to the changed spatial distribution this has recently decreased to less than 70%.

The change in spatial distribution was clearest in 1-group plaice, which seem to have moved to deeper areas further offshore. Although the change in spatial distribution of this group had started around 1997, it was most pronounced from 2000-2003. This percentage decreased most dramatically for Plaice of 15-20 cm, the sizes that are vulnerable to discarding. For this length class, the importance of the Box decreased rapidly from 1995.

One possibility is that the distribution has changed as a result of increasing seawater temperature, causing juvenile plaice to move out of the Box. Since the 1950s, water temperature in and around the Box has increased by 0.5-1°C, with the years 2000 - 2003 inclusive unusually warm, especially in winter.

While it is clear that the Plaice Box remains an important nursery area for juvenile plaice, it is less clear that the present arrangements are the most effective means of reducing juvenile mortality, especially given the partial nature of the closure and the very high level of discards inside the Box. The effort restrictions apply only to beam trawlers of more than 300 hp, while the effort of smaller beam trawlers and demersal trawlers has increased, therefore undermining the conservation benefits.

THE FUTURE OF THE SHETLAND AND PLAICE BOXES

Given the importance of the issue, the Commission decided that there should be a wide consultation of the fishing industry and the Member States before forming an opinion on the future of the boxes. A non-paper outlining the results of the expert working group was circulated as the basis for the consultation to all interested parties, including the North Sea Regional Advisory Council (NSRAC), in March 2005.

Results of the consultation

Comments on the non-paper were received from two Member States, namely the United Kingdom and Germany, and from the NSRAC.

Shetland Box

The United Kingdom was strongly in favour of the retention of the Shetland Box, considering that the report of the scientific working group demonstrated that it was an area of importance for haddock, whiting and monkfish. The United Kingdom considered that any changes to the Shetland Box should be subject to a quantitative evaluation of the likely effects before they are proposed. Germany considered that the Shetland Box should be retained for at least another three years until better data became available.

The NSRAC considered that the evaluation by the scientific working group of the conservation benefits of the Shetland Box was inconclusive, but that as an important zone for juvenile cod and haddock the area may justify additional protection.

The advice from the NSRAC was that the Shetland Box should be retained pending closer examination of its conservation benefits. The purpose of the box should be clearly set out and criteria for determining its success should be applied. If clear conservation benefits were demonstrated, the retention of the box should be considered for a further period.

Plaice Box

The United Kingdom had no firm position on the future of the plaice box, other than to note that any decision should be taken in the context of future flatfish management and after receiving the advice of the NSRAC. Germany was strongly in favour of retaining the box, possibly extending its coverage further west in order to protect the juvenile plaice that are now found in that area. Germany also advocates greater enforcement of the 300 hp (221 kW) limit on the power of beam trawlers operating within the plaice box, and an evaluation of the impact of twin trawling in the area.

The NSRAC noted that juvenile plaice were abundant in the area of the box, and that these should be protected. However, the NSRAC acknowledged that there was little evidence that the plaice box had been effective in enhancing recruitment. It was also acknowledged that one of the reasons for this may have been the failure to properly limit the engine power of beam trawlers having access to the plaice box.

The advice from the NSRAC is that the plaice box should be maintained, but modified on an experimental basis. To do this, the NSRAC suggests that the experimental studies should be designed with close co-operation between fisheries scientists, the fishing industry and conservation organisations, with the participation of the Commission and the Member States. However, the position of the German industry was that the current access regime should be maintained in the German EEZ even if other arrangements were introduced elsewhere on an experimental basis.

Position of the Commission

Shetland Box

Whereas in the case of the Plaice Box the conservation objective is clear, namely the protection of juvenile plaice, the conservation objectives of the Shetland Box are much more general. The scientific working group could not demonstrate any clear conservation benefit of the Shetland Box and the NSRAC has also failed to put forward convincing reasons why the area covered by the Shetland Box should be treated more favourably than other areas.

Nevertheless, the NSRAC recommended that the Shetland Box be continued while further evaluation of its effect is carried out. The United Kingdom and German authorities have also requested that the Shetland Box be maintained. The STECF also suggested that eliminating the Shetland Box might result in some increase of fishing effort in the area. Given this weight of opinion, the Commission considers that the Shetland Box should be maintained for a further period of three years, while further evaluations are undertaken. The STECF should be asked to recommend how such an evaluation could be done, and whether any changes to the

access regime in certain areas analogous to those being suggested for the plaice box could be considered.

Plaice Box

Although the NSRAC would like to modify the plaice box on an experimental basis, the consultations necessary to establish the objectives of the box, design the experimental studies to evaluate its effectiveness and then to implement the new measures would take considerable time. The early objection of the German fishing industry to any change in the access regime in their waters demonstrates the difficulty of the exercise that the NSRAC seeks to undertake.

The Commission is therefore of the view that the proposal to study the issue further should be accepted in principle, but that in the meantime the existing Plaice Box and associated access restrictions should be maintained. However, it is essential that those access restrictions are properly applied, notably by a strict control of engine power to ensure that it is consistent with licensed power. This would be coherent with the NSRAC advice on plaice management in general, where a regularisation of engine power to bring it into line with licensed power would contribute to the overall effort reduction required for a recovery plan.

The provisions concerning the Plaice Box are currently laid down in Article 29 of Regulation 850/98 (the “technical measures” regulation). Given that a consultation process has been launched with a view to replacing this Regulation with a new, simpler regulation, it would be an opportunity to propose revisions to the plaice box, which should be fully integrated with the plaice recovery plan, as part of the same exercise.