

Marine Stewardship Council (MSC) 1st Surveillance Audit Report

Principle 3

Joint demersal fisheries in the North Sea and adjacent waters

On behalf of

**Danmarks Fisheriforening Producent Organisation (DFPO),
Sveriges Fiskares Producent Organisation (SFPO),
Erzeugergemeinschaft-nordsee (EZG) and Coöperatieve Visserij
Organisatie (CVO)**

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QA

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Glossary

Acronym	Definition
CCTV	Closed-circuit Television
CFP	Common Fisheries Policy (EU)
CVO	Coöperatieve Visserij Organisatie
DFPO	Danmarks Fisheriforening Producent Organisation (Danish Fishermen's Producers' Organisation)
EEZ	Exclusive Economic Zone
EFCA	European Fisheries Control Agency
EMSA	European Maritime Safety Agency
EUROJUST	European Union Agency for Criminal Justice Cooperation
EUROPOL	European Union Agency for Law Enforcement Cooperation
EZG	Erzeugergemeinschaft Nordsee
Frontex	European Border and Coast Guard Agency
IUU	Illegal, Unreported and Unregulated (fishing)
JDP	Joint Deployment Plan (EFCA)
LO	Landing Obligation
MCS	monitoring, Control and Surveillance
NSAC	North Sea Advisory Council
PI	Performance Indicator (MSC)
REM	Remote Electronic Monitoring
SCIP	Specific Control and Inspection Programme (EFCA)
SI	scoring Issue (MSC)
SFPO	Sveriges Fiskares Producent Organisation (Swedish Fishermen's Producer Organisation)
SwAM	Swedish Agency for Marine and Water Management
TAC	Total Allowable Catch

1 Executive Summary

This report is one of four reports which detail the Year 1 surveillance audit of the Joint demersal fisheries in the North Sea and adjacent waters, on behalf of the Danmarks Fisheriforening Producent Organisation (DFPO), Sveriges Fiskares Producent Organisation (SFPO), Erzeugergemeinschaft-nordsee (EZG) and Coöperatieve Visserij Organisatie (CVO). The four reports are separated into one general background report and one report for each MSC Principle. This is the Principle 3 report.

The fishery was certified on 31 October 2019 and the certificate expires on 30 April 2025. This expiry date includes the six-month extension afforded to all MSC fisheries via the MSC Covid derogation of March 2020. The fishery audit was undertaken by remote audit as per the MSC derogation on remote audits from September 2020. The assessment team consisted of Hugh Jones (Team Leader), Chrissie Sieben (Principle 2), Lisa Borges (Principle 1), Julian Addison (Principle 1), Rob Blyth-Skyrme (Principle 2) and Geir Hønneland (Principle 3). The results of the surveillance audit are based on publicly available documents, interviews during the site visit held virtually during the period 22-31 March 2021 and email correspondence with the fishery clients and science management authorities in the UoA countries. There were no other stakeholder responses for this audit.

As a result of the release by MSC of [Derogation 6](#) - Covid-19 Fishery Conditions Extension, all Year 1 milestones associated with this fishery for management and information PIs were extended by 12 months to become the effective milestones in Year 2. Evidently all subsequent annual milestones were also extended by 12 months as are the condition deadlines. The details of these amendments, condition eligibility, extended condition deadlines and revised condition milestones can be found in the relevant Principle reports from this Year 1 audit.

The results of the surveillance audit are as follows for Principle 3:

At the international level there are updated rationales for Principle 3 to reflect the changes in the fishery resultant from the UK leaving the EU and the impact this has on fishery management structure. PI3.1.1 was rescored (without scoring change) as a result to reflect the new arrangements.

There is no substantial change in the national systems for each of the four jurisdictions but updates on new policies and regulations are included in the report.

The report includes updated enforcement and compliance for the UoAs for years since the certification of the fishery.

The PI 3.2.3 condition is deemed to be on target, once [Derogation 6](#) was applied there was no milestone to meet in Year 1. Notwithstanding this the CAB was shown evidence of the client efforts to develop their plan for meeting the condition and this evidence is provided within this report.

Following this audit CU UK recommend that all UoAs should maintain their MSC certification against Principle 3 of the standard.

2 Principle 3

2.1 Background

This report covers Principle 3 of the first surveillance audit of the Joint demersal fisheries in the North Sea and adjacent waters. Given the scale of the assessment, the three MSC principles were addressed in three separate reports in the original assessment, in addition to a general background report, and this practice is followed also for the first surveillance audit. Hence, details on the target stocks under assessment are found in the Principle 1 report and information on the ecosystem impacts of the fishery in the Principle 2 report.

The fisheries operate across four catch areas: ICES Divisions and Subareas 3aS (Kattegat), 3aN (Skagerrak), 4 (North Sea), and 7d (Eastern English Channel), and it is managed at three jurisdictional levels: the international, EU and national levels. The national management levels include Denmark, Germany, the Netherlands and Sweden, with the Danish Fishermen's Producers' Organisation (DFPO), Erzeugergemeinschaft Nordsee (EZG), Coöperatieve Visserij Organisatie (CVO) and the Swedish Fishermen's Producer Organisation (SFPO) as clients, respectively.

All flag states in the fishery are members of the EU and hence subject to the Common Fisheries Policy (CFP), which applies to all fishing activities in EU waters and to the activities of EU vessels operating outside EU marine jurisdiction. Up until 31 December 2020, the target stocks were managed either unilaterally by the EU or bilaterally between the EU and Norway. The UK leaving the EU on 31 December 2020 has posed particular challenges for the management of the fishery, which will be addressed below.

At the initial assessment, the robust management framework and its reliance on best available scientific advice were considered key strengths under Principle 3. At international, EU and national levels, there was an effective legal system with binding procedures in place, governing cooperation with other parties and incorporating effective and transparent mechanisms for the resolution of legal disputes. Likewise, consultation processes provided opportunities for all interested and affected parties to get involved at all three management levels. Fisher representatives and other stakeholders had short, direct lines to the authorities and actively engaged in consultation. Well-established decision-making processes and review mechanisms of the fishery-specific management system were in place, and the fisheries were managed on the basis of the precautionary approach, as prescribed by the CFP and national legislation.

The main weakness identified for the fishery in the initial assessment, was lacking implementation of the landing obligation (LO), which was introduced in connection with the 2013 reform of the CFP and made applicable to all EU vessels fishing for total allowable catch (TAC) regulated species in the Atlantic, as well as for species that have a minimum landing size in the Mediterranean, caught in EU waters or by EU fishing vessels. For stocks covered by the present assessment, the LO was implemented progressively from 2015 to 2019, as summarised in the Principle 1 report (Sieben et al., 2019). In the assessment of the monitoring, control and surveillance (MCS) systems of the fishery, it was concluded at the original assessment that the implementation of the LO posed a major challenge for the effective management of the fishery (Sieben et al., 2019). As noted by the assessment team, a precautionary scoring of the enforcement and compliance performance indicator (PI 3.2.3) was chosen, warranting scores below SG80 for three of the four scoring issues (SI 3.2.3a on MCS implementation, SI 3.2.3c on compliance and SI 3.2.3d on systematic non-compliance) of PI 3.2.3. Hence, a condition was raised for this performance indicator (PI).

2.2 Changes in management at the international level

Six North Sea stocks were up until 2021 managed within the context of the EU-Norway cooperation on fisheries management: cod, haddock, saithe, whiting, plaice and herring. Four of these stocks are Principle 1 in this fishery (haddock, saithe, whiting and plaice), whilst two are considered under Principle 2 (cod and herring). The management of these stocks was regulated through annual fisheries consultations between the EU and Norway, based on the framework agreement between the parties on fisheries cooperation from 1980 (in force 1981). The agreement provides the legal basis for the setting of TACs, transfers of fishing possibilities (the parties trade some quota shares and generally allow the other party to take their quota in their respective exclusive economic zones (EEZ)), joint technical measures and issues related to control and enforcement. The North Sea consultations were one among four annual rounds of negotiations where the EU and Norway regularly had the opportunity to agree on quota setting and other regulatory measures, as well as coming to agreement and resolving disputes more generally. The other three were negotiations on northern shrimp, on fisheries in Skagerrak and Kattegat, as well as the neighbouring agreement negotiations between Norway and the EU on behalf of Sweden.

When the UK left the EU on 31 January 2020, the situation changed radically for the well-established international management regime in the North Sea. To prepare for the new situation, the EU, Norway and the UK engaged in different types of bilateral and trilateral negotiations on future fisheries arrangements in the North Sea during 2020. On 30 September 2020, Norway and the UK concluded a framework agreement on fisheries, which prescribes an annual consultation on quota exchange and mutual access to fishing rights, as well as bilateral cooperation on fisheries management in general and compliance, control and enforcement in particular (UK NOR 2020). The agreement is, notably, a framework agreement and provides no details on quota setting (e.g. distribution keys) or mutual access to each other's EEZs.

The trilateral negotiations were more fruitful, at least as it appeared initially. On 16 March 2021, a trilateral agreement between the EU, Norway and the UK on the North Sea fisheries was signed, whereby Norway maintained its established shares of the jointly managed stocks and the rest was split between the EU and the UK according to the internal EU distribution scheme, based on the principle of relative stability (EU NOR UK 2021). The agreement states that it is without prejudice to possible future arrangements between the parties, and the parties agree to start negotiations on a trilateral framework agreement for the North Sea. This is also the shortcoming of the agreement; in practice, it is no more than an interim arrangement between the parties, awaiting further steps to agree on joint measures from 2022 onwards.

During April 2021, it became clear that the trilateral agreement was not necessarily sufficient to uphold the well-established international management regime in the North Sea even during 2021. Awaiting a trilateral agreement, UK authorities had already set provisional UK quotas at the beginning of the year, and on 14 April, it was announced that these were prolonged for the remainder of the year ([Secretary of State determination of fishing opportunities for British fishing boats \(publishing.service.gov.uk\)](#)). In practice, that meant that the UK would not necessarily respect the previously established distribution keys between the UK and (other) EU countries. Furthermore, on 30 April the Norwegian government announced that negotiations with the UK on mutual access and bilateral quota exchange had broken down (<https://www.regjeringen.no/no/aktuelt/norge-og-storbritannia-avslutter-fiskeriforhandlinger/id2846634/>). On 11 June 2021, however, the EU and the UK concluded a comprehensive agreement on mutual quota arrangements for 2021 which covers the North Sea stocks (EU UK 2020).

Hence, there is a trilateral agreement in place for 2021 which prolongs the former bilateral EU-Norway agreement and confirms the established distribution keys between Norway on the one hand and the EU/UK on the other. Then the bilateral agreement between the EU and the UK confirms the quota sharing between these two actors, but again only for 2021. There is still no agreement in place between Norway and the UK on mutual access, but the quota split is fixed in the trilateral agreement.

2.3 Changes in management at the EU/national level

During the surveillance period, no material changes in the fisheries management structure have been identified at EU level or in two of the participating countries of the certificate - Germany and Sweden. Developments regarding the landing obligation will be treated in the section on enforcement and compliance below.

In Denmark, the executive power in fisheries management was until 2017 the AgriFish Agency (Landbrugs- og Fiskeristyrelsen), subordinate to the Ministry of Environment and Food. At that time, the responsibility for fisheries management was transferred to the Ministry of Foreign Affairs and a Fisheries Agency (Fiskeristyrelsen) established, under the purview of a Minister of Fisheries, Equal Opportunities and Nordic Cooperation. In 2019, the Ministry of Environment and Food was divided into a Ministry of Environment and a Ministry of Food, Agriculture of Fisheries. The Fisheries Agency was transferred from the Ministry of Foreign Affairs to the latter.

In the Netherlands, one development worth mentioning is the 'Noordzeeakkoord' (North Sea Agreement), which represents an attempt by the primary national users of the marine space (e.g. fisheries and renewable energy installation operators) and governing institutions to develop a future coexistence strategy including concrete steps in terms of maritime spatial planning, research, and financial assistance for specific substantial changes following from the strategy. A financial compensation programme for a restructuring and reduction of the fishing fleet has been announced. This development is ongoing.

The general updated laws and regulations for the flag states in the fishery can be found here:

Denmark

<https://www.retsinformation.dk/eli/lta/2019/261>

<https://www.retsinformation.dk/eli/lta/2020/2087>

<https://www.retsinformation.dk/Forms/R0710.aspx?id=196709>

The Netherlands

<https://wetten.overheid.nl/BWBR0037552/2020-01-01>

<https://wetten.overheid.nl/BWBR0002416/2019-01-01>

<https://wetten.overheid.nl/BWBR0030288/2020-04-01>

Germany

https://www.ble.de/SharedDocs/Downloads/DE/Fischerei/Fischereimanagement/Infos-Anlandeeverpflichtung-Nordsee.pdf?__blob=publicationFile&v=2

https://www.ble.de/SharedDocs/Downloads/DE/Fischerei/Fischereimanagement/ErsteBekanntmachung2021_291220.pdf?__blob=publicationFile&v=2

https://www.ble.de/SharedDocs/Downloads/DE/Fischerei/Fischereimanagement/200814_Bekanntmachung-Kabeljau.pdf?__blob=publicationFile&v=2

https://www.ble.de/SharedDocs/Downloads/DE/Fischerei/Fischereimanagement/Vierte_Bekanntmachung02-10-2020.pdf?__blob=publicationFile&v=2

https://www.ble.de/SharedDocs/Downloads/DE/Fischerei/Fischereimanagement/20200605_Dritte-Bekanntmachung.pdf?__blob=publicationFile&v=4

https://www.ble.de/SharedDocs/Downloads/DE/Fischerei/Fischereimanagement/2_Bekanntmachung_2020.pdf?__blob=publicationFile&v=2

https://www.ble.de/SharedDocs/Downloads/DE/Fischerei/Fischereimanagement/1_Bekanntmachung_konsolidierte_Fassung.pdf?__blob=publicationFile&v=2

Sweden

<https://www.havochvatten.se/fiske-och-handel/regler-och-lagar.html>

<https://www.havochvatten.se/fiske-och-handel/regler-och-lagar/arter-regler-for-fiske-och-rapportering.html>

<https://www.havochvatten.se/fiske-och-handel/regler-och-lagar/fiskerikontroll-och-fisketillsyn.html>

<https://www.havochvatten.se/fiske-och-handel/regler-och-lagar/landingskyldighet.html>

<https://www.havochvatten.se/fiske-och-handel/regler-och-lagar/fiskelagstiftning.html>

2.4 Enforcement and compliance

Monitoring, control and surveillance (MCS) in the fishery is conducted by the EU member states through their national enforcement bodies. The European Fisheries Control Agency (EFCA), established in 2005, coordinates the EU member states' fisheries control and inspection activities and provides assistance in the application of the CFP. EFCA coordinates the implementation of the Specific Control and Inspection Programme (SCIP). In order to meet the objective of a uniform and effective application of conservation and control measures in the North Sea SCIP area, the EFCA provides, in collaboration with the member states concerned, an organisational framework for operational coordination of control activities in this area, known as a joint deployment plan (JDP). The North Sea JDP has been in operation since 2007, with the participation of Belgium, Denmark, France, Germany, Ireland, the Netherlands, Sweden and the UK. In addition, the EU has adopted the EU Regulation to prevent, deter and eliminate illegal, unreported and unregulated fishing (IUU) (Council Regulation (EC) No 1005/2008), which entered into force on 1 January 2010. Each member state shall take appropriate measures, in accordance with Community law, to ensure the effectiveness of that system.

The last available annual report for the EFCA is from 2019 (EFCA 2019). During that year, EFCA supported the member states and the Commission in implementing the CFP control regime through coordinating JDPs, developing projects related to assessment of compliance with the landing obligation, and planning the development of new technologies, such as Remote Electronic Monitoring (REM). The European Cooperation on Coast Guard functions, formalised by a tripartite working arrangement with the European Maritime Safety Agency (EMSA) and the European Border and Coast Guard Agency (Frontex), enhanced EFCA's capacity to contribute to an effective and uniform implementation of the CFP. During 2019, the agency extended operational cooperation with the European Union Agency for Law Enforcement Cooperation (EUROPOL) and the European Union Agency for Criminal Justice Cooperation (EUROJUST) in the framework of the European Multidisciplinary Platform against Criminal Threats, which includes illegal fishing activities.

EFCA has recently used the framework of the JDPs to enhance the standardisation of inspections, in particular, last haul observation procedures during inspection at sea in all EU JDP areas. The publication of specific technical guidelines is another important step in EFCA’s work for standardisation. Particularly, in 2019 EFCA finalised and published guidelines on REM and, in collaboration with member states, on risk assessment and compliance indicators.

As can be seen in Figure 1, the number of JDP inspections rose steadily during the period 2014–2019, and the increase was due mainly to a rise in land-based inspections. The number of land-based inspections is far higher than the number of sea-based inspections, and the gap continues to grow, nearly quadrupling during the five-year period. In absolute figures, the number of sea-based inspections lay steady during the period and showed a slight increase only from 2018 to 2019. This trend is interesting in light of the challenges with implementing the landing obligation: it is, in particular, an increased number of at-sea inspections needed to enforce the discard ban, but this is not followed up in practice. The difference in the number of suspected infringements was, however, reduced from 2018 to 2019.

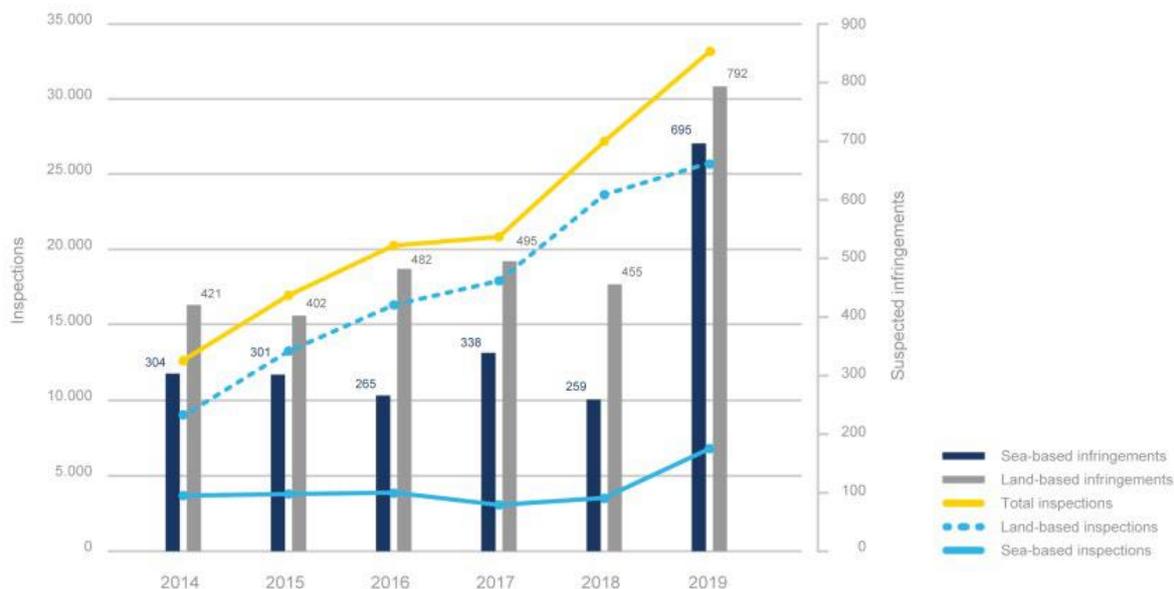
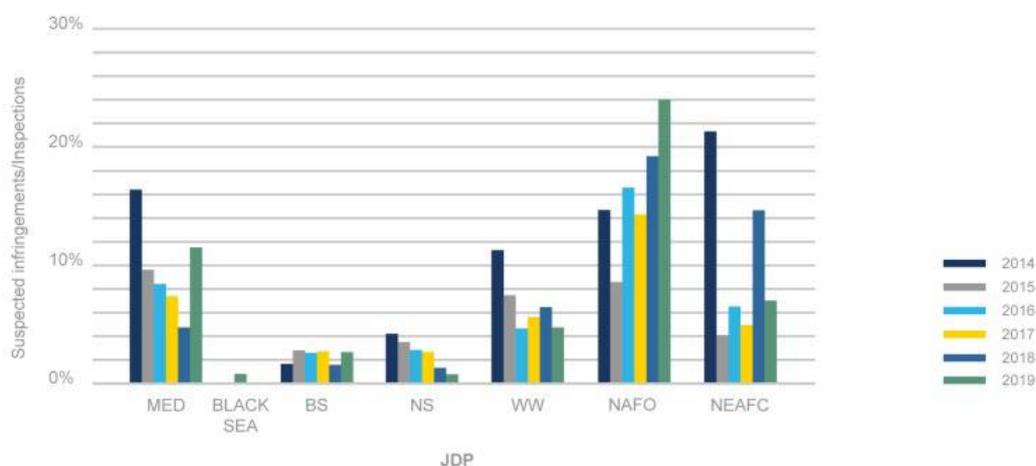


Figure 1. JDP inspections 2014–2019 (source: EFCA Annual Report 2019).

Table 1. JDP inspections and suspected infringements 2018–2019 (source: EFCA Annual Report 2019)

JDPs	Inspections		Inspections with at least one suspected infringement	
	2018	2019*	2018	2019*
NORTH SEA	14 439	13 656	185	112
BALTIC SEA	4 162	4 286	65	111
NAFO & NEAFC	60	67	6	6
WESTERN WATERS	2 699	2 901	164	129
MEDITERRANEAN SEA	5 562	9 327	214	787
BLACK SEA		2 144		21
TOTAL	26 922	32 381	634	1 166

As follows from Table 1, the North Sea is the JDP area with the highest number of inspections by far. More than half the inspections in 2018, and nearly half of them in 2019, took place in the North Sea. The share of inspections with at least one suspected infringement was extremely low: 1.2 % in 2018 and 0.8 % in 2019. Figure 2 shows the ratio of suspected infringements by inspection in the North Sea dropped steadily from 2014 to 2019, and the ratio is small compared to the other JDP areas except the Baltic Sea (and the Black Sea, for which there is little data). Finally, Figure 3 reflects that mis-recording and non-compliance with technical measures are the most common infringements in the North Sea as elsewhere, but nearly all instances of suspected non-compliance with the landing obligation are found in the North Sea. More detailed overviews of inspections, suspected infringements and risk scenarios are found in the EFCA 2019 Annual Report.


Figure 2. Ratio of suspected infringements by inspection in the different JDP areas 2014–2019 (source: EFCA Annual Report 2019)

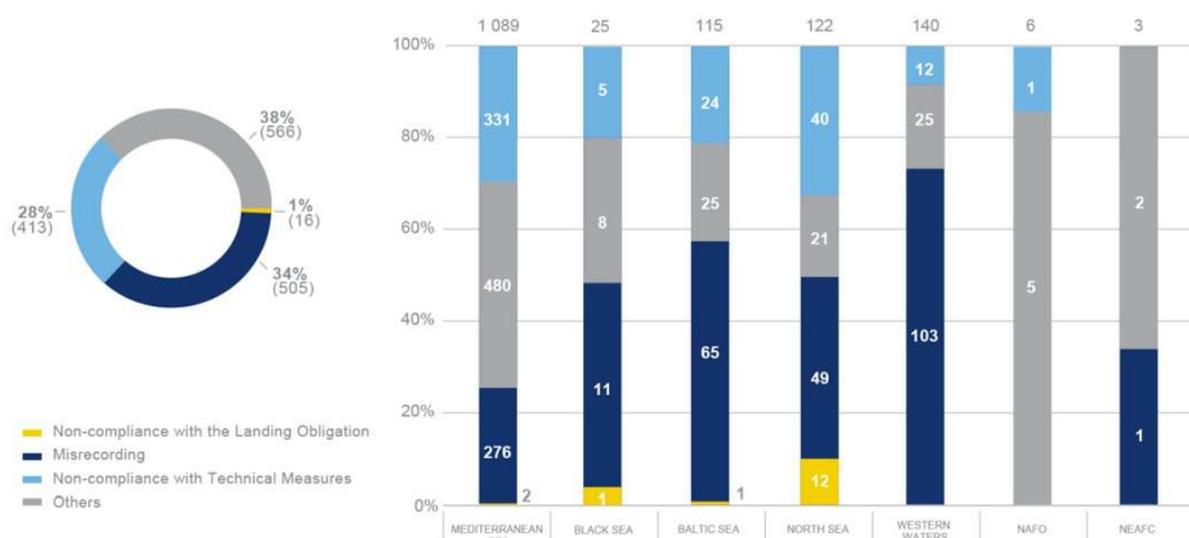


Figure 3. Suspected infringements by type and by JDP area 2014–2019 (source: EFCA Annual Report 2019).

The EFCA Control Expert Group for the North Sea, the Scheveningen Group, has previously made thorough estimates of discards or non-compliance with the landing obligation in the North Sea fisheries. An updated assessment was published in August 2019. As follows from Figure 4, compliance with the discard ban is estimated to be low in the big trawl fisheries for cod, plaice and common sole. The assessment team has not been provided with any information to the effect that this situation has changed.

Increased compliance is a priority for both EFCA and national enforcement agencies, as reflected in public documents, at interviews during the site visit and in email correspondence with the assessment team. The efforts to enhance compliance with the landing obligation take different forms. First, new regulations and strategies are introduced, and existing ones continuously revised and refined; for instance, tri-annual discard plans are produced under the CFP. As an example of a new strategy, the European Commission is open to the approach with exemptions and research projects in order to find sustainable ways of implementing the landing obligation. The landing obligation is also high on the agenda of the North Sea Advisory Council (NSAC).

Second, physical monitoring at sea is given increased priority. For instance, last haul inspections are a stated priority for the enforcement authorities across the UoA countries (see, for instance, the annual report of the Danish Fisheries Agency on fisheries control in 2019, pp. 9-10.). Another priority for new developments is REM and CCTV initiatives. In early 2021, the Swedish Agency for Marine and Water Management initiated a REM pilot project that will run until 31 March 2024. The pilot's aim is to assess the extent that REM systems can be used in fisheries control, to ensure compliance with the landing obligation and improve data collection. The segments participating in the pilot project are otter trawls targeting *Nephrops* and demersal fish in the North Sea, otter trawls/seines shrimp in the North Sea and pelagic trawls in the North Sea and the Baltic. Another example from the client group is the Danish fishery client, which is engaged in developing a camera monitoring project in the Kattegat fisheries. The Dutch client is involved in discard registration using cameras, addressing both the development of a manual review protocol and machine vision capabilities for automatic detection, enumeration, and length measurements (possibly even volume measurement, and from that a weight estimate).

Third, management authorities engage in various forms of information, guidance and consultation with the fishing industry to increase awareness of the landing obligation, and assist in conducting

fishing activities in compliance with the obligation (See, for instance, guidance issued by the Danish Fisheries Agency in January 2021; *Vejledning til landingspligten for demersalt fiskeri i Nordsøen, Skagerrak og Kattegat*). The Danish fishery client (DFPO) has engaged a person in a full-time position to work on different initiatives related to implementing the landing obligation, including consulting with fishers. As mentioned above, in 2019 EFCA finalised and published guidelines on REM and, in collaboration with member states, on risk assessment and compliance indicators.

Segment code	Area	COD			PLE		SOL	
		2017	2016	2017	2016	2017	2016	2017
NS01 Otter trawls/Seines ≥ 100 mm	2a	-	-	-				
	4a		✗	-				✗
	4b	✗	✗	✗				✗
	4c		-	-				
NS02 Otter trawls/Seines, ≥ 70 and < 100 mm	4a						✗	✗
	4b						✗	✗
	4c						✗	✗
NS03 Otter trawls/Seines, ≥ 32 and < 70 mm	3a						✗	
NS04 Otter trawls/Seines, ≥ 90 mm	3a				✓	!		
NS05 Otter trawls/Seines, ≥ 70 and < 90 mm	3a							
NS06 Beam trawls, ≥ 120 mm	3a							
	4a	✓	✓	✓				
	4b							
NS07 Beam trawls ≥ 80 and < 120 mm	4b				!	!	!	
	4c						✗	
NS08 Gillnets ≥ 120 mm	3a						!	
NS9 Gillnets ≥ 90 and < 120 mm	4a	✓			✓			
	4b							
NS10 Gillnets < 90 mm	4c							
NS11 Trammel nets	3a							
	4a	✓			✓			
	4b							
	4c							
NS12 Longlines	3a							
	4a	✓						
	4b							
	4c							

Compliance benchmarking criteria

Compliance Level	Estimates of illegal discards	Benchmark Icon
High	< 5%	✓
Medium	≥ 5% and < 15%	!
Low	≥ 15%	✗

Figure 4/ Estimated compliance with the LO in North Sea fisheries for cod, plaice and common sole (source: Scheveningen Group, 2019)

Getting specific information about compliance in fisheries is increasingly challenging not least due to strengthened requirements for personal information protection in European countries. The Danish Fisheries Agency previously published infringement statistics in its annual reports, but now only includes data for inspections, not for their outcome. Approached by the assessment team, Dutch and German authorities confirmed that infringement information is confidential and referred to EFCA

statistics. The Swedish client provided the assessment team with a list of inspections of its vessels (both land- and sea-based) during the period 2017–2019, including all their fisheries, not only the North Sea demersal ones. In 2017, there were 333 inspections and 25 infringements (7.5 % of inspections), in 2018 372 inspections and 12 infringements (3.2 %), and in 2019 355 inspections and 12 infringements (3.4 %). The vast majority of the infringements were minor and related to reporting requirements. While the Dutch and German enforcement agencies have not provided any quantitative information, the Danish Fisheries Agency, in its annual report, at least publishes data on inspections, if not on infringements. The total number of inspections in port was 2,727 in 2017, 2,759 in 2018 and 2,406 in 2019, while the number of inspections at sea was 547 in 2017, 551 in 2018 and 483 in 2019. 44 %, 36 % and 46 % of at-sea inspections were in the cod fishery. The number of last haul controls in the North Sea, Skagerrak and Kattegat was 73, 94 and 96 for the three years respectively. Finally, part of the UoA fishery takes place in the Norwegian EEZ. The Norwegian Coast Guard previously provided detailed information on inspections and infringements in different types of fisheries and areas, but now only makes aggregated figures publicly available. In waters under Norwegian jurisdiction, the Coast Guard carried out 1,139 inspections in 2019, of which 52 inspections (4.6 %) resulted in a fine or prosecution. In 2020, 1,155 inspections were carried out, and 49 inspections (4.2 %) resulted in fine or prosecution. All inspections by the Norwegian Coast Guard are last haul inspections.

Based on the above, the following conclusions can be drawn:

- There is intensive inspection activity going on in the UoA flag states, to a large extent under the auspices of the EFCA JDPs. However, the ratio of sea-based inspections is low compared to land-based inspections, and the gap has increased considerably over the last few years. During exactly the same period as the landing obligation was rolled out, the number of land-based inspections in the North Sea JDP area nearly quadrupled, while no increase is seen for at-sea inspections. Likewise, the number of last haul inspections is still very low, despite that being a priority. The exception is in Norwegian waters, where the average number of last haul inspections over the last two years was more than ten times higher than the average in Danish waters, for instance.
- There is limited quantitative information available about compliance rates in the fishery, and such statistics should in any event be treated with care. Low infringement levels can reflect either real compliance or inability of inspectors to reveal infringements – likewise, high infringement rates can mean that compliance is low compared to other fisheries, or that enforcement agencies are more effective in detecting infringements. That said, the data we have indicate an overall high level of compliance in the North Sea fisheries, with average infringement rates over the last few years at 4.7 % in the Swedish fishery and 4.6 % in waters under Norwegian jurisdiction. With the number of inspections over the last two years averaging above 14,000, the infringement rate in the North Sea JDP inspections was just 1 %. These figures may be indicative of an imperfect situation, but arguably not at all critical either when it comes to compliance at large.
- Compliance with the landing obligation in the North Sea fisheries has previously been estimated to be low, and the assessment team has not come across any information to suggest the situation has improved. Increased compliance with the landing obligation is, however, highly prioritised by both EFCA and national enforcement authorities.
- The efforts to enhance compliance with the landing obligation take different forms. First, new regulations and strategies are introduced, and existing ones revised and updated; for instance, tri-annual discard plans are produced under the CFP. Second, physical monitoring at sea, including last haul inspections, REM and CCTV initiatives, is given increased priority, and several development projects are underway. Third, management authorities engage in



various forms of information, guidance and consultation with the fishing industry to increase awareness and the legitimacy of the landing obligation and assist fishers in conducting fishing activities in compliance with the obligation.

3 Results

3.1 Principle 3 – scores all client and gears

The final principal scores are provided in the table below. All UoAs received the same scores.

Table 2. Final Principle Scores

Principle	Score
Principle 3 – Management System	87.9

Table 3. Performance Indicators

Principle	Component	Wt	Performance Indicator (PI)	Wt	Score	
Three	Governance and policy	0.5	3.1.1	Legal &/or customary framework	0.33	95
			3.1.2	Consultation, roles & responsibilities	0.33	100
			3.1.3	Long term objectives	0.33	100
	Fishery specific management system	0.5	3.2.1	Fishery specific objectives	0.25	80
			3.2.2	Decision making processes	0.25	85
			3.2.3	Compliance & enforcement	0.25	65
			3.2.4	Monitoring & management performance evaluation	0.25	80

3.2 Summary of conditions for Principle 3

Table 4. Summary of conditions

Condition number	Condition	PI	Status	PI original score	PI revised score
P3 -1	Evidence should be provided that the MCS-system has demonstrated an ability to enforce relevant management measures, strategies and rules, key among which is the Landing Obligation (LO). It should also be evident that fishers comply with the management system under assessment, by providing information of importance to the effective management of the fishery and compliance with the LO, thereby demonstrating that systematic non-compliance does not occur.	3.2.3	On target	65	Not revised

3.1 Rescoring Performance Indicators

The following section shows the rescored rationale for all Performance Indicators resultant from this year 1 surveillance audit. The old rationale presented in the PCR are shown as strikethrough text where they are no longer relevant. Where the information at the PCR is still relevant this is shown in black and the new information add at this surveillance underlined.

Evaluation Table for PI 3.1.1 – Legal and/or customary framework

PI 3.1.1	The management system exists within an appropriate legal and/or customary framework which ensures that it: <ul style="list-style-type: none"> • Is capable of delivering sustainability in the UoA(s); and • Observes the legal rights created explicitly or established by custom of people dependent on fishing for food or livelihood; and • Incorporates an appropriate dispute resolution framework. 		
Scoring Issue	SG 60	SG 80	SG 100
a	Compatibility of laws or standards with effective management		
Guidepost	There is an effective national legal system and a framework for cooperation with other parties, where necessary, to deliver management outcomes consistent with MSC Principles 1 and 2	There is an effective national legal system and organised and effective cooperation with other parties, where necessary, to deliver management outcomes consistent with MSC Principles 1 and 2.	There is an effective national legal system and binding procedures governing cooperation with other parties which delivers management outcomes consistent with MSC Principles 1 and 2.
Met?	Y	Y	¥ N
Justification	<p>Management of the fishery is primarily conducted under the EC Common Fisheries Policy (CFP) (EC, 2013; EC, 2015) (EU, 2013; EC, 2015) but also under national (or in the case of Germany, federal and state) legislation. The management system also has an international component in that cod, haddock, saithe, whiting and plaice are defined as joint stocks between the EU and Norway. Management of joint stocks in the North Sea is regulated through a framework agreement on fisheries cooperation between Norway and the EU from 1980 (in force 1981).</p> <p>Six North Sea stocks are defined as joint stocks by the EU and Norway: cod, haddock, saithe, whiting, plaice and herring. Management of these stocks is regulated through a framework agreement on fisheries cooperation between the EU and Norway from 1980 (in force 1981). The agreement provides the legal basis for the setting of TACs, transfers of fishing possibilities, joint technical measures and issues related to control and enforcement. The TACs for the jointly managed North Sea stocks are agreed in annual negotiations between the EU and Norway and split according to fixed distribution formulas, which for cod, e.g., is 83 % to the EU and 17 % to Norway. The EU quota shares are then divided among member states according to the principle of relative stability. The fishery is managed within the context of EU's Common Fisheries Policy (CFP), whose provisions</p>		

are transposed into national fisheries legislation in the member states. CFP applies to all fishing activities in EU waters, including the exclusive economic zone (EEZ), and to the activities of EU vessels outside EU's marine jurisdiction.

Six North Sea stocks were up until 2021 managed within the context of the EU-Norway cooperation on fisheries management: cod, haddock, saithe, whiting, plaice and herring. Four of these stocks are Principle 1 in this fishery (haddock, saithe, whiting and plaice), whilst two are considered under Principle 2 (cod and herring). The management of these stocks was regulated through annual fisheries consultations between the EU and Norway, based on the framework agreement between the parties on fisheries cooperation from 1980 (in force 1981). The agreement provides the legal basis for the setting of TACs, transfers of fishing possibilities (the parties trade some quota shares and generally allow the other party to take their quota in their respective exclusive economic zones (EEZ)), joint technical measures and issues related to control and enforcement. The North Sea consultations were one among four annual rounds of negotiations where the EU and Norway regularly had the opportunity to agree on quota setting and other regulatory measures, as well as coming to agreement and resolving disputes more generally. The other three were negotiations on northern shrimp, on fisheries in Skagerrak and Kattegat, as well as the neighbouring agreement negotiations between Norway and the EU on behalf of Sweden.

When the UK left the EU on 31 December 2021, the situation changed radically for the well-established international management regime in the North Sea. To prepare for the new situation, the EU, Norway and the UK engaged in different types of bilateral and trilateral negotiations on future fisheries arrangements in the North Sea during 2020. On 30 September 2020, Norway and the UK concluded a framework agreement on fisheries, which prescribes an annual consultation on quota exchange and mutual access to fishing rights, as well as bilateral cooperation on fisheries management in general and compliance, control and enforcement in particular (UK NOR 2020). The agreement is, notably, a framework agreement and provides no details on quota setting (e.g. distribution keys) or mutual access to each other's EEZs.

The trilateral negotiations were more fruitful, at least as it appeared initially. On 16 March 2021, a trilateral agreement between the EU, Norway and the UK on the North Sea fisheries was signed, whereby Norway maintained its established shares of the jointly managed stocks and the rest was split between the EU and the UK according to the internal EU distribution scheme, based on the principle of relative stability (EU NOR UK 2021). The agreement states that it is without prejudice to possible future arrangements between the parties, and the parties agree to start negotiations on a trilateral framework agreement for the North Sea. This is also the shortcoming of the agreement; in practice, it is no more than an interim arrangement between the parties, awaiting further steps to agree on joint measures from 2022 onwards.

During April 2021, it became clear that the trilateral agreement was not necessarily sufficient to uphold the well-established international management regime in the North Sea even during 2021. Awaiting a trilateral agreement, UK authorities had already set provisional UK quotas at the beginning of the year, and on 14 April, it was announced that these were prolonged for the remainder of the year ([Secretary of State determination of fishing opportunities for British fishing boats \(publishing.service.gov.uk\)](#)). In practice, that meant that the UK would not necessarily respect the previously established distribution keys between the UK and (other) EU countries. Furthermore, on 30 April the Norwegian government announced that negotiations with the UK on mutual access and bilateral quota exchange had broken down (<https://www.regjeringen.no/no/aktuelt/norge-og-storbritannia-avslutter-fiskeriforhandler/id2846634/>). On 11 June 2021, however, the EU and the UK concluded a comprehensive agreement on mutual quota arrangements for 2021 which covers the North Sea stocks (EU UK 2021).

Hence, there is a trilateral agreement in place for 2021 which prolongs the former bilateral EU-Norway agreement and confirms the established distribution keys between Norway on the one hand and the EU/UK on the other. Then the bilateral agreement between the EU and the UK confirms

the quota sharing between these two actors, but again only for 2021. There is still no agreement in place between Norway and the UK on mutual access, but the quota split is fixed in the trilateral agreement.

Germany: The 1984 Seefischereigesetz (Law on the regulation of sea fishing and the implementation of the European Union fishing legislation, short form: Sea Fisheries Act), last revised in 2016, and the implementing Regulation (Seefischereiverordnung/Sea Fisheries Regulation) regulate the fishery in the German EEZ. In addition, there are state laws regulating the fishery in the territorial waters (12 nm), namely the 1996 Fischereigesetz für das Land Schleswig-Holstein (Schleswig-Holstein Fisheries Act) and the 1978 Niedersächsisches Fischereigesetz (Lower Saxony Fisheries Act) and the relevant implementing regulations. Sea fisheries in Germany are administered and managed by the Federal Government and the states (Länder). Responsible for the application of the Laws is the Bundesministerium für Ernährung und Landwirtschaft (BMEL, Federal Ministry of Food and Agriculture). The first 3 nautical miles of the territorial waters fall under the exclusive authority of the coastal federal states (Niedersachsen and Schleswig-Holstein), each having its own Fisheries Act. The zone between 3nm and 12 nautical miles is jointly managed by federal and State Ministries.

Based on the Sea Fisheries Act, German quotas are distributed between the POs based on historical rights. POs distribute their quota among their member vessels. While quotas can be transferred between members of a PO, they cannot be directly swapped between POs or with another country. Such transfers have to be channelled through BLE (Bundesanstalt für Landwirtschaft und Ernährung).

The Thünen Institute of Sea Fisheries (TISF), based in Hamburg, is in charge of fisheries research (marine living resources, marine ecosystems, operational observation systems, marine spatial management and economic analyses)

The Netherlands: EU directives and legislation are implemented through the Dutch Fisheries Act 1963 (Visserijwet 1963) (Visserijwet, 1963). The Act defines e.g. the types of gear, technical measures, areas of management (like coastal fisheries, fisheries outside the 12 mile-zone), and species that can be caught commercially. Each year, the Ministry of Agriculture, Nature and Food Quality (LNV) issues an overview of (changes in) the regulations that apply. At an overarching level, the General Administrative Law Act (Algemene Wet bestuursrecht), gives procedural regulations, and provisions on how the Government interacts with its civilians. It describes e.g. how licenses can be obtained, and how stakeholders can object to certain decisions made by the Government (like the granting of certain licenses).

The Ministry of LNV is predominantly involved in fisheries management, and has several departments dealing with e.g. fisheries policy, licensing, and landing control. Control of landings at the auctions, as well as food safety monitoring and regulation is undertaken by the NVWA (The Netherlands food and consumer product safety authority), which is an independent agency within the Ministry of LNV. Control at sea is the remit of the Coast Guard (Kustwacht). Fisheries scientific research is conducted by Wageningen Marine Research (WMR), part of Wageningen University.

Based on the Fisheries Act, Dutch quotas are distributed between the POs based on historical rights. POs distribute their quota among their member vessels. Each member vessel has an Individual Transferable Quota (ITQ), which can be swapped or traded with Dutch vessels, if those vessels are members of the same PO. In any case, the PO will run interference, to keep track of the quota.

Denmark: Denmark has a well-established system for fisheries management, now codified in the 2014 Fisheries and Aquaculture Act (shortform: Fisheries Act) (revised 2017). The Act provides a comprehensive legal framework for fisheries management at the national level in Denmark and the interrelationship between Danish national law, EU law and international agreements. It contains provisions for, *inter alia*, consultative bodies, fishing

rights, closed areas, fishing gear and licencing. Regulations are specified in the annually updated Notification ('Bekendtgørelse') on Regulation of Fisheries in 2014–2020, which in addition to general provisions contains specific regulations for different stocks and ocean areas.

The executive power in Danish fisheries management was until August 2017 the AgriFish Agency (Landbrugs- og Fiskeristyrelsen), subordinate to the Ministry of Environment and Food. At that time, the responsibility for fisheries management was transferred to the Ministry of Foreign Affairs and a Fisheries Agency (Fiskeristyrelsen) established, under the purview of a Minister of Fisheries, Equal Opportunities and Nordic Cooperation (i.e. not under the Minister of Foreign Affairs). The Office of the Fisheries Control (Fiskerikontrollkontoret) is an integral part of the Fisheries Agency, is responsible for fisheries enforcement at sea and in port. (See SI 3.2.3a below for details on the enforcement system). Fisheries scientific research is conducted by DTU Aqua – the National Institute of Aquatic Resources, under the Technical University of Denmark (DTU; in Danish: Danmarks Tekniske Universitet).

Sweden: The Swedish system for fisheries management is codified in the 1993 Fisheries Act (last revised 2016) and secondary legislation. The Act applies to fisheries within Swedish territorial waters, the Swedish EEZ and Swedish fisheries beyond the economic zone. It contains provisions on, *inter alia*, the right to fish, licencing, enforcement, penal and administrative sanctions. Importantly, § 19 determines that the Government can issue regulations that ban or limit catch, the use of specific gear and fishing grounds. The main regulatory measures are specified in the 1994 Regulation on Fisheries, Water Use and the Fishing Industry (last revised 2016), while the specific rules for the different water basins are found in regulation packages that are updated on a running basis. For instance, an overarching regulation for fisheries in Skagerrak, Kattegatt and the Baltic Sea was introduced in 2004 and last updated in 2017.

The executive power in Swedish fisheries management is the Swedish Agency for Marine and Water Management (SwAM – in Swedish: Havs- og vattenmyndigheten, HAV), located in Gothenburg and formally subordinate to the Ministry of Energy and Environment. SwAM has a Department for Fisheries, which has sections for fisheries policy, licencing, landing control and a Fisheries Monitoring Centre (FMC). Control at sea is the remit of the Coast Guard (Kustbevakningen), which is subordinate to the Ministry of Justice.(see SI 3.2.3 a) below for details on the enforcement system.). Fisheries scientific research is conducted by the Swedish University of Agricultural Sciences (in Swedish: Sveriges lantbruksuniversitet, SLU), through its Department of Aquatic Resources, which is contracted by SwAM to provide advice on both a regular and an ad hoc basis. SwAM cooperates tightly with the Environmental Protection Agency, the Swedish Board of Agriculture and the county boards along the coast. The county boards have no direct role in fisheries management, but they have been delegated a facilitating role in issues related to marine protected areas, which might have implications for fisheries.

All countries above are signatories to the most important legislative and policy documents at global level, notably the 1982 UN Law of the Sea Convention, the 1995 FAO Code of Conduct for Responsible Fisheries and the 1995 UN Fish Stocks Agreement.

Scoring

Hence, there is an effective national legal system and a framework for cooperation between states to deliver management outcomes consistent with MSC Principles 1 and 2; cf. SA4.3.2.3, which states that such cooperation shall at least deliver the intent of the UN Fish Stocks Agreement (UNSA) Article 10 relating to the collection and sharing of scientific data, the scientific assessment of stock status, and development of scientific advice, which in the fisheries under assessment takes place within ICES. **SG 60 is met.** With the agreed bilateral agreements on mutual access and quota sharing between the UK and the EU, and the UK and Norway, it can be concluded that the cooperation between the parties is organised and effective;

		<p>cf. SA4.3.3.2, according to which the cooperation shall deliver the intent of UNFSA Article 10 paragraphs relating to, <i>inter alia</i>, the agreement and delivery of management actions consistent with sustainable management advice. SG80 is met.</p> <p>At present without a binding trilateral framework there are binding procedures which govern cooperation between all parties, and SG100 is not met.</p>		
b	Resolution of disputes			
	Guided post	The management system incorporates or is subject by law to a mechanism for the resolution of legal disputes arising within the system.	The management system incorporates or is subject by law to a transparent mechanism for the resolution of legal disputes which is considered to be effective in dealing with most issues and that is appropriate to the context of the UoA.	The management system incorporates or is subject by law to a transparent mechanism for the resolution of legal disputes that is appropriate to the context of the fishery and has been tested and proven to be effective.
	Met?	Y	Y	N
	Justification	<p>At European and national levels in The Netherlands, Denmark, Sweden, and Germany there is an effective, transparent dispute resolution mechanism in place (see PCR), ensuring that management measures can be enforced in EC and national waters. Fishers can take their case to court if they do not accept the rationale behind an infringement accusation by enforcement authorities or the fees levied against them. Verdicts at the lower court levels can be appealed to higher levels.</p> <p>There are instances that management authorities have lost cases against fishermen and accepted the verdict, which is a clear demonstration that the system works. Most issues are, however, resolved before they reach the court system, e.g. in discussions between authorities and actors in the fishing industry (NL, Germany and Sweden), and in the so-called 'paragraph 6 committee' (Denmark); see SI 3.1.2b below. There is good evidence available of the action of the Courts and authorities within Europe to address transgressions, which demonstrates that the system has been tested and proven to be effective, SG100 is met for the national and EU components of the management system.</p> <p>At the international level, the EU–Norway Agreement prescribes consultations between the parties in the case of dispute (Art. 8). After more than nearly 40 years of actual dispute resolution in the running EU–Norway negotiations without any major problems, this has shown to be fully transparent in minutes from the meetings and reports to the public and press. <u>With the UK leaving the EU on 31 December 2020 and the subsequent Trilateral and bilateral UK-EU and EU-Norway negotiations, this dispute resolution mechanism appears to continue to be working.</u> There are other mechanisms in place at the global level also. <u>Provided the parties give their consent, disputes can be brought in for settlement at the International Court of Justice (ICJ) or the International Tribunal for the Law of the Sea (ITLOS) in accordance with Part XV of the Law of the Sea Convention (LOSC), or to arbitration under Annex VII of the LOSC.</u></p> <p>Hence, mechanisms are available for the resolution of legal disputes at both international and national level. SG60 is met. Based on the above, we can conclude that at EU and national level, there are effective and binding procedures in place within the management system, and that there is a transparent mechanism for the resolution of legal disputes. Both at EU, national and international (EU-Norway) level, this system has proven to be</p>		

		effective in dealing with most issues. SG80 is met. However, since at an EU-Norway level disputes are managed through consultations, the system has never been tested (e.g. through court-cases). SG100 is therefore not met.		
c	Respect for rights			
	Guidepost	The management system has a mechanism to generally respect the legal rights created explicitly or established by custom of people dependent on fishing for food or livelihood in a manner consistent with the objectives of MSC Principles 1 and 2.	The management system has a mechanism to observe the legal rights created explicitly or established by custom of people dependent on fishing for food or livelihood in a manner consistent with the objectives of MSC Principles 1 and 2.	The management system has a mechanism to formally commit to the legal rights created explicitly or established by custom of people dependent on fishing for food and livelihood in a manner consistent with the objectives of MSC Principles 1 and 2.
	Met?	Y	Y	Y
	Justification	<p>The EU management system contains formal commitments to the legal rights of people dependent on fishing for food and livelihood by ensuring that fishing opportunities are based upon historic fishing activities. The EC CFP states that: <i>“In view of the precarious economic state of the fishing industry and the dependence of certain coastal communities on fishing, it is necessary to ensure the relative stability of fishing activities by allocating fishing opportunities among Member States, based on a predictable share of the stocks for each Member State”</i>. In addition, the North Sea Advisory Council provides a formal mechanism for engaging people dependent on fishing (and also environmental stakeholders) in the management system (see NSAC website).</p> <p>Through the established system for quota distribution at EU and national levels, the management system observes the legal rights of people dependent on fishing for livelihood in a manner that is consistent with the objectives of MSC principles 1 and 2. Quota shares are established on the basis of historical rights, and in some cases there are separate coastal quotas that ensure that coastal fishers are able to live off their traditional small-scale fishery, as well as a share set aside for young fishermen.</p> <p>In Germany the existing quota allocation system considers historic rights both on European and German levels and thus guarantees a fair distribution of fishing rights. Recreational fisheries are generally unregulated in marine waters, the only exception is fishing for cod in the Baltic Sea. Nevertheless, there are a variety of laws that must be observed by the recreational fishery. These include the coastal fisheries regulations of the individual coastal states (Lower Saxony, Schleswig-Holstein and Mecklenburg-Vorpommern).</p> <p>Based on Council Regulation 2017/1970 fixing the fishing opportunities for 2018 in the Baltic Sea, only five specimens per fishermen per day can be fished, but from 1st February till 31st March, only three can be fished (closed season).</p> <p>In <u>the Netherlands</u> the existing quota allocation system also considers historic rights, both on European and Dutch levels. Furthermore, there are several forms of recreational/ traditional fisheries, mostly with pole and line on species like mackerel, and bass, some with static nets from the beach (mostly on the Wadden Islands). This kind of fishing is intended for personal use. These catches are not taken into account in determining the quota. The recreational fishermen are organised through ‘Sportvisserij Nederland’, which represents the interests of this group e.g. in national discussions about nature conservation and fisheries.</p>		

	<p>In <u>Denmark</u> a small share of the quota is withheld each year (e.g. 45 % of cod in the North Sea and 55 % in Skagerrak and Kattegat) and placed in a Fisheries Fund, which is used, among other things, for quotas to people under 40 years of age who want to establish themselves as professional fishers. Within the quotas set aside for the Fisheries Fund, a fixed share shall be used for this purpose, e.g. 20 % of cod in the North Sea, Skagerrak and Kattegat. Similarly, 22.4 % of cod in the North Sea, 30.8 % in Skagerrak and 47.7 % for Kattegat is set aside as additional quotas to fishers licensed under the coastal fisheries arrangement. Recreational fishery is allowed and regulated by the Notification on Recreational Fisheries.</p> <p>In <u>Sweden</u> there are also separate coastal quotas that ensure that coastal fishers are able to live off their traditional small-scale fishery. Recreational fishery is allowed, and regulations for the individual sea areas and freshwater basins can be found on the interactive website svenskafiskeriregler.se, operated by the Swedish counties.</p> <p>In all cases, the mechanisms to secure the legal rights of people dependent on fishing are formally committed to since they are codified in national legislation. SG60 to SG100 are met.</p>
References	<p><u>General:</u> EC, 2013; EC, 2015b; FAO, 1993; FAO, 1995a; FAO, 1995b; NSAC website; UN, 1982; (EU UK 2021), (EU-NOR-UK 2021), UK-Nor 2021) Agreed Records of Fisheries Consultations between Norway and the European Union for 2018, 1 December 2017. Agreement on Fisheries between the European Economic Community and the Kingdom of Norway, signed 27 February 1980, in force 16 June 1981.</p> <p><u>Germany:</u> Germany, 1978a; Germany, 1978b; Germany, 1984; Germany 1989; Germany, 1996; Germany, 2008</p> <p><u>Netherlands:</u> Fisheries Law 1963 (Visserijwet 1963): http://wetten.overheid.nl/BWBR0002416/2015-01-01 General Administrative Law Act (Algemene Wet bestuursrecht): http://wetten.overheid.nl/BWBR0005537/2017-09-01 Sportvisserij Nederland: https://www.sportvisserijnederland.nl/ Ministry LNV: https://www.rijksoverheid.nl/onderwerpen/visserij/documenten/brochures/2017/12/01/informatiebulletin-december-2017</p> <p><u>Denmark:</u> Bekendtgørelse af lov om fiskeri og fiskeopdræt (fiskeriloven) [Notification of the Act on Fisheries and Aquaculture (Fisheries Act)], LOV nr. 568 af 21/05/2014, Folketinget (Parliament), last revised 2017. Bekendtgørelse om regulering af fiskeriet I 2014–2020 [Notification on Regulation of Fisheries in 2014–2020], BEK nr 212 af 01/03/2017, AgriFish, last updated 2017. Fiskeriområdet skifter ressort, og der etableres en selvstændig fiskeristyreelse [Change in Responsibility in the Fisheries Sector and Establishment of an Independent Fisheries Agency], press release, Prime Minister’s Office, 7 August 2017. Interviews with representatives of AgriFish during the site visit. Statsministeriets forestilling om ændring i forretningernes fordeling mellem ministrene [The Prime Minister’s Office’s Conception on Changes in the Distribution of Responsibilities between Ministers], Royal Decree of 7 August 2017.</p>

	<p>Websites of the Ministry of Environment and Food (www.mfvm.dk) and the Ministry of Foreign Affairs (www.um.dk).</p> <p>Sweden:</p> <p>Fiskelag (1993:787) [Fisheries Act], Svensk författningssamling 1993:787 t.o.m. SFS 2016:824, last updated 2016.</p> <p>Fiskeriverkets föreskrifter (FIFS 2004:36) om fiske i Skagerrak, Kattegatt och Östersjön [The Fisheries Directorate's Regulations on Fisheries in Skagerrak, Kattegatt and the Baltic Sea], Havs- och vattenmyndighetens författningssamling, last updated 2017.</p> <p>Förordning (1994:1716) om fisket, vattenbruket och fiskerinäringen [Regulation on Fisheries, Water Use and the Fishing Industry], Svensk författningssamling 1994:1716, t.o.m. SFS 2016:826, last updated 2017.</p> <p>Regleringsbrev för budgetåret 2017 avseende Havs- och vattenmyndigheten [Regulatory Letter for the Budget Year 2017 pertaining to the Agency for Marine and Water Management], Ministry of Energy and Environment, 20 December 2017.</p> <p>Interviews during the site visit.</p>
OVERALL PERFORMANCE INDICATOR SCORE:	95-90
CONDITION NUMBER (if relevant):	

3.1 Conditions

3.1.1 Progress against Conditions

Following the MSC derogation 6 ([here](#)) all management and Information performance Indicators (All Principle 3 PIs) with existing conditions receive 12 months extension to their milestones and deadlines. Annual milestones and the deadline for the conditions need adjustment accordingly. In respect to this fishery, all existing conditions below now show the amended timelines and deadlines based on the derogation (e.g. they have been adjusted forwards by 12 months). For a number of existing conditions, the derogation 6 extends deadlines beyond the current certificate period and thus the CAB followed the MSC interpretation on Derogation 6 in adjusting Year 4 deadlines to Year 1 of reassessments.

Table 5. Condition PI 3.2.3 – Landing Obligation

UoA	All UoAs
Performance Indicator	3.2.3
Score	65
Justification	<p><u>Scoring issue 3.2.3a (SG80) A monitoring, control and surveillance system has been implemented in the fishery and has demonstrated an ability to enforce relevant management measures, strategies and/or rules.</u></p> <p>Evaluation Table for PI 3.2.3 – Compliance and enforcement for the full rationale. An extract is provided below:</p> <p>A monitoring, control and surveillance system has been implemented in the fishery. However, it cannot be concluded that the system has demonstrated an ability to enforce relevant management measures, strategies, and rules. With the introduction of the LO, it can no longer be concluded that the enforcement system is sufficiently comprehensive for the context of the fishery. The implementation of the LO poses a major challenge to the control authorities of the member states. The team therefore concludes that SG80 is not met. Given that monitoring, control and surveillance systems exist, that they are implemented in the fishery and there is a reasonable expectation that they are effective, the team has agreed on SG60.</p> <p>Scoring issue 3.2.3c (SG80). Some evidence exists to demonstrate fishers comply with the management system under assessment, including, when required, providing information of importance to the effective management of the fishery.</p> <p>The fishery has in place a system for monitoring, control and surveillance, including physical checks of fishing operations, catch and gear, as well as a sanctioning system. While the enforcement system as a whole is considered to be somewhat comprehensive, the prioritization of landing control comes at the expense of at-sea inspections. Not only is the number of at-sea inspections considerably lower than the number of landing controls; anecdotal evidence from the site visit also suggests that the at-sea inspections are less thorough. Specifically, with regards to the implementation of the Landing Obligation there is concern about ongoing non-compliance, although the assessment team could find no evidence that this is indeed the case. Taking</p>

	<p>into account the management system’s inability to effectively monitor this measure, the team considered that the evidence base available is currently too weak for SG80 to be met. Therefore the team concludes that only SG60 is met.</p> <p>Scoring issue 3.2.3d (SG80) There is no evidence of systematic non-compliance.</p> <p>The intent behind the phrase ‘no evidence of systematic non-compliance’ is that there is simultaneously adequate evidence to assess the compliance of the fishery and no evidence of infringements that occur regularly (MSC interpretations log).</p> <p>Although the team would like to point out that the issues with the Landing Obligation to date are indicate a high or very high risk of widespread systemic non-compliance with the LO, there is no concrete evidence so far that there is in fact widespread systemic non-compliance with the LO. However, given a precautionary outlook, we have concluded that this guidepost is not met.</p>
Condition	Evidence should be provided that the MCS-system has demonstrated an ability to enforce relevant management measures, strategies and rules, key among which is the Landing Obligation (LO). It should also be evident that fishers comply with the management system under assessment, by providing information of importance to the effective management of the fishery and compliance with the LO, thereby demonstrating that systematic non-compliance does not occur.
Condition Start	PCR
Condition Deadline	Year 1 of reassessment
Milestones	<p>Year 2: Each client group must present a detailed plan to:</p> <ol style="list-style-type: none"> 1) Demonstrate that the monitoring, control and surveillance mechanisms work together to enforce relevant management measures, strategies and/or rules, key amongst which is the LO; 2) Provide evidence that the relevant management measures, strategies and/or rules (key amongst which is the LO) are complied with, or if necessary, that compliance with will be improved within the certification period. As an indication of the extent of the (non-) compliance with the LO the plan could, for example, include consideration of one or more of the following, as well as other methods as considered appropriate by the clients: <ul style="list-style-type: none"> - reported discards in logbooks versus landed bycatch, - independently observed catches and reported catches (through e.g. observer programmes, or remote electronic monitoring), - last-haul analysis and reported catches (landing data), - present reported discards under the exemptions (<i>de minimis</i>) <p>Though the plan will likely be developed in collaboration with national authorities, it does not need to rely on the national authorities for implementation. The clients should nevertheless detail how they will engage with their respective authorities on implementation and improvement of the monitoring, control and surveillance mechanisms pertaining to the LO. (Score: 65)</p>

	<p>Year 2: Each client group has implemented the plan and analysed the data for a meaningful segment of the fleet collected, demonstrating both compliance and the MCS system’s ability to enforce measures, strategies and/or rules (key amongst which is the LO). Each client will provide evidence from national authorities of monitoring, control and surveillance mechanisms, particularly with a focus on the implementation of the LO, and provide evidence of discussions on approaches to implementation and improvement of the MCS mechanisms pertaining to the LO (Score: 70).</p> <p>Year 3: Each client group has implemented the plan for a significant portion of the fleet and analysed the data collected. Each client will provide evidence from national authorities of monitoring, control and surveillance mechanisms, particularly with a focus on the implementation of the LO, and provide evidence of discussions on approaches to on implementation and improvement of the MCS mechanisms pertaining to the LO. Where compliance has been deemed inadequate previously, the fleet has shown improved compliance with the LO. (Score: 75).</p> <p>Year 4: At the fourth surveillance audit, each client group has implemented the plan fully and is judged to be compliant with the requirements of the LO, based on implementation of the plan and evidence from national authorities of monitoring, control and surveillance mechanisms. (Score: 80).</p>	
Progress on Condition	<p>The progress made by the fishery client to address conditions shall be detailed, along with any observations from the assessment team. The CAB may include progress summaries from previous surveillance audits.</p>	
	<p>Year 1</p>	<p>As per the MSC derogation 6 (here) there is now no milestone for this Year 1 audit, therefore progress must be considered on target (or better) regardless of actual developments.</p> <p>According to the milestones set for year 1, the client group must present a plan to i) [show how the plan] will demonstrate that the MCS mechanisms work together to enforce relevant regulations, including the LO; and ii) provide evidence that regulations including the LO ‘are complied with’, or that ‘compliance will be improved within the certification period’. Hence, at year 1 it is not expected that the MCS mechanisms actually work yet to enforce the LO, or that the obligation is actually complied with. There must be a plan in place to ensure that the MCS system will work better in the future and that compliance with the LO will increase. The assessment team acknowledges that the word ‘plan’ is not necessarily meant to refer to a single document but can also comprise a set of documents and/or planned or implemented measures and strategies. The efforts to enhance compliance with the LO currently take different forms in the fishery. First, new regulations are introduced, and existing regulations revised and updated; for instance, tri-annual discard plans are produced under the CFP. Second, physical monitoring at sea is given increased priority by the EFCA and national enforcement agencies in all the flag states of the UoA fishery. This includes last haul inspections as well as REM and CCTV initiatives. Third, management authorities engage in various forms of information, guidance and consultation with the fishing industry to increase awareness and the legitimacy of the landing obligation and assist fishers in conducting fishing activities in compliance with the obligation. Finally, it is also noted that DFPO has engaged a former enforcement officer in a full-time position to work on different initiatives related to the implementation of the landing obligation, including consulting with fishers. Further details on all the above points are discussed in Section 2.4. In the opinion of the assessment team, these measures and strategies together are a step forward towards the requirement of having in place a plan for improved enforcement performance and enhanced compliance with regard to the LO.</p>
	<p>Year 2</p>	<p>N/A</p>
	<p>Year 3</p>	<p>N/A</p>
<p>Year 4</p>	<p>N/A</p>	

Progress Status	As per the MSC derogation 6 (here) there is no milestone for this Year 1 audit and therefore the first milestone is in Year 2, notwithstanding this the evidence presented to the team at this audit suggest that the (new) year 2 milestone is met and therefore this condition is ahead of target. The new remaining milestones on this condition remain relevant.
Remedial Action	N/A
Additional information	<p>In accordance with MSC Derogation 6 – Covid-19 Fishery Conditions Extension, the condition is on target for year 1 by default. It should be noted that the condition would have been on target also absent the derogation.</p> <p>Amended milestones:</p> <p>Year 2 4: Each client group must present a detailed plan to:</p> <ol style="list-style-type: none"> 1) Demonstrate that the monitoring, control and surveillance mechanisms work together to enforce relevant management measures, strategies and/or rules, key amongst which is the LO; 2) Provide evidence that the relevant management measures, strategies and/or rules (key amongst which is the LO) are complied with, or if necessary, that compliance with will be improved within the certification period. As an indication of the extent of the (non-) compliance with the LO the plan could, for example, include consideration of one or more of the following, as well as other methods as considered appropriate by the clients: <ul style="list-style-type: none"> - reported discards in logbooks versus landed bycatch, - independently observed catches and reported catches (through e.g. observer programmes, or remote electronic monitoring), - last-haul analysis and reported catches (landing data), - present reported discards under the exemptions (de minimis) <p>Though the plan will likely be developed in collaboration with national authorities, it does not need to rely on the national authorities for implementation. The clients should nevertheless detail how they will engage with their respective authorities on implementation and improvement of the monitoring, control and surveillance mechanisms pertaining to the LO. (Score: 70)</p> <p>Year 3 2: Each client group has implemented the plan and analysed the data for a meaningful segment of the fleet collected, demonstrating both compliance and the MCS system’s ability to enforce measures, strategies and/or rules (key amongst which is the LO). Each client will provide evidence from national authorities of monitoring, control and surveillance mechanisms, particularly with a focus on the implementation of the LO, and provide evidence of discussions on approaches to implementation and improvement of the MCS mechanisms pertaining to the LO (Score: 75).</p> <p>Year 4 3: Each client group has implemented the plan for a significant portion of the fleet and analysed the data collected. Each client will provide evidence from national authorities of monitoring, control and surveillance mechanisms, particularly with a focus on the implementation of the LO, and provide evidence of discussions on approaches to on implementation and improvement of the MCS mechanisms pertaining to the LO. Where compliance has been deemed inadequate previously, the fleet has shown improved compliance with the LO. (Score: 75).</p>

	Year 1 reassessment-4: At the fourth surveillance audit, each client group has implemented the plan fully and is judged to be compliant with the requirements of the LO, based on implementation of the plan and evidence from national authorities of monitoring, control and surveillance mechanisms. (Score: 80).
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