

**Marine Stewardship Council (MSC)
Public Certification Report – Principle 3**

**Joint demersal fisheries in the North Sea and adjacent
waters**

**On behalf of The Danish Fishermen's Producers'
Organisation (DFPO), The Swedish Fisherman's Producer
Organisation (SFPO), The Erzeugergemeinschaft-nordsee
(EZG) and Coöperatieve Visserij Organisatie (CVO)**

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Glossary

Term/acronym	Definition
AC	Advisory Council
ACOM	ICES Advisory Committee
AIS	Automatic Identification System
BMEL	Bundesministerium für Ernährung und Landwirtschaft / Federal Ministry of Food and Agriculture
BLE	Bundesanstalt für Landwirtschaft und Ernährung / Federal Office for Agriculture and Food
CCTV	Closed-Circuit Television
CFP	Common Fisheries Policy
CVO	Coöperatieve Visserij Organisatie
DCF	Data Collection Framework
DFPO	Danish Fishermen Producer Organisation
DTUAqua	Danmarks Tekniske Universitet (Technical University of Denmark)
EC	European Commission
ECA	European Court of Auditors
EEZ	Exclusive Economic Zone
EFCA	European Fisheries Control Agency
ETP species	Endangered, Threatened or Protected species
EU	European Union
EZG	Erzeugergemeinschaft der Nord- und Ostseefischer / Producer Organisation of Fishermen from North Sea and Baltic Sea
EZ	Ministry of Economic Affairs: Ministerie Economische Zaken
FAO	Food and Agriculture Organisation of the United Nations
FMC	Fisheries Monitoring Centre
JDP	Joint Deployment Plan
ICES	International Commission for the Exploration of the Sea
ICJ	International Court of Justice
I&M	Ministry of Infrastructure and Environment: Ministerie Infrastructuur en Milieu
IMO	International Maritime Organisation
ITLOS	International Tribunal for the Law of the Sea
ITQ	Individual Transferable Quota
JDF	Joint demersal fisheries in the North Sea and adjacent waters

Term/acronym	Definition
JRC	Joint Research Centre
LNv	Ministry of Agriculture, Nature and Food Quality (Dutch: Ministerie van Landbouw, Natuur en Voedselkwaliteit)
LoA	Length overall
LO	Landing Obligation
MCS	Monitoring, control and surveillance
MFD	Marine Framework Directive
MSZ	Maritimes Sicherheitszentrum / Maritime Safety and Security Centre
NAFO	North Atlantic Fisheries Organisation
NCA	National Competent Authority
NEAFC	North East Atlantic Fisheries Commission
NGO	Non Governmental Organisation
NSAC	North Sea Advisory Council
NWWAC	North Western Waters Advisory Council
PCA	Permanent Court of Arbitration
PO	Producer Organisation
SCIP	Specific Control and Inspection Programme
SFPO	Swedish Fishermen Producer Organisation
SLU	Swedish University of Agricultural Sciences (in Swedish: Sveriges Lantbruksuniversitet)
SOLAS	Safety of Life at Sea
STECF	Scientific Technical and Economic Committee for Fisheries
SWAM	Swedish Agency for Marine and Water Management
TAC	Total Allowable Catch
TISF	Thünen Institute of Sea Fisheries
UN	United Nations
VMS	Vessel Monitoring System
WFD	Water Framework Directive
WMR	Wageningen Marine Research

1 Executive summary

This report covers the MSC full assessment of the Joint demersal fisheries in the North Sea and adjacent waters. Given the scale of the assessment, the evaluation has been split into four reports; a general background section and a separate report for each Principle. This report focuses on Principle 3, describing the fisheries management framework and the specific assessment outcomes for this Principle. Further details on the assessment team, the assessment process, traceability and the overall outcome of the assessment are given in the Background Report (3135R06-1A). Details on the stocks under assessment, and the assessment of ecosystem impacts are presented in the Principle 1 (3135R06-2A) and Principle 2 (3135R06-3A) reports respectively.

The fishery under assessment is managed at three levels: the international, EU and national levels.

The fisheries operate across four catch areas: ICES Divisions and Subareas 3aS (Kattegat), 3aN (Skagerrak), 4 (North Sea), and 7d (Eastern English Channel). A total of 13 demersal species, corresponding to 20 stocks were proposed for this assessment, all of which are managed within the context of European Union's (EU) Common Fisheries Policy (CFP), of which the provisions are transposed into the relevant national legal system. The CFP applies to all fishing activities in EU waters, and to the activities of EU vessels operating outside the EU's marine jurisdiction. The stocks under assessment are all shared between EU Member States and in some cases between the EU and Norway. Owing to the make-up of the Client Group, this assessment considers four national levels: Denmark (DFPO), Sweden (SFPO), The Netherlands (CVO) and Germany (EZG).

Apart from the CFP, other EU Directives influence the management of fisheries, often at a national level. The Water Framework Directive and the Marine Strategy Framework Directive outline the need for better water quality, prescribing the need to achieve 'good environmental status' whilst following the precautionary approach. The implementation of the Habitat- and Bird Directives through the Natura 2000 network also provides long-term objectives that guide decision making.

The robust management framework, and its reliance on best available scientific advice, was considered a key strength in the Principle 3 assessment of this fishery. At both international, EU and national level, there is an effective legal system with binding procedures governing cooperation with other parties, incorporating effective and transparent mechanisms for the resolution of legal disputes. The EU management system involves governments, fisheries industry, scientists, NGOs and other stakeholders in a consultative process. The roles of all parties in all areas of responsibility are defined in the legislation at EU and national level. The consultation processes provide opportunity for all interested and affected parties to be involved at both national and international level. Stakeholders and fisheries representatives both have short, direct lines to the authorities, and actively engage in consultation.

The main weakness for this fishery stems from the implementation of the Landing Obligation (LO). The 2013 reform of the Common Fisheries Policy (CFP) introduced a LO for all EU fishing vessels for TAC-regulated species in the Atlantic and to species that have a minimum landing size in the Mediterranean Sea, caught in European waters or by European fishing

vessels. For the stocks under assessment, the LO has been implemented progressively from 2015 to full status in 2019 as summarised in the Principle 1 report (3135R06-2A). The implementation of and compliance with the LO were considered in detail in this report and a precautionary approach was taken in the scoring of the compliance and enforcement performance indicator (PI 3.2.3). The implementation of the LO poses a major challenge to the control authorities of the member states and the assessment team concluded that the monitoring, control and surveillance system can no longer be considered sufficiently comprehensive for the context of the fishery. A condition was therefore raised under PI 3.2.3, as follows. No other conditions were raised under Principle 3.

Condition	Performance Indicator
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

Although UoA level differences were taken into account in the scoring, all UoAs provisionally received an aggregate Principle 3 score of 87.9.

No recommendations were made by the assessment team.

2 Introduction

2.1 Assessment scope

The MSC assessment for the joint demersal fisheries in the North Sea and adjacent waters covers 13 species, corresponding to 20 separate stocks, 10 gear types, four catch areas and four client groups. As each UoA would be a combination of these separate elements, the overall UoAs would be too complex to include in this report. Therefore, the assessment scope has been broken down into:

- 1) Target species and stocks;
- 2) Gear types;
- 3) Catch areas; and
- 4) Client groups.

The UoAs have been summarised in Table 1 to Table 4 below, with a more detailed Client/Gear/Area matrix given in Table 5.

Further background to the fishery and its confirmation of scope is provided in the General Background Report (3135R06-1A) which also provides information on the geographical range of the fishery, the fleet make-up, the method of capture, the Client Group and associated Codes of Conduct. Scoring and background information on Principles 1 and 2 is given in the Principle 1 and Principle 2 reports (3135R06-2A and 3135R06-3A). This report instead focuses on the evaluation of the fisheries management framework, at EU and national level.

Table 1. DFPO Units of Assessment

Species / stock	All species and stocks listed in Table 6
Geographical range	ICES Divisions 3aS, 3aN and Subarea 4 (also see Table 5, Figure 1)
Method of capture	See Table 5
Management System/s	EU Common Fisheries Policy EU-Norway Agreements as applicable Danish national management system
Client group	DFPO member vessels that have signed up to the Code of Conduct for MSC fishermen (see Appendix 6.1 in the Background Report 3135R06-1A for a list of vessels. This is being kept up to date here: http://mscfiskere.fiskeriforening.dk/opkoeber-forhandler/danske-msc-fartoejer/)
Other eligible fishers	None (UoA is same as UoC)

Table 2. SFPO Units of Assessment

Species	All species and stocks listed in Table 6
Geographical range	ICES Divisions 3aS, 3aN and Subarea 4 (also see Table 5, Figure 1)
Method of capture	See Table 5

Management System/s	EU Common Fisheries Policy EU-Norway Agreements as applicable Swedish national management system
Client group	Swedish vessels that have signed up to the SFPO Code of Conduct for MSC fishermen (see Appendix 6.2 Background Report 3135R06-1A for a list of vessels. This is being kept up to date here: https://www.sfpo.se/msc))
Other eligible fishers	None (UoA is same as UoC)

Table 3. CVO Units of Assessment (note: this Client Group is the only one to be fishing in ICES Division 7d)

Species	All species and stocks listed in Table 6
Geographical range	ICES Divisions 3aN, 7d and Subarea 4 (also see Table 5, Figure 1)
Method of capture	See Table 5
Management System/s	EU Common Fisheries Policy EU-Norway Agreements as applicable Dutch national management system
Operators	CVO member vessels (Appendix 6.3, Background Report 3135R06-1A)
Other eligible fishers	None (UoA is same as UoC)

Table 4. EZG Units of Assessment

Species	All species and stocks listed in Table 6
Geographical range	ICES Divisions 3aS, 3aN and Subarea 4 (also see Table 5, Figure 1)
Method of capture	See Table 5
Management System/s	EU Common Fisheries Policy EU-Norway Agreements as applicable German national management system
Operators	EZG member vessels (Appendix 6.4, Background Report 3135R06-1A)
Other eligible fishers	None (UoA is same as UoC)

Table 5. Client group – Gear – Fishing area matrix for the assessment of the Joint demersal fisheries in the North Sea and adjacent waters.

Client Group	3aS (Kattegat)	3aN (Skagerrak)	4 (North Sea)	7d (Eastern Channel)	Guide to gear codes
DFPO	TR SN SDN TR PRAWN	TR SN SDN LL TR PRAWN BT1	TR1 TR2 SN SDN LL TR PRAWN BT1	-	TR: Demersal otter trawl (Skagerrak/Kattegat rules = 120 mm or 90 mm w/ separator grid or very large mesh escapement) TR1: Demersal otter trawl or flyshooter or twinrig, mesh size > 100 mm TR2: Demersal otter trawl or flyshooter or twinrig, mesh size 70 - 100 mm
SFPO	TR SN POT TR PRAWN	TR SN SDN POT TR PRAWN	TR1 TR2 SDN	-	TR PRAWN: Demersal otter trawl (mesh size > 35 mm for pandalus with escapement window, sometimes with separate 120 mm codend for fish) SDN: Danish (Anchor) seine
CVO	-	BT1 TR	BT1 BT2 SN TR1 TR2	TR1 TR2	SN: Set net (gill net, trammel net) LL: Longline or handline POT: <i>Nephrops</i> Creel
EZG	-	TR SN	TR1 SN	-	BT1: Beam trawl, mesh size ≥ 120 mm (not pulse) BT2: Beam trawl, mesh size 70 - 119 mm (not pulse)

2.2 Jurisdiction and overarching management set-up

With the exception of Division 7e, the scope of the assessment covers the entire North Sea Ecoregion as defined by ICES (Figure 1). All Principle 1 target stocks covered by this assessment are shared between EU Member States and in some cases between the EU and Norway. Stocks that are subject to an EU-Norway agreement are indicated as such in Table 6. EU-Norway agreements are further discussed in Section 2.3.1. The fishery is thus managed at three levels: the international, EU and national levels. Owing to the make-up of the Client Group, this assessment considers four national levels: Denmark (DFPO), Sweden (SFPO), The Netherlands (CVO) and Germany (EZG).

The fishery is managed within the context of EU's Common Fisheries Policy (CFP) of which the provisions are transposed into the relevant national legal systems (see Section 2.3). The CFP applies to all fishing activities in EU waters, including the EEZ, and to the activities of EU vessels outside EU's marine jurisdiction.

All stocks listed in Table 6 are managed via Total Allowable Catches (TACs). TACs or fishing opportunities are catch limits that are set annually for most commercial fish stocks by the Council of fisheries ministers on the basis of advice given by the International Council for the Exploration of the Sea (ICES). The Total Allowable Catches (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. The EU quota for those, as well as all other TAC-managed stocks, is then divided among member states according to the principle of relative stability, i.e. the principle by which EU Member States are allocated a fixed share of the TAC for a given fish stock. The percentage share for each Member State was agreed by Member States when quotas were first introduced for the fish stocks concerned. The 'sharing agreement' (EEC Regulation No 170/83) established a Community system for the conservation and management of fishery resources. A detailed description on the management for each stock is given in the Principle 1 report (3135R06-2A).

Table 6. Principle 1 stocks covered by the Joint demersal fisheries in the North Sea and adjacent waters assessment.

Species		Description of stock (ICES Division / Subarea)	EU-Norway agreement
Common name	Scientific name		
Anglerfish	<i>Lophius piscatorius</i> and <i>L. budegassa</i>	3a,4 and 6	
Atlantic cod	<i>Gadus morhua</i>	3aN, 4, 7d	✓
Haddock	<i>Melanogrammus aeglefinus</i>	3a, 4, 6a	✓
		7b-k	
Hake	<i>Merluccius merluccius</i>	Northern stock	
Ling	<i>Molva molva</i>	3a, 4a etc. (other areas)	
Megrim	<i>Lepidorhombus whiffiagonis</i>	4a, 6a	
Norway lobster	<i>Nephrops norvegicus</i>	FU7 Fladen Ground	
		FU32 Norway Deep	

Species		Description of stock (ICES Division / Subarea)	EU-Norway agreement
Common name	Scientific name		
		3a (Kattegat and Skagerrak)	
Northern shrimp	<i>Pandalus borealis</i>	3a, 4a East (Skagerrak, Norwegian Deep)	✓
Plaice	<i>Pleuronectes platessa</i>	Subdivisions 21–23 (Kattegat, Belt Sea, Sound)	
		3aN, 4	✓
		7d	
Saithe	<i>Pollachius virens</i>	3a, 4, 6	✓
Dover sole	<i>Solea solea</i>	3a, 22-24	
		4	
		7d	
Tusk	<i>Brosme brosme</i>	Northeast Atlantic	
Whiting	<i>Merlangius merlangus</i>	4, 7d	

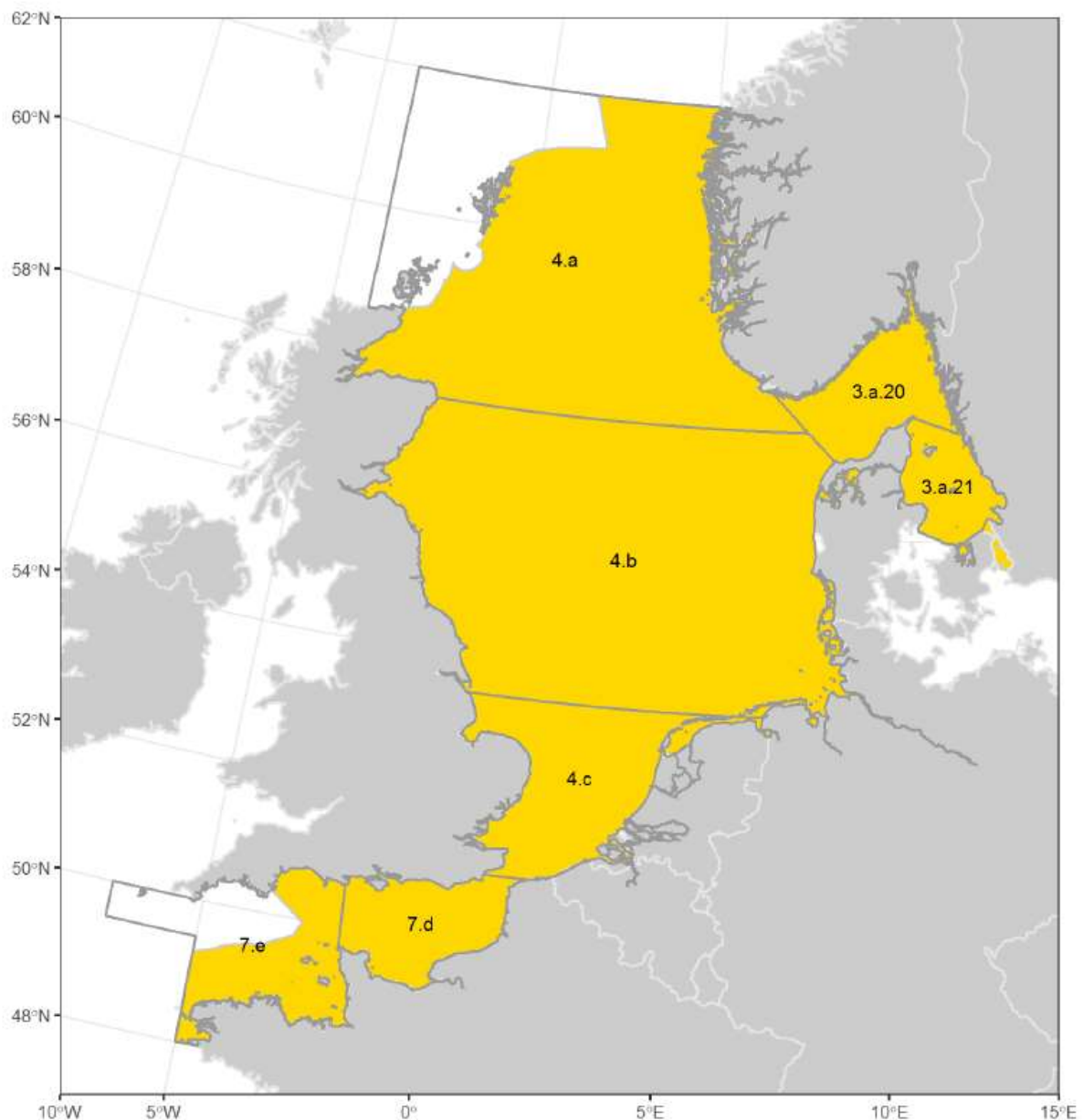


Figure 1. The Greater North Sea ecoregion (in yellow) as defined by ICES. The relevant ICES statistical areas are shown: North Sea (Subarea 4), Skagerrak (Division 3a.20 – also 3aN), Kattegat (Division 3a.21 – also 3aS) and Eastern Channel (Division 7d). Division 7e is not covered by this assessment. From ICES (2017).

2.3 Management framework

2.3.1 Regional (EU-Norway)

The European Community has three fisheries agreements with Norway, namely the bilateral, the trilateral and the neighbouring agreements. The legal basis for these agreements is the Framework Agreement adopted by Council Regulation (EEC) 2214/80 of 27 June 1980. The bilateral arrangement covers the North Sea and the Atlantic. The trilateral arrangement covers Skagerrak and Kattegat (Denmark, Sweden and Norway), and the neighbourhood arrangement covers the Swedish fishery in Norwegian waters of the North Sea.

The agreements are implemented in the form of annual fisheries arrangements. The bilateral and the trilateral arrangements allow for the setting of TACs for joint stocks, transfers of fishing possibilities, joint technical measures and issues related to control and enforcement. The neighbourhood arrangement includes fishing possibilities transferred from Norway to Sweden in accordance with the fisheries agreement between Norway and Sweden of December 1976.

The most important of these to the current assessment is the bilateral agreement through which there are annual negotiations on mutual fisheries relations for the following year. The TACs for the jointly managed North Sea stocks (see Table 6) agreed in these negotiations are then split according to fixed distribution formulas.

2.3.2 European Union

Within EU waters, the fisheries are managed under the framework of the Common Fisheries Policy (CFP). EU Regulation 1380/2013 sets out the framework and objectives for the CFP, and enables the Commission to regulate individual fisheries. The CFP is a set of rules for managing European fishing fleets and for conserving fish stocks. Designed to manage a common resource, it gives all European fishing fleets equal access to EU waters and fishing grounds and allows fishermen to compete fairly.

The current CFP regulation requires that member states, in accordance with international treaties such as the 1982 Law of the Sea Convention, the 1993 FAO Compliance Agreement and the 1995 Fish Stocks Agreement, apply the precautionary approach to fisheries management. It seeks to make fishing fleets more selective in what they catch, and to phase out the practice of discarding unwanted fish.

The objectives of the CFP are fixed in Article 2 of the Regulation. Worth mentioning are, in particular, the following:

- The CFP shall ensure that fishing and aquaculture activities are environmentally sustainable in the long-term and are managed in a way that is consistent with the objectives of achieving economic, social and employment benefits, and of contributing to the availability of food supplies.
- The CFP shall apply the precautionary approach to fisheries management, and shall aim to ensure that exploitation of living marine biological resources restores and maintains populations of harvested species above levels which can produce the maximum sustainable yield (MSY). It is specifically mentioned that when targets relating to MSY cannot be determined, multiannual (management) plans shall provide

for measures based on the precautionary approach, ensuring at least a comparable level of protection for the relevant fish stocks. The MSY exploitation rate shall be achieved by 2015 where possible and, on a progressive, incremental basis at the latest by 2020 for all stocks.

- The CFP shall implement the ecosystem-based approach to fisheries management so as to ensure that negative impacts of fishing activities on the marine ecosystem are minimised, and shall endeavour to ensure that aquaculture and fisheries activities avoid the degradation of the marine environment.

Further objectives of the CFP include the collection of scientific data, elimination of discards, provision of conditions for economically viable and competitive fishing industries, adjustment of fishing capacity to the levels of fishing opportunities, and contributing to a fair standard of living for those who depend on fishing activities, bearing in mind coastal fisheries and socio-economic aspects.

Since October 2014 the Commission has adopted several discard plans in preparation of the implementation of the Landing Obligation (LO). [Discards plans](#) exist for selected species and gears for all community waters. The LO is further discussed in Section 2.6.1.2.

In the past, multi-annual plans for certain fish stocks existed (like multi-annual plans for plaice and sole in the North Sea: EC 676/2007). In 2016, the EU Commission proposed the multi-annual plan for demersal fish stocks in the North Sea (see e.g. EC, 2016b and 2018). This includes objectives to maintain fish stocks at sustainable levels and protect other parts of the ecosystem. This plan was accepted on 29th May 2018 by the European Parliament. More information on the multi-annual plans (MAPs) can be found in the Principle 1 report (3135R06-2A).

Apart from the CFP, other EU Directives influence the management of fisheries, often at a national level. The Water Framework Directive (WFD; Directive 2000/60/EC), and the Marine Strategy Framework Directive (MSFD; Directive 2008/56/EC) outline the need for better water quality, and prescribes to achieve 'good environmental status', following the precautionary approach. The implementation of the Habitat- and Bird Directives (Council Directive 92/43/EEC and Directive 2009/147/EC) into designated Natura 2000-sites also provides long-term objectives that guide decision making.

2.3.3 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 and for the relationship between Danish national law, EU law and international agreements.

The declared objective of the 2014 Fisheries Act is to ensure a sustainable basis for commercial fisheries and related professions, as well as possibilities for recreational fisheries. This is to be achieved through a management that secures protection and 'advancement' [ophjælpning] of living resources in salt and fresh waters and protection of other animal and plant life. Seen in the context of the requirements in the remaining law text, and legal acts at lower levels, the objectives are consistent with the precautionary approach to fisheries management, as defined, e.g., in the FAO Code of Conduct for Responsible Fisheries.

The Fisheries Act contains provisions for, *inter alia*, consultative bodies, fishing rights, closed areas, fishing gear, first-hand sales of fish, observers and enforcement. National controls are updated annually in the Notification ('Bekendtgørelse') on Regulation of Fisheries between 2014–2020, which in addition to general provisions contains specific regulations for different stocks and sea areas.

A system of Vessel Quota Shares (VQS – FKA in Danish) for demersal fisheries was implemented in 2007; at the same time, a temporary system for Individual Transferable Quotas (ITQs – IOK in Danish) for pelagic and industrial fisheries was made permanent. Under the VQS system, vessels receive a fixed percentage of the Danish share of the TAC. VQS vessels must be two-thirds owned by fishermen. They can swap quota shares within the quota year and also rent them out. Only the Parliament (Folketinget) can abolish the VQS and ITQ systems, and there is an 16-year notice of termination. A proposal to abolish these systems was put before Parliament in April 2016, but was quashed.

An alternative solution was introduced in December 2016, which, among other things, aimed to prevent excessive concentration of quota and increase transparency of fishing vessel ownership, specifically to identify ownership by parties from outside the fishing community. The proposals have been discussed in 2017, and the new regulation on quota concentration has been decided on and will be implemented from 1st January 2019.

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), an integral part of the Fisheries Agency, is responsible for fisheries enforcement at sea and in port. (See SI 3.2.3a in the Appendix 1 scoring tables 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).

2.3.4 Sweden

The Swedish system for fisheries management has evolved over decades and is now 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 the right to fish, licensing, 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, Kattegat and the Baltic Sea was introduced in 2004 and last updated in 2017.

The 1993 Fisheries Act and 1994 Regulation on Fisheries, Water Use and the Fishing Industry are sparse in terms of declared objectives, but contained in their numerous practical regulatory

measures are at least implicit clear long-term objectives that guide decision-making consistent with the MSC standard and the precautionary approach. In the management plans and other official documents, such as the 2002 National Strategy for Sustainable Development, such objectives are explicit, e.g. sustainable use, precaution and ecosystem considerations.

Fisheries policy falls under the purview of the Swedish Ministry of Enterprise and Innovation. 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, regulation, licensing, landing control and a Fisheries Monitoring Centre (FMC). Fisheries enforcement at sea is the remit of the Coast Guard (Kustbevakningen), which is subordinate to the Ministry of Justice. 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.

SwAM distributes the quotas to each vessel based on historical rights. A part-ITQ system is in place for the demersal fisheries where quota shares can be sold or swapped within the year (but not between years and not permanently) through an electronic platform at SwAM. The POs are not involved in quota allocations for the demersal fisheries, but they do provide information about available volumes and potential swaps to their members.

2.3.5 The Netherlands

The Netherlands has codified their fisheries management in the Dutch Fisheries Act 1963 (Visserijwet 1963). The Act provides a comprehensive legal framework for fisheries management at the national level. EU directives have been transposed into the Act

The Act relates to all aspects of fisheries and fish conservation, providing a framework for further regulation of marine and inland fisheries. It outlines observance of international obligations contracted by the Netherlands (chapter IIa) and defines the fisheries into Sea fisheries (chapter III), Coastal fisheries (chapter IV), and Inland fisheries (chapter V) while also setting out penal provisions (chapter VI). The Fisheries Act makes provisions for further regulation of *inter alia* closed seasons, minimum conservation sizes, and other fisheries conservation and management measures (source: FAOLEX database). Each year, the Ministry of Agriculture, Nature and Food Quality (Dutch: Ministerie van Landbouw, Natuur en Voedselkwaliteit; LNV) issues an overview of (changes in) the regulations that apply, and updates the 'Uitvoeringsregeling Zeevisserij' (Implementation Regulation Sea Fisheries). 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 for example how licenses can be obtained, and how stakeholders can object to certain decisions made by the Government (like the granting of certain licenses).

In The Netherlands, several policy documents exist to guide decision-making with regards to the use of the North Sea (including fisheries). In relation to fishery management, The Policy

Document on the North Sea 2016-2021 (including The Netherlands' Maritime Spatial Plan) is of importance. This documents outlines the policy for the spatial planning on the North Sea, e.g. outlining shipping lanes, areas dedicated for wind farms, and (potential) marine protected areas.

The Ministry of LNV, formerly part of the Ministry of Economic Affairs, is in charge of providing licences, sets policy, and on behalf of LNV, the NVWA (Netherlands Food and Consumer Product Safety Authority) enforces rules and regulations for fisheries specific activities (both on land -e.g. at auctions- and at sea). The Ministry of Infrastructure and Environment is in charge of shipping (e.g. the implementation of Traffic Separation Schemes), and safety at sea. Control at sea is the remit of the Coast Guard. Fisheries scientific research is conducted by Wageningen Marine Research (WMR, formerly IMARES), part of Wageningen University.

The Cooperative Visserij Organisatie (CVO) represents all 7 Producers Organisations in The Netherlands, and has the status of a PO itself. Therefore, all UoC vessels are members of Dutch POs that are members of the CVO. Based on the Fisheries Act, Dutch quota are distributed between the POs based on historical rights. The POs manage and rent out the quota on behalf of LNV, which keeps check of the national quota. Note that the national quota are not completely divided up between POs at the beginning of the year: LNV keeps a small portion per species in reserve. 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. Quota uptake is monitored at PO and Ministry level, with sanctions taken (e.g. fines) in the event that allocations are exceeded. The ITQs cannot be directly swapped between POs or with other Member States. Such transfers have to be approved by the Ministry of LNV.

The CVO puts together the yearly Production and Marketing Programme on behalf of all members. This plan is subject to yearly evaluation by the Ministry of LNV, and subject to control by the Competition Authority. The CVO has established a management plan for all vessels seeking to fish under the CVO's MSC certificate. The ambitions and objectives of the plan are listed in the General Background Report (3135R06-1A).

2.3.6 Germany

The provisions of the EU fisheries legislation are transposed into the German legal system. 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. The German Sea Fisheries Act aims at the protection of the fish stocks and the preservation of the marine environment and implements the European fisheries legislation. The Bundesnatursschutzgesetz (Federal Nature Conservation Act) also provides for measures to preserve and to promote the environment and the native plant and animal species in marine and inland waters. This approach is reflected also in State fisheries legislation, regulating the fishery in the German territorial waters.

Sea fisheries in Germany are administered and managed by the Federal Government and the states (Länder). In the German EEZ the European fisheries regulations, the German Sea Fisheries Act and the law and regulations based in the Act apply. 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 (in the case of the North Sea Niedersachsen and Schleswig-Holstein, Mecklenburg-Vorpommern for the Baltic Sea), each having its own coastal fishing rights and its own Fisheries Act. The zone between 3nm and 12 nautical miles is jointly managed by federal and State Ministries.

The BMEL has charged the Bundesanstalt für Landwirtschaft und Ernährung (BLE, Federal Office for Agriculture and Food) with the implementation of the legal provisions. BLE is responsible for the:

- Management of the national catch quota and fishing effort including the supervision of the use of allocated catch quota and allocated fishing effort;
- Implementation of technical innovations in connection with the supervision of fishery-related activities, such as the electronic logbook, the electronic sales note and the satellite monitoring system;
- Issuing of fishing licences;
- Implementation of the Common Market Organisation for Fisheries, for market observation and price reports;
- Management of three fishery protection vessels and three fishery research vessels. The fishery protection vessels allow the fulfilment of tasks in connection with fisheries control, coast guard coordination and the Maritime Security Centre. The fishery research vessels are used by the Thünen- and the Max-Rubner-Institutes for the analyses of fishery resources and catch-related technical studies; and
- Monitoring, control and surveillance of the fishery. BLE has three fishery protection vessels in operation, two in the North Sea and Northeast Atlantic and one in the Baltic Sea. BLE gets the VMS data from all German vessels wherever they fish and collects the logbook data (paper and electronic).

The fishing quotas allocated to Germany are distributed every year by the Bundesanstalt für Landwirtschaft und Ernährung (BLE) on the basis of the Sea Fisheries Act. The German TAC is distributed between the POs, in which historical rights play an important role. The POs distribute their quotas among their members. In case fishermen are not members of a PO, BLE distributes quota directly to these fisherman (these fishers are outside the scope of this assessment). Swapping within a PO is possible, swaps between German POs, or between POs from Germany and other member states have to be processed via BLE. At the beginning of the year BLE allocates a portion of the quota as reserve. BLE is also in charge for the monitoring of the utilisation of the quota and issues warnings in the instance a certain quota is about to be fully fished.

The 'Erzeugergemeinschaft der Nord- und Ostseefischer' (Producer Organisation of North Sea and Baltic Sea fishermen; EZG) is one of the largest German POs. It represents about 90 vessels (8 - 40m overall length) and has the majority of the German coastal fishing on the North Sea (for cod and saithe) and about 50% of the Baltic Sea quota for the coastal and cutter deep sea fishery. EZG has adopted a Code of Conduct that has to be respected by all member vessels fishing in the North Sea (see the Background report, 3135R06-1A).

2.4 Roles and responsibilities

A summary of the roles and responsibilities at each level in the fisheries management framework is shown in Table 7.

Table 7. Summary of key roles and responsibilities

	Main management authority	Legal basis	Control and enforcement	Scientific advice
EU	EU Commission	CFP	European Fisheries Control Agency (EFCA)	ICES, STECF
Denmark	Ministry of Foreign Affairs (Danish Fisheries Agency)	2017 Fisheries and Aquaculture Act	Fisheries Control	DTU Aqua
Sweden	Swedish Agency for Marine and Water Management (SwAM)	1993 Fisheries Act	Fisheries Monitoring Centre (FMC); Coast Guard	SLU
The Netherlands	Ministry of Agriculture, Nature and Food Quality (Dutch: Ministerie van Landbouw, Natuur en Voedselkwaliteit; LNV)	Dutch Fisheries Act 1963	NVWA (Netherlands Food and Consumer Product Safety Authority); Coast Guard	WMR
Germany	Bundesministerium für Ernährung und Landwirtschaft (BMEL, Federal Ministry of Food and Agriculture); Bundesanstalt für Landwirtschaft und Ernährung (BLE)	1984 Seefischereigesetz (modified in 2016)	Bundesanstalt für Landwirtschaft und Ernährung (BLE); Coast Guard	Thünen Institute of Sea Fisheries

2.5 Consultation processes

2.5.1 Regional level

The CFP includes rules on stakeholder involvement, through the Advisory Councils (ACs). The ACs are stakeholder-led organisations that provide the Commission and EU countries with recommendations on fisheries management matters. This may include advice on conservation and socio-economic aspects of management, and on simplification of rules. Advisory Councils are consulted in the context of regionalisation. Advisory Councils should also contribute to data for fisheries management and conservation measures.

Advisory Councils are composed of representatives from the industry and from other interest groups. In both the General Assembly and Executive Committee, 60% of the seats are allotted to representatives of the fisheries sector and 40% to representatives of the other interest groups. They receive EU financial assistance as bodies pursuing an aim of general European interest (see also: <https://ec.europa.eu/fisheries/partners/advisory-councils>).

With regards to the fisheries under assessment, both the North Sea Advisory Council (NSAC), and the North Western Waters Advisory Council (NWWAC) are of importance. The NSAC focusses on fisheries management within the North Sea and Skagerrak/Kattegat (ICES areas IV and IIIa), whereas the NWWAC deals with fisheries management in the EC offshore waters within the EEZ of Ireland, part of United Kingdom and France (ICES areas 5b, 6a and 7). Both ACs have working groups and focus groups dealing with specific issues. The NSAC has working groups based on specific topics, like the demersal working group and the ecosystem working group. The NWWAC has working groups defined by Subarea (e.g. WG3: English Channel - ICES areas 7d & e). In both ACs, Focus Groups are smaller groups which are set up to draft advice on one specific topic. Focus Groups are flexible in their approach drawing in representatives and experts from a number of sources including scientists, fishers, environmental specialists, economists and others. Focus groups are formed on an *ad hoc* basis, and are often short-lived.

The annual consultation process for TACs and the decadal consultation on the review of the CFP provide opportunities for stakeholders to engage directly in the management process, and this involvement is facilitated at the EC and national level. Since 2010, the annual consultation on fishing opportunities has been made more transparent and accessible, with early publication of consultation documents (EC, 2016).

The decennial revision of the CFP is opened by the Commission's publication of a Green Paper followed by a consultation period of several months. This allows the wide public to participate in the process.

ICES is the international scientific advisory body for the fisheries authorities of countries around the North Atlantic, and is responsible for fisheries stock assessments. Different Working Groups report to the ICES Advisory Committee (ACOM) that gives scientific advice on management of the different stocks and recommends appropriate TACs.

The final TACs are then fixed by the European Council of Ministers. They are not obliged to follow ICES' advice and have repeatedly modified ICES' proposals. Since some years, however, the Council tends to set the TACs at the level proposed by ICES.

The Scientific, Technical and Economic Committee for Fisheries (STECF) was established by Commission Decision 93/619/EC and renewed in 2016 by Commission decision C(2016)1084. The STECF provides scientific assistance to the European Commission. The Commission should consult STECF in order to develop the CFP policy, where appropriate, on matters pertaining to the conservation and management of living marine resources, including biological, economic, environmental, social and technical considerations, in accordance with Article 26 of Regulation (EU) No 1380/2013.

Since 2000, an EU framework for the collection and management of fisheries data is in place. This framework was reformed last in 2008 resulting in the Data Collection Framework (DCF). Under this framework the Member States (MS) collect, manage and make available a wide range of fisheries data needed for scientific advice. The data are collected on the basis of National Programmes in which the MS indicate the type of data collected, the allocated resources and the method for collection. MS must report annually on the implementation of their National Programmes and the STECF evaluates these Annual Reports.

Part of the data collected by the MS is uploaded in databases managed by the Joint Research Centre (JRC) in response to data calls issued by DG MARE. These data are analysed by STECF working groups and form the basis for scientific opinions and recommendations formulated in STECF reports. The resulting scientific advice is used to inform the CFP decision making process. The data are disseminated in aggregated form for a target audience of experts for further use in scientific analyses and policy.

2.5.2 National level

At a national level, administrations operate both formal and informal consultation procedures, in which they combine mailings on current issues and proposed changes to management systems, and schedule regular face-to-face meetings with key stakeholders.

2.5.2.1 Denmark

The most important formal arena for Danish stakeholder consultations is the so-called 'paragraph 6 committee', which is prescribed by paragraph 6 in the Fisheries Act. The committee (in Danish named 'Erhvervsfiskeritudvalget' – the Committee on Commercial Fisheries) is an advisory body for the Government in all areas of fisheries legislation and management. It meets 7-8 times per year, and all stakeholders are free to attend. Meeting dates and agendas are published on the website of the Danish Fisheries Agency, along with detailed minutes from the meetings. In addition, there is widespread informal contact between the authorities and stakeholders in the fishery.

An additional layer of information is provided by the scientific observer programme under the direction of the National Institute of Aquatic Resources (DTU Aqua). Fishers are obliged under the Fisheries Act to accept observers onboard. While the purpose of their observation is science and not compliance, they report the level of discards per fishing trip (albeit individual vessels are neither identified nor penalised). The outputs of the programme also inform risk-based enforcement models.

2.5.2.2 Sweden

Sweden has a long tradition of including non-governmental organisations in fisheries management, with continuous consultation and close cooperation between governmental agencies and user-group organisations. Consultative meetings ('samrådsmöte') are held at least twice a year between SwAM and the POs, in recent years 4-5 times a year. Separate meetings are held between SwAM and other stakeholders (such as NGOs), and at least once a year a so-called 'grand meeting' ('stormöte') with all stakeholders is organised.

Stakeholders report consultation processes to be inclusive and transparent, with management authorities displaying consideration of the information obtained from stakeholders and largely explaining how it is used or not used. They can influence the timing of the meetings with authorities and the agenda for the meetings. Access to the highest political level is also available; the client reports meetings with both Swedish and Norwegian ministers of fisheries. Some stakeholders attribute their influence to 'the Swedish consensus culture', which indicates that it would have been impossible in the specific cultural context not to include all relevant stakeholders.

An additional layer of information is provided by the scientific observers from SLU. While the purpose of their observation is science and not enforcement, they report the level of discard observed (albeit 'anonymized' so that individual vessel cannot be penalized) – this also feeds into considerations made under the risk-based enforcement. Fishers are obliged by law to take observers on board when management authorities requires so. Under the Landing Obligation (LO) scheme, fishers can land undersized fish and other unwanted catch at any point of landing – this fish is mostly used for natural gas production.

2.5.2.3 The Netherlands

In The Netherlands, there are several topic-based working groups from the Ministries (both LNV and I&M), that bring together all relevant civil servants, stakeholders, fisheries representatives, and researchers, to discuss current issues, ranging from nature conservation, to technical measures. There is for example a working group on the landing obligation, one on the use of electrofishing, and one on the implementation of Natura 2000-measures in Dutch coastal waters. For formal decisions, the General Administrative Law Act prescribes that stakeholder consultation is necessary. Managing authorities also have to demonstrate how the comments made by stakeholders have been taken into account, and if not, have to provide a rationale.

Between 2008 and 2016, the Dutch fisheries sector has also invested in several knowledge circles or 'Kenniskringen', which were fisher-led, multi-stakeholder groups to share knowledge, liaise with government and steer additional scientific research. These knowledge circles have played an important role in discussing innovative techniques and additional research into topics such as unwanted bycatch. Although funding for these 'knowledge circles' has ceased, other projects have continued, including the 'Innovatiecentrum Zuidwest' where new techniques can be tried, often in cooperation between fishermen, researcher, and sometimes also NGOs.

Apart from the scientific research and assessment carried out by ICES, additional research is undertaken by Wageningen Marine Research (WMR: formerly IMARES) at the request of the

Dutch government and industry. WMR also provides the scientific observers to gather the information needed for the data collection framework. While the purpose of their observation is science and not enforcement, they report the level of discard observed (albeit 'anonymized' so that individual vessel cannot be penalized). Fishers are obliged by law to take observers on board when management authorities requires so.

2.5.2.4 Germany

Based on the German Sea Fisheries Act, the BLE organises annual meetings with both the fishing industry and the coastal State Governments. These meetings provide a forum for dialogue and the exchange of views and information, but they allow also to raise problems and to express criticism. These meetings take place before BLE decides on the distribution of quotas in order to guarantee a maximum of transparence in the process.

More meetings can be held on request of any party in order to discuss upcoming questions. There is also a lively exchange between fishing industry and Government as well as between fishing industry and research institute. All POs have the possibility to address BLE or Thünen Insitute when necessary.

The Thünen Institute of Sea Fisheries (TISF), based in Bremerhaven, is in charge of fisheries research (marine living resources, marine ecosystems, operational observation systems, marine spatial management and economic analyses) and operates two research vessels. The institute also regularly places scientific observers on board the fishing vessels. Due to limited human resources the sampling is carried out on a random basis.

2.6 Enforcement and compliance

2.6.1 Regional level

The community control system for ensuring compliance with the rules of the CFP are laid down in Council Regulation (EC) No 1224/2009, which is subsequently implemented through Commission Implementing Regulation (EU) No 404/2011. The Control regulation (1224/2009) lays out provisions, and provides for the adoption of detailed rules and measures to implement these provisions. It e.g. demands that a fishing license is obtained, that logbooks are maintained, that the engine power of fishing vessels is not exceeded, and that vessels are equipped with a vessel monitoring system (VMS).

On the grounds of EU Directive 1380/2013 (Annex I) and the Benelux treaty, European fishing fleets can have (limited) fishing rights in the coastal areas of other Member States.

Inspections at sea are carried out by the flag state authorities according to marine territorial distinctions across the inshore (6nm and 12nm) and median line delimitations, shared surveillance platforms and initiatives under Joint Inspection Systems and Joint Deployment Plans and fisheries interests. The scope of at-sea inspections typically includes verification of vessel registration and licence details, compliance between gear configuration and fishing authorisations, adherence to logbook completion and reporting requirements, plus their consistency with fish stowed onboard: species, product, separation.

Control of the fishery is maintained by a variety of different methods, as defined by the Controls Regulation (1224/2009):

Logbooks: The main means of keeping track of catches is via vessel logbooks, which all vessels of 10m length overall or more are required to complete; for vessels of 12m length overall or more, the fishing logbook should be in electronic form¹. The logbooks record all catches of all retained species on a daily basis. All vessels are required to keep logbooks. Daily log sheets are completed and by agreement are submitted weekly to officers of the National Competent Authority.

VMS: Within EU member states, each flag state National Competent Authority (NCAs) is required to ensure that vessels >12m length overall (L_oA) are equipped with VMS, thus providing spatial and temporal information on fishing effort. The EU legislation requires that all coastal EU countries should set up systems that are compatible with each other, so that countries can share data and the Commission can monitor that the rules are respected. Member States have some room to define the parameters for VMS set-up. E.g. in The Netherlands and Germany, the VMS 'pings' (provides) the position of a fishing vessel every two hours to the relevant authorities, whereas in Denmark and Sweden this happens every hour. The satellite tracks can be cross-referenced to the logbook data to ensure that logbooks

¹ As of 1st October 2017, vessels smaller than 10m are required to also submit their fishing logbooks in electronic form (E-lite). Vessels between 10-12m still record their catches on paper, although The Netherlands has obtained an exemption to include vessels between 10-12m in the E-lite logbook.

have been completed correctly. It is possible to assess by the track (speed, changes in direction) whether or not a vessel is fishing at any given point.

All vessels >15m also have an Automatic Information System (AIS), as directed by Article 10 of Council regulation (EC) 1224/2009 (the Control Regulation). This is an implementation of the SOLAS (Safety of Life at Sea) Convention, Regulation 19 Chapter V, which is published by the International Maritime Organisation (IMO). In 2000 IMO adopted a new requirement (as part of a revised new chapter V) for all ships to carry automatic identification systems (AISs) capable of providing information about the ship to other ships and to coastal authorities automatically. AIS, however, is geared towards shipping safety, and not designed with control and enforcement in mind, although Member States may use the automatic identification system data when such data are available for the purpose of cross-checking with other available data.

Maritime surveillance: In EU waters the frequency of controls at sea has been increasing steadily but is still at a relatively low level. At-sea inspections include physical checks of the last haul and fish in the holds, with the aim to reveal any discrepancies between actual and reported catches. By comparing catch composition in the last haul with that in the hold, enforcement authorities can get an indication of whether illegal fishing has taken place earlier on the trip: It is neither abnormal or illegal to have a high percentage/amount of undersized fish or by-catch than allowed in one single haul; fishers should cease fishing in that particular area. As such, the absence of such a catch scenario in the hold raises the risk profile of that vessel which is subsequently subject to greater scrutiny by enforcement officers, reflecting the risk-based enforcement strategy (see examples below).

Control Observers: Control Observer coverage varies greatly from one country to the other depending on the capacities of the authority charged with this. Control observers can carry out inspections at ports, or undertake sampling at sea.

Aside from control observers, observation programmes can also be scientific initiatives, e.g. in the context of the data collection framework (Council Regulation (EC) No 199/2008). Observer coverage for the respective fleets in the Client Group is discussed in the Principle 2 report (3135R06-3A).

Quayside controls: Vessels landing fish in the EU must submit to quayside inspections during landing at which point weight, size and species of fish are checked against logbook entries. Four hours before entering a port, a fishing vessel has to notify its flag state. When a vessel intends to enter a port other than a flag state's port the competent authority of the flag state shall immediately send the electronic prior notification to the competent authority of the coastal member state (EC, 2009). National authorities are responsible for enforcing EC control requirements applicable on landing and as the fish moves through the distribution chain.

2.6.1.1 European Fisheries Control Agency (EFCA)

The EFCA is a European Union agency. The agency's mission is to promote the highest common standards for control, inspection and surveillance under the CFP. European Union governments agreed to establish the agency in the 2002 reform as part of the drive to instil a culture of compliance within the fisheries sector across Europe. In April 2005, they adopted the necessary legislation with Council Regulation (EC) No 768/2005. Its primary role is to

organise coordination and cooperation between national control and inspection activities, in cooperation with the European Border and Coast Guard Agency and the European Maritime Safety Agency, so that the rules of the CFP are respected and applied effectively.

The EFCA coordinates the implementation of the Specific Control and Inspection Programme (SCIP) that was established for fisheries exploiting cod, plaice and sole in the Kattegat, the North Sea, the Skagerrak, the Eastern Channel, the waters west of Scotland and the Irish Sea. The encompassing objective of EFCA assistance to the Member State concerned is to ensure the uniform and effective implementation of the conservation and control measures applicable to stocks of cod, plaice and sole in the NS SCIP area.

In order to meet the objective of the uniform and effective application of conservation and control measures rules in the NS SCIP area, the EFCA provided, in collaboration with the Member State concerned, a specific organisational framework for operational coordination of control activities in this area, known as a joint deployment plan (JDP). The North Sea JDP (NS JDP) has been in operation since 2007 with the participation of Belgium, Denmark, France, Germany, Ireland, the Netherlands, Sweden and the United Kingdom which collaborate through activities that are carried out each year, on a permanent basis, in the framework of the North Sea joint campaigns. The North Sea joint campaigns are planned, implemented and assessed each year in close cooperation between the Member State concerned and the EFCA, at the regional level, to ensure the achievement of the compliance with the conservation and control measures in force for the species covered by the NS SCIP.

Consensus is sought at the meetings of the North Sea steering group on strategic decisions. The operational arrangements are developed on a daily basis by the technical joint deployment groups in close collaboration with coordination centres in the Member States concerned. The operational arrangements also cover regular secondments of inspectors to joint inspection teams, both ashore and at sea.

2.6.1.2 Landing Obligation

The 2013 reform of the CFP introduced a Landing Obligation (LO) for all EU fishing vessels for certain species and fisheries (EU, 2013). It is implemented progressively by species and fisheries from 2015 to 2019. This is explained in detail in the Principle 1 report (3135R06-2A),

Failure to comply with the LO is categorized as a serious infringement under the control regulation (regulation 1224/2009), but a two-year delay was agreed in the so-called Omnibus regulation in 2015, with sanctions only taking effect from the 1st January 2017 (EU, 2015), after which the points system for illegal discarding must be implemented. Although the omnibus regulation did not delay the enforcement and control of the LO, Member States have taken a soft approach in these two first years of the introduction of the LO and have focused on information sharing and training activities rather than on LO compliance (STECF, 2017a; Borges et al., 2018).

However, according to the Advisory Council Consultation Document 'Towards new SCIPs' (2018): *"Independent research, audits of the MS control systems conducted by the Commission, and the 'last-haul' and other project initiatives driven by the EFCA alongside the*

MS authorities all indicate² a general lack of compliance with the LO and that illegal and unrecorded discarding is widespread. There is a consensus among relevant actors involved in fisheries control, that traditional means of control, such as inspections at sea and aerial surveillance, are not effective to monitor the LO. The absence of effective control and enforcement is reflected by the fact that, despite the fact that illegal discarding is widespread, there have been very few confirmed infringements of the LO by conventional inspections. Levels of non-compliance are expected to increase in 2019 with the full introduction of the LO."

The concern for non-compliance with the LO is also noted in STECF reports (STECF, 2017) (STECF, 2017b), EU reports (EU, 2017) COM(2017) 192 final), and by NGOs (see stakeholder submissions in Appendix 3 of the Background report, 3135R06-1A).

Non-compliance with the LO can have detrimental effects on the TAC and quota system, with TACs having been shown to be inflated to allow "discards" to be landed that would otherwise have been disposed of at sea. Inflating the TAC while discarding at sea continues unchanged means that the catch control is undermined and allows fishing mortality to increase beyond its target.

2.6.2 National level

For all four countries the national Coast Guards are responsible for inspections at sea. There is also cooperation with the enforcement agencies of other EU and non-EU countries (mainly through EFCA, as discussed above), including running exchange of data and joint risk assessments, as well as ad hoc initiatives. Following the Controls Regulation, all vessels above 12 meters have electronic logbooks, and all landings have to be reported in advance, the period allowed depending on the type of fishery and amount of catch, but with two hours as minimum – this allows inspectors to reach any point of landing in the period from reporting to actual landing. VMS data are submitted regularly, but with increased frequency if enforcement authorities suspect any illegal activity. Inspections at sea include physical checks of both the catch from last haul and fish in the hold.

2.6.2.1 Denmark

In Denmark, monitoring, control and surveillance (MCS) is the responsibility of the Fisheries Control, which has been subordinate to the Agricultural Agency after AgriFish was dissolved and fisheries policy transferred to the Ministry of Foreign Affairs in August 2017.

The Fisheries Control has seven regional offices strategically located: three on Western Jutland (Fisheries Control West) and Fisheries Control East (Eastern Jutland, Sjælland and Bornholm); plus a Fisheries Monitoring Centre (FMC), located in Kolding, Eastern Jutland.

² The reported catch composition of CCTV equipped trial vessels ("reference vessels") differs significantly from non-reference vessels engaged in the same fisheries (AC Consultation Document, 2018).

The Fisheries Control carries out inspections at sea, in port in connection with landings of fish and at fish processing factories. It has three inspection vessels, of which one usually operates in Skagerrak, one in Kattegat and one in the Baltic Sea.

In late 2013, the Fisheries Control changed its enforcement policy. The effort-based model with quantitative inspection goals was replaced by a risk- and effect-based model whereby special risk areas are identified and control effort is not considered as a goal in itself, but a means to enhance compliance in the fisheries. This implied changes in the way ocean areas and specific vessels for inspection were identified, and the way inspectors relate to fishers during inspection. Firstly, more emphasis is now placed on 'focused campaigns' at both national and international level. During 2016, the Fisheries Control took part in and co-ordinated a number of international Joint Deployment Plans (JDPs) e.g. cod fisheries in the North Sea, Skagerrak/Kattegat and the Baltic Sea were prioritised in these campaigns: Denmark coordinated the campaigns for 6 weeks in the Baltic Sea and 11 weeks in the North Sea, Skagerrak and Kattegat.

2.6.2.2 Sweden

According to the Swedish Fisheries Act, fishery inspectors ('fisketillsynsmän') can be appointed both under the national fisheries management authority (currently: SwAM) and the county boards. Detailed regulations on control of fisheries in Sweden are found in a separate regulation issued by SwAM, including rules on VMS, logbook, transshipment and landing declarations, reporting obligations, auctions and first-hand sale of fish, and weighing of catch.

The Fisheries Act provides detailed provisions of penal and administrative sanctions. The most important penal sanctions are fines, prison up to one year (up to two years for particularly serious infringements) and confiscation of catch, gear or vessel. Administrative sanctions include a 'sanction fee' in the range SEK 1,000–500,000. In addition, a point system is applied, whereby fishers are given a specified number of points for different kinds of violations. When a specific number of points is reached, the fishing licence shall be automatically suspended for a period of at least two months, increasing with repeated violations. If the fishers do not accept a sanction, they can take their case to court. The decision of a lower-level court can then be appealed to higher-level courts.

Further, the POs have their Codes of Conduct (described in more detail in the General Background report, 3135R06-1A) and can introduce sanctions towards a vessel when the provisions are not complied with.

2.6.2.3 The Netherlands

In The Netherlands the UoC vessels are all members of Dutch POs that require member vessels to comply with their operational procedures, like the registration of the catches, and also explicitly stating that the members have to adhere to national or international law. There is an appeal possible against a decision made by the PO, in which case the decision will be reviewed by an 'internal court', for a final decision. In case a PO decides to fine a member (for example when a quota allocation has been exceeded), the Ministry of LNV or the NVWA will not issue a fine for the same offence. However, it remains possible that one offence infringes on several laws, in which case the authorities can choose to issue sanctions for the remaining infractions.

The Dutch Coast Guard is not only tasked with fishery enforcement, but also shipping safety, maritime management, and enforcement of environmental laws at sea (mostly with regards to pollution). The Coast Guard is the Dutch Maritime and Aeronautical Rescue Coordination Centre (a Joint Rescue Co-ordination Centre -JRCC), and authorities working together in the Coast Guard include the Ministry of Defense, the Ministry of Infrastructure and Environment, the Ministry of Justice (national police and Prosecution), the Ministry of Finance (mainly in relation to Customs), and the Ministry of LNV (through the NVWA). The fishery-specific work is managed through the Permanent Contact Group Enforcement North Sea (PKHN), in which all relevant Ministries are represented.

The Coast guard operates one sea-going vessel for the fishery control on the Dutch EEZ, although if needed, other vessels can be used as well. The vessel can also be used to respond to emergencies at sea.

2.6.2.4 Germany

The German MCS-Authority is BLE, operating three fishery protection vessels (2 in North Sea and NE-Atlantic, 1 in the Baltic Sea). BLE gets the VMS data from all German vessels wherever they fish and collects the logbook data (paper and electronic).

The MSZ (Maritime Safety and Security Centre), established in 2007, combines the effort of several Federal and State Authorities in order to boost the effectivity of maritime surveillance. Partners are the Navy, the Central Command for Maritime Emergencies, the German Waterways Police Reporting and Coordination Centre, the Federal Police Department of Maritime Security (Bundespolizei), the Federal Waterways and Shipping Administration, the Federal Customs Administration and BLE.

2.6.2.5 Norway

In Norway, enforcement is taken care of in cooperation between the Directorate of Fisheries, the Coast Guard and the fishermen's sales organizations. The Directorate of Fisheries keeps track of how much fish is taken of the quotas of individual vessels, different vessel groups and other states at any given time, based on reports from the fishing fleet. Real-time data are forwarded to the Directorate of Fisheries, with the possibility to make corrections of data submitted each day within 12 hours into the next day. Norway has agreements in place with a number of other countries about exchange of ERS data, including the EU. The self-reported catch data can be checked at sales operations through the sales organizations, which have monopoly on first-hand sale of fish in Norway, and through physical checks performed by the sales organizations, the Directorate of Fisheries and the Coast Guard. The sales organizations are required to record all landings of fish in Norway and keep track of how much remains of a vessel's quota at any given time, on the basis of the landings data. This information is compared to the figures provided by the vessels to the Directorate of Fisheries through the electronic logbook. The value of any catch delivered above a vessel's quota is retained by the sales organization and used for control purposes. The sales organizations have their own inspectors who carry out physical controls of landings. They check, among other things, weighing equipment, quantity and size distribution of the catch, the quality of the fish and documentation. The Directorate has seven regional offices along the coast, staffed with inspectors that carry out independent physical control of the fish at the point of landing, including total volume, species and fish size. All landings have to be reported six hours in

advance in order to give the inspectors the possibility to check the landed catch. The landed volumes are compared to the volumes reported to the Directorate through the logbooks. Both landing and at-sea control is conducted using a risk-based framework aimed at utilizing resources to optimize compliance at any given moment. The Coast Guard is administratively part of the Norwegian Navy but performs tasks on behalf of several ministries, including the Ministry of Trade, Industry and Fisheries. Its most important field of work in practice is fishery inspections. Coast Guard inspectors board fishing vessels and control the catch (e.g. catch composition and fish size) and fishing gear (e.g. mesh size) on deck and the volume of fish in the holds. Using the established conversion factors for the relevant fish product, the inspectors calculate the volume of the fish in round weight and compare this with the catches reported to the Directorate through the logbooks. The Coast Guard has 20 ocean-going inspection vessels, some of which are the largest in the entire Norwegian Navy.

2.7 Dispute resolution

2.7.1 Regional level

At the international level, a state can institute proceedings against another state through mechanisms such as the International Court of Justice (ICJ) and the International Tribunal for the Law of the Sea (ITLOS), or bring a dispute before the Permanent Court of Arbitration (PCA). At the regional level, NEAFC in 2004 adopted a recommendation for compulsory dispute settlement. None of these mechanisms have so far been widely used as a means for solving fisheries disputes, but ICJ has over many decades had a number of cases regarding fisheries jurisdiction, and ITLOS has in recent years had cases on the prompt release of detained fishing vessels and the use of provisional measures. PCA was called upon in 2013 to solve certain aspects of the dispute between the EU and Faroe Islands regarding the coastal state management regime of Atlanto-Scandian herring. (The case was terminated a year later as agreement between the parties was reached.) There are no explicit mechanisms for the resolution of disputes in the EU–Norway regime for the North Sea fisheries, but – as is mostly the case also at the national levels – disagreement is sorted out through dialogue, negotiation and compromise.

Dispute resolution is mostly dealt with at a national level. In some cases, individuals, companies, organisations or Member States can make their case for the Court of Justice of the European Union (CJEU), in the case of individuals or organisation often after an extensive journey through their national justice system. The role of the CJEU is to ensure EU law is interpreted and applied the same in every EU country, thus ensuring countries and EU institutions abide by EU law.

The CJEU gives rulings on cases brought before it. The most common types of case are:

- Interpreting the law (preliminary rulings): National courts of EU countries are required to ensure EU law is properly applied, but courts in different countries might interpret it differently. If a national court is in doubt about the interpretation or validity of an EU law, it can ask the Court for clarification. The same mechanism can be used to determine whether a national law or practice is compatible with EU law.
- Enforcing the law (infringement proceedings): This type of case is taken against a national government for failing to comply with EU law. A case can be started by the European Commission or another EU country. If the country is found to be at fault, it

must put things right at once, or risk a second case being brought, which may result in a fine.

- **Annuling EU legal acts (actions for annulment):** If an EU act is believed to violate EU treaties or fundamental rights, the Court can be asked to annul it – by an EU government, the Council of the EU, the European Commission or (in some cases) the European Parliament. Private individuals can also ask the Court to annul an EU act that directly concerns them.
- **Ensuring the EU takes action (actions for failure to act):** The EU Parliament, Council and Commission must make certain decisions under certain circumstances. If they do not EU governments, other EU institutions or (under certain conditions) individuals or companies can complain to the Court.
- **Sanctioning EU institutions (actions for damages):** Any person or company who has had their interests harmed as a result of the action or inaction of the EU or its staff can take action against them through the Court.

2.7.2 National level

2.7.2.1 Denmark

Unless an infringement falls under the Penal Code, it is punished through fines or confiscation of fish and/or gear. In addition, a point system is applied, whereby fishers are given a specified number of points for different kinds of violations. When a specific number of points is reached, the fishing licence shall be automatically suspended for a period of at least two months, increasing with repeated violations. If the fishers do not accept a sanction, they can take their case to court. The decision of a lower-level court can then be appealed to higher-level courts. In practice, the vast majority of disputes are resolved within the management system, which incorporates ample formal and informal opportunities for fishers and other stakeholders to interact with the authorities, e.g. to resolve disagreement and conflict among users and between users and authorities. Consultations are provided at group level, ranging from information meetings with local fishermen's associations to discussions about the Fisheries Control's communication efforts in the CFP Dialogue Forum. During 2016, a number of *ad hoc* meetings were with fishermen on the landing obligation.

2.7.2.2 Sweden

At national level in Sweden, there is an effective, transparent dispute resolution mechanism in place, as 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. Most issues are, however, resolved before they reach the court system, e.g. in discussions between authorities and actors in the fishing industry.

2.7.2.3 The Netherlands

In The Netherlands, there are several topic-based working groups from the Ministries that bring together all relevant stakeholders with the aim to prevent or mitigate disputes.

For formal decisions, the Dutch General Administrative Law Act prescribes that stakeholder consultation is necessary. Managing authorities also have to demonstrate how the comments

made by stakeholders have been taken into account, and if not, have to provide a rationale. Furthermore, the General Administrative Law outlines how to deal in case of a formal dispute. Stakeholders (defined by the Law and jurisprudence as 'parties with a vested interest in a decision') can formally object against decisions made by the government (National Authorities, Ministries, etc). The governmental organisation that made the decision, has to provide a formal review of the objection, and outline how the object will (or won't) change the decision. If the governmental organisation and objecting party cannot come to an agreement, the case can be presented to the court (and if needed, also to a higher court).

2.7.2.4 Germany

Based on the Control Regulations, a variety of sanctions to deal with non-compliance are set out in the German Sea Fisheries Act and the implementing legislation. Provisions to deal with minor offences as well as serious crimes are set in the Sea Fisheries Act and the accompanying Sea Fisheries Penalty Regulation.

Based on the the German Sea Fisheries Act, the BLE organises annual meetings with both the fishing industry and the coastal State Governments in order to allow an exchange of ideas. The open discussion between fishing industry and government allows for maximum transparency and therefore proactively avoids disputes. There is the possibility to take legal action against a Governmental decision, but this hasn't happened for years.

2.8 Review of the management system

2.8.1 Regional level

At EU level, the CFP is reviewed in connection with the major revisions of its basic regulations every tenth year. In addition to internal review processes, an independent evaluation was commissioned by the European Commission ahead of the 2013 reform to assess the CFP from both a natural and social sciences point of view. The scientific component of the fishery under assessment is routinely assessed by ICES, as is the management plan for the fishery under assessment. A larger evaluation of the North Sea management plans for demersal fisheries was performed in 2015 by the STECF, set up by the European Commission as a scientific expert body. Biological, economic, environmental and social aspects of the management plans were assessed.

2.8.2 National level

2.8.2.1 Denmark

The working of the management system is reviewed on a running basis at both ministerial and agency level as well as within the Fisheries Control and DTU Aqua. Regulations are evaluated by 'the paragraph 6 committee' on a running basis and every time a new regulatory measure is introduced. The Auditor General reviews the effectiveness of management bodies in financial terms and occasionally also in policy terms. For instance, in 2016 it investigated the concentration of quotas in Danish fisheries, and it cooperated with the Norwegian Auditor General's Office on the latter's review of the fisheries management regimes in the North Sea and Skagerrak.

2.8.2.2 Sweden

The management system is reviewed continuously within SwAM, which has its own internal auditor, as well as within the Coast Guard and SLU. In addition, SwAM's Council for Public Access to Information ('Havs- och vattenmyndighetens insynsråd') consists of politicians and representatives of civil society, business and other state bodies of governance. Its aim is to ensure that the public receives necessary information on the working of SwAM. (Similar councils have been set up with most Swedish bodies of governance in recent years.)

It meets for one day four times a year, where it receives presentations and updates from SwAM staff on issues related to its respective areas of responsibility/authority. In the opinion of the assessment team, this cannot count as an 'external review of the fishery-specific management system'. However, several other inspection bodies under the Swedish Government and Parliament (Riksdagen) perform regular external reviews of the workings of the country's system for fisheries management. The Swedish National Financial Management Authority, subordinate to the Ministry of Justice, reviews the finances and efficiency of management practice of the central bodies of governance in Sweden. Likewise, the Swedish National Audit Office, operating on behalf of Parliament, performs reviews of both financial spending and, increasingly, policy performance of the executive power. The Chancellor of Justice, also appointed by Parliament, has as its main task to detect systematic challenges in Swedish public administration. Hence, both internal and external review of the management system takes place on a regular basis.

2.8.2.3 The Netherlands

The Dutch fisheries management is regularly evaluated by LNV and the POs (especially with regards to stock-management), and occasionally by WMR (usually on request of the Ministry LNV, on a subject basis, e.g. an evaluation of certain gear measures). With regards to the broader management, the management through LNV is subject to annual review, although mostly financially. This is detailed in annual reports, which are sent to Parliament, and are also subject to audits by the The Netherlands Court of Audit. This Court checks whether the Dutch central government spends public funds economically, efficiently and effectively.

Updates on issues of concern regarding the Dutch fisheries management, or ongoing policy-implementations are reported by the Minister of LNV to the Parliament, either regularly (annually), or when asked by members of Parliament. This is done either verbally (in which case transcripts are made available), or in letters to Parliament. These updates are publicly available. The reviews by Parliament can be regarded as external reviews

2.8.2.4 Germany

The German fisheries policy is integral part of the CFP which applies to all German marine waters. Therefore, there is generally no internal nor external review of the management of national waters. Whenever it comes to a revision of the CFP, Germany cooperates closely with the EU. Needs for improvements detected by the German Government will be introduced in the discussions with the EU. The BMEL does not make use of external expertise but involves the Thünen-Institut as well as BLE.

3 Evaluation Results

3.1 Principle Level Scores

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

Table 8. Final Principle Scores

Principle	Score
Principle 3 – Management System	87.9

3.2 Summary of PI Level Scores

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

3.3 Summary of Conditions

One condition is raised under Principle 3. Further detail and the corresponding Client Action Plan is provided in Appendix 2.

Note: this condition was subject to an Objection as detailed in the General Background Report (Appendix 5, 3135R06-1A) and was remanded for reconsideration by the assessment team. The below is therefore the revised condition as accepted by the Independent Adjudicator and differs from the condition shown in the Final Report (3135R05-3A).

Table 9. Summary of conditions for Principle 3

Condition	Performance Indicator
Evidence should be provided that the MCS-system has demonstrated an ability to enforce relevant management measures, strategies and rules, key among	3.2.3

Condition	Performance Indicator
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.	

3.4 Harmonised fishery assessment

This fishery overlaps with a number of fisheries in the MSC programme, as detailed in Table 11. With regards to the need for harmonisation in the case of Principle 3 (MSC FCR2.0 Guidance GBP3) states: *Harmonisation could be necessary for the PIs in the Fisheries Specific Management System Component (3.2.1-3.2.4). This may be the case, for example, where two UoAs include different vessels, but both groups operate in the same fleet, under the same national management. For the Governance and Policy component (PIs 3.1.1-3.1.3), MSC accepts that it may be impractical to attempt full harmonisation, due to the large number of fisheries that may be managed under the relevant policy framework, and the differences in application between them.*

Due to the scope and reach of the Common Fisheries Policy, the team agrees it is impractical to attempt full harmonization for the Governance and Policy components. However, we do see a need for harmonization for the Fisheries Specific Management System Component in relation to the Landing Obligation (LO). As further discussed under PI3.2.3, the team has concerns whether the enforcement system is in fact comprehensive enough for the situation (PI 3.2.3a), and has scored the fishery down due to the fact that 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.

With regards to the implementation of the LO there is concern about ongoing non-compliance, although the assessment team could find no evidence that this is indeed the case. Taking 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 on PI 3.2.3c as well, and a precautionary scored of 60 was awarded.

As outlined in the Principle 1 report (3135R06-2A), the following stocks fall under the Landing Obligation:

Table 10. Overview of Target Species in relation to the implementation of the Landing Obligation

Common name	Scientific name	ICES Subarea / Division	2016	2017	2018
Anglerfish	<i>Lophius piscatorius</i> and <i>L. budegassa</i>	3a,4,6	not	not	not
Megrim	<i>Lepidorhombus sps</i>	4a,6a	not	partial (6a)	partial (6a)

Common name	Scientific name	ICES Subarea / Division	2016	2017	2018
Plaice	<i>Pleuronectes platessa</i>	21–23	partial (21)	partial (21), full (22-23)	partial (21), full (22-23)
		3a, 4	partial	partial	partial
		7d	not	not	not
Sole	<i>Solea solea</i>	3a, 22-24	partial	partial	partial
		4	partial	partial	partial
		7d	partial	partial	partial
Tusk	<i>Brosme brosme</i>	Northeast Atlantic	not	not	not
Cod	<i>Gadus morhua</i>	3a,4,7d	not	partial (3a and 4)	partial (3a and 4)
Haddock	<i>Melanogrammus aeglefinus</i>	4,6	partial	full	full
		7b-k	not	not	not
Hake	<i>Merluccius merluccius</i>	Northern stock	partial	partial	partial
Whiting	<i>Merlangius merlangus</i>	4,7d	partial (7d)	partial (4 and 7d)	partial (4 and 7d)
Saithe	<i>Pollachius virens</i>	4,6	partial (4)	partial (4)	partial (4)
Ling	<i>Molva molva</i>	NEA other	not	not	not
Norway lobster	<i>Nephrops</i>	3a	partial	full (but <i>de minimis</i> includes all discards)	full (but <i>de minimis</i> includes all discards)
		4	partial	partial	partial
		7	partial	partial	partial
Northern shrimp	<i>Pandalus borealis</i>	4a East, 3a.20	Full	Full	Full

Based on this list, the fisheries that overlap with the Principle 3 assessment for this fishery are listed in Table 11 below.

Table 11. Fisheries that overlap with the Principle 3 assessment for this fishery

Fishery	Reference for most recent scoring	MSC Link	Absorbed into this fishery?
Norway North Sea demersal	Public Certification Report - Chaudhury et al. (2018)	https://fisheries.msc.org/en/fisheries/norway-north-sea-demersal/@assessments	No
DFPO Denmark North Sea & Skagerrak cod & saithe	Year 6 surveillance - Gaudian et al. (2018a)	https://fisheries.msc.org/en/fisheries/dfpo-denmark-north-sea	Yes

Fishery	Reference for most recent scoring	MSC Link	Absorbed into this fishery?
		skagerrak-cod-saithe/@@assessments	
DFPO Denmark North Sea & Skagerrak Haddock Fishery	Year 5 surveillance - Gaudian et al. (2017)	https://fisheries.msc.org/en/fisheries/dfpo-denmark-north-sea-skagerrak-haddock/@@assessments	Yes
DFPO Denmark North Sea, Skagerrak and Kattegat hake and plaice	Year 3 surveillance – Borges et al. (2019)	https://fisheries.msc.org/en/fisheries/dfpo-denmark-north-sea-skagerrak-and-kattegat-hake-and-plaice/@@assessments	Yes
DFPO Denmark North Sea plaice	Year 6 surveillance - Gaudian et al. (2018b)	https://fisheries.msc.org/en/fisheries/dfpo-denmark-north-sea-plaice/@@assessments	Yes
DFPO Denmark North Sea sole	Year 5 surveillance - Keus et al. (2018)	https://fisheries.msc.org/en/fisheries/dfpo-denmark-north-sea-sole/@@assessments	Yes
Danish and Swedish <i>Nephrops</i>	Year 3 surveillance - Capell et al. (2018)	https://fisheries.msc.org/en/fisheries/danish-and-swedish-nephrops/@@view	Yes
Osprey Trawlers North Sea twin-rigged plaice	Year 2 surveillance - Andrews and Millner (2018a)	https://fisheries.msc.org/en/fisheries/osprey-trawlers-north-sea-twin-rigged-plaice/@@assessments	No
Ekofish Group-North Sea twin rigged otter trawl plaice	Year 2 surveillance - Andrews and Millner (2018b)	https://fisheries.msc.org/en/fisheries/ekofish-group-north-sea-twin-rigged-otter-trawl-plaice/@@assessments	No
CVO North Sea plaice and sole	Year 5 surveillance - Andrews and Millner (2018c)	https://fisheries.msc.org/en/fisheries/cvo-north-sea-plaice-and-sole/@@assessments	Yes
Germany North Sea Saithe Trawl Fishery	Public Certification Report - Andrews et al. (2018)	https://fisheries.msc.org/en/fisheries/germany-north-sea-saithe-trawl/@@assessments	Yes
Sweden Skagerrak, Kattegat and the Norwegian Deep cold-water prawn	Year 2 surveillance - Addison and Bekkevold (2018a)	https://fisheries.msc.org/en/fisheries/sweden-skagerrak-kattegat-and-the-norwegian-deep-cold-water-prawn/@@view	Yes
Norway Skagerrak and the Norwegian Deep cold water prawn fishery	Year 2 surveillance – Addison et al. (2019)	https://fisheries.msc.org/en/fisheries/norway-skagerrak-and-the-norwegian-deep-cold-water-prawn-fishery/@@assessments	No
Denmark Skagerrak and the Norwegian Deep cold-water prawn	Year 2 surveillance - Addison and Bekkevold (2018b)	https://fisheries.msc.org/en/fisheries/denmark-skagerrak-and-the-norwegian-deep-cold-water-prawn/@@view	Yes

To harmonise the outcome of the fishery under assessment for PI 3.2.3 with the fisheries above, the CAB reached out via email to the other assessment teams, and subsequently discussed the issue on Skype on 11th September 2018.

The assessment team for the Norway North Sea demersal fisheries responded with the following unanimous opinion:

1. Harmonisation is not applicable as the fishery falls under the Norwegian management while the joint demersal one falls under the EU management. The Norway North Sea Demersal fisheries are managed under EU-Norway Agreement and by Norwegian Authorities.
2. We have no reason to believe that our scoring of the Norwegian fishery is wrong based on the evidence that is provided – but we will confirm with IMR at our next site visit scheduled for next week.
3. The issue shall be in focus at the above mentioned surveillance audit and we hope to have more substantiated data and data that are specific for the Norwegian demersal fisheries.

The Norway Skagerrak and Norwegian Deep cold water prawn fishery follows the same rationale as the Norway North Sea demersal fisheries, as it is also managed under EU-Norway Agreement and by Norwegian Authorities.

The assessment team for the Germany North Sea Saithe Trawl fishery concluded that with the application of the LO in North Sea fisheries, there are material differences between fishing métiers, target species, areas fished, and even specific fleets. This means that significant differences in scoring of certain P3 PIs are to be expected if one considers the North Sea as a whole or whether one looks at a specific fleet. In the case of the German North Sea Saithe (GNSS) fishery there is a fleet of a few vessels which fish mostly in Norwegian waters and which use fishing gear and on-board processes to ensure that they are compliant with the (more onerous) Norwegian regulations on discarding. They have a good track record of compliance in EU and Norwegian waters. Observer trips provide information on both catch composition and the sizes of fish caught by this fleet. Together, this information supports a view that the MCS system in place is commensurate with the fishery and meets the SG100 requirements for PI3.2.2(a) and (c). The GNSS fishery is due to be absorbed into this Joint Demersal North Sea assessment. Taking the GNSS together with the other North Sea demersal trawl fleets, their lower score would be appropriate; but looking at the GNSS fishery by itself, the scores that Acoura Marine have awarded are appropriate.

As for the other demersal fisheries, both MRAG (DFPO Denmark North Sea, Skagerrak and Kattegat hake and plaice) and Acoura Marine (Lloyds Register) (Osprey Trawlers North Sea twin-rigged plaice and Ekofish Group-North Sea twin rigged otter trawl plaice) are evaluating the information that they have gathered from recent North Sea surveillance audits and have agreed that a harmonised condition may be adopted for these fisheries either in the current surveillance process or subsequently for these fisheries. CABs have agreed to remain in close contact to ensure an expedient and harmonised response to this issue.

Following the incorporation of the stakeholder comments and TOs for this fishery, the change in scoring on PI 3.2.3 'compliance and enforcement' was communicated to all CABs, to ensure this new score would be implemented at the next available moment as well.

Following the remand regarding the PI 3.2.3 condition and milestones, the changes were communicated to the relevant CABs who confirmed that harmonisation would take place at the next available opportunity.

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Appendices

Appendix 1 Principle 3 Scoring and Rationales

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			
	Guide post	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	Y
	Justification	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). 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 are transposed into national fisheries legislation in the member states.		

	<p>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.</p> <p><u>Germany:</u> 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.</p> <p>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).</p> <p>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)</p> <p><u>The Netherlands:</u> 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).</p> <p>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.</p> <p>Based on the Fisheries Act, Dutch quota 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.</p> <p><u>Denmark:</u> 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,</p>
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	<p><i>inter alia</i>, 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.</p> <p>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).</p> <p><u>Sweden:</u> 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, <i>inter alia</i>, the right to fish, licensing, 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.</p> <p>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, licensing, 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.</p> <p>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. Hence, at international, EU and national level, there is an effective legal system with binding procedures governing cooperation with other parties which guarantee management outcomes that are consistent with MSC Principles 1 and 2: SG100 is met.</p>		
b	Resolution of disputes		
Guide 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	The management system incorporates or is subject by law to a transparent mechanism for the resolution of legal disputes that is

			effective in dealing with most issues and that is appropriate to the context of the UoA.	appropriate to the context of the fishery and has been tested and proven to be effective .
	Met?	Y	Y	N
	Justifi cation	<p>At European and national level in The Netherlands, Denmark, Sweden, and Germany there is an effective, transparent dispute resolution mechanism in place (see section 2.6.2.5), 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 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.</p> <p>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 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.</p>		
c	Respect for rights			
	Guide post	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
	Justifi cation	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 activity. The EC CFP states that: “ <i>In view of the precarious economic</i>		

	<p><i>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 <u>Germany</u> 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, 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 and day can be fished but from 1st February till 31st March only three (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. SG100 is met.</p>
References	<p><u>General:</u> EC, 2013; EC, 2015b; FAO, 1993; FAO, 1995a; FAO, 1995b; NSAC website; UN, 1982;</p> <p>Agreed Records of Fisheries Consultations between Norway and the European Union for 2018, 1 December 2017.</p> <p>Agreement on Fisheries between the European Economic Community and the Kingdom of Norway, signed 27 February 1980, in force 16 June 1981.</p>

	<p>Germany:</p> <p>Germany, 1978a; Germany, 1978b; Germany, 1984; Germany 1989; Germany, 1996; Germany, 2008</p> <p><u>Netherlands:</u></p> <p>Fisheries Law 1963 (Visserijwet 1963): http://wetten.overheid.nl/BWBR0002416/2015-01-01</p> <p>General Administrative Law Act (Algemene Wet bestuursrecht): http://wetten.overheid.nl/BWBR0005537/2017-09-01</p> <p>Sportvisserij Nederland: https://www.sportvisserijnederland.nl/</p> <p>Ministry LNV: https://www.rijksoverheid.nl/onderwerpen/visserij/documenten/brochures/2017/12/01/informatiebulletin-december-2017</p> <p>Denmark:</p> <p>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.</p> <p>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.</p> <p>Fiskeriområdet skifter ressort, og der etableres en selvstændig fiskeristyrelse [Change in Responsibility in the Fisheries Sector and Establishment of an Independent Fisheries Agency], press release, Prime Minister's Office, 7 August 2017.</p> <p>Interviews with representatives of AgriFish during the site visit.</p> <p>Statsministeriets forestilling om ændring i forretningernes fordeling mellem ministre [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
CONDITION NUMBER (if relevant):	N/a

Evaluation Table for PI 3.1.2 – Consultation, roles and responsibilities

PI 3.1.2		The management system has effective consultation processes that are open to interested and affected parties. The roles and responsibilities of organisations and individuals who are involved in the management process are clear and understood by all relevant parties		
Scoring Issue		SG 60	SG 80	SG 100
a	Roles and responsibilities			
	Guide post	Organisations and individuals involved in the management process have been identified. Functions, roles and responsibilities are generally understood .	Organisations and individuals involved in the management process have been identified. Functions, roles and responsibilities are explicitly defined and well understood for key areas of responsibility and interaction.	Organisations and individuals involved in the management process have been identified. Functions, roles and responsibilities are explicitly defined and well understood for all areas of responsibility and interaction.
	Met?	Y	Y	Y
	Justification	<p>The EU management system involves governments, fisheries industry, scientists, NGOs and other stakeholders in a consultative process. The roles of all parties in all areas of responsibility are defined in the legislation at EU and national level.</p> <p>Scientific advice from ICES forms the core of the management system; key institutions are ACOM and numerous Expert Working Groups. The advice is scrutinised by the STECF, an expert group of government and independent economic and management advisors. STECF also advises the EC on fisheries-specific aspects. At European level, key institutions are the Advisory Councils (ACs) which comprise a contact group dealing with particular fisheries at the regional level. With regards to the fisheries under assessment, both the North Sea Advisory Council (NSAC), and the North Western Waters Advisory Council (NWWAC) are of importance. The NSAC focusses on fisheries management within the North Sea and Skagerrak/Kattegat (ICES areas IV and IIIa), whereas the NWWAC deals with fisheries management in the EC offshore waters within the EEZ of Ireland, part of United Kingdom and France (ICES areas Vb, VIa and VII). Both ACs have working groups and focus groups dealing with specific issues.</p> <p>User groups are also represented on the EU delegation to the national negotiations with Norway.</p> <p>Roles and responsibilities are outlined in section 2.4, and summarised below:</p> <p><u>Germany</u>: The functions, roles and responsibilities of the actors in the German system for fisheries management are explicitly defined in the 1984 Seefischereigesetz (Law on the regulation of sea fishing and the implementation of the European Union fishing legislation, short form: Sea Fisheries Act) and the implementing Regulation (Seefischereiverordnung/Sea Fisheries Regulation), and supporting legislation at States' level and are, according to our interviews during site visit, well understood for all areas of responsibility and interaction. As laid out under SI 3.1.1a above, responsible for managing German fisheries at the national level is the Bundesministerium für Ernährung und Landwirtschaft (BMEL). The fishing quotas allocated to Germany are distributed every year by the Bundesanstalt für Landwirtschaft und</p>		

	<p>Ernährung (BLE) on the basis of the Sea Fisheries Act. Different user groups are well integrated in the management process; see SI 3.1.2b below.</p> <p><u>The Netherlands:</u> The functions, roles and responsibilities of actors in the Dutch system for fisheries management are explicitly defined in the Dutch Fisheries Act 1963 and supporting legislation and are, according to our interviews during site visit, well understood for all areas of responsibility and interaction. As laid out under SI 3.1.1a above, the Ministry of Agriculture, Nature, and Food Quality (LNV) is the main authority with regards to fisheries policy, and is in charge of providing licences, sets policy. On behalf of LNV the NVWA (Netherlands Food and Consumer Product Safety Authority) enforces rules and regulations for fisheries specific activities (both on land -e.g. at auctions- and at sea). The Ministry of Infrastructure and Environment (Ministerie Infrastructuur en Milieu: I&M) is in charge of shipping (e.g. the implementation of Traffic Separation Schemes), and safety at sea. Different user groups are integrated in the management process; see SI 3.1.2b below.</p> <p><u>Sweden:</u> The functions, roles and responsibilities of all actors in the Swedish system for fisheries management are explicitly defined in the Fisheries Act and supporting legislation and are, according to our interviews during site visit, well understood for all areas of responsibility and interaction. As laid out under SI 3.1.1a above, governance functions are in the main located with SwAM. Different user groups are well integrated in the management process; see SI 3.1.2b below.</p> <p><u>Denmark:</u> The functions, roles and responsibilities of all actors in the Danish system for fisheries management are explicitly defined in the Fisheries Act and supporting legislation and are, according to the team's interviews during site visit, well understood for all areas of responsibility and interaction. As laid out under SI 3.1.1a above, governance functions are since August 2017 in the main located with the Ministry of Foreign Affairs. Different user groups are well integrated in the management process; see SI 3.1.2. b below.</p> <p>According to our interviews during site visit, the functions, roles and responsibilities are well understood for all areas of responsibility and interaction in all countries involved. SG100 is met.</p>			
b	Consultation processes			
	Guide post	The management system includes consultation processes that obtain relevant information from the main affected parties, including local knowledge, to inform the management system.	The management system includes consultation processes that regularly seek and accept relevant information, including local knowledge. The management system demonstrates consideration of the information obtained.	The management system includes consultation processes that regularly seek and accept relevant information, including local knowledge. The management system demonstrates consideration of the information and explains how it is used or not used .
	Met?	Y	Y	Y
	Justification	On EU level, the consultation process is promoted by the North Sea Advisory Council, and North Western Waters Advisory Council. The principle objective is to prepare and provide advice on the management of the fisheries of the North Sea on behalf of stakeholders in order to promote the objectives of the Common Fisheries Policy. The outcome of Council Meetings clearly demonstrates that all available information is taken into account, and explains how the information is used. The annual consultation process for TACs and the decadal		

	<p>consultation on the review of the CFP provide opportunities for stakeholders to engage directly in the management process, and this involvement is facilitated at the EC and national level.</p> <p><u>Germany:</u> According to the German Sea Fisheries Act, the BLE organises annual meetings with both the fishing industry and the coastal State Governments in order to allow an exchange of ideas before the decision on the distribution of quotas. More meetings can be held on request of any party in order to discuss upcoming questions. There is also a lively exchange between fishing industry and Government as well as between fishing industry and research institute.</p> <p><u>The Netherlands:</u> Apart from the scientific research and assessment carried out by ICES, additional research is undertaken by Wageningen Marine Research (WMR: formerly IMARES) at the request of the Dutch government and industry. Between 2008 and 2016, the Dutch fisheries sector has also invested in several knowledge circles or 'Kenniskringen', which were fisher-led, multi-stakeholder groups to share knowledge, liaise with government and steer additional scientific research. These knowledge circles have played an important role in discussing innovative techniques, and additional research into e.g. unwanted by-catch. Although funding for these 'knowledge circles' has ceased, other projects have continued, e.g. in the 'Innovatiecentrum Zuidwest' where new techniques can be tried, often in cooperation between fishermen, researcher, and sometimes also NGOs.</p> <p>There are no formal meetings between authorities, stakeholders, and fisheries representatives to seek continuous consultation on a diversity of fisheries-related topics. There are, however, several topic-based working groups from the Ministries (both LNV and I&M), that bring together all relevant civil servants, stakeholders, fisheries representatives, and researchers, to discuss current issues, ranging from nature conservation, to technical measures. There is e.g. a working group on the landing obligation, one on the use of electrofishing, and one on the implementation of Natura 2000-measures in Dutch coastal waters. For formal decisions, the General Administrative Law Act prescribes that stakeholder consultation is necessary. Managing authorities also have to demonstrate how the comments made by stakeholders have been taken into account, and if not, have to provide a rationale.</p> <p><u>Sweden:</u> Sweden has a long tradition of including non-governmental organizations in fisheries management, with continuous consultation and close cooperation between governmental agencies and user-group organizations. Consultative meetings ('samrådsmöte') are held at least twice a year between SwAM and the POs, in recent years 4-5 times a year. Separate meetings are held between SwAM and other stakeholders (such as NGOs), and at least once a year a so-called 'grand meeting' ('stormöte') with all stakeholders is organized. Stakeholders report consultation processes to be inclusive and transparent, with management authorities displaying consideration of the information obtained from stakeholders and largely explaining how it is used or not used. They can influence the timing of the meetings with authorities and the agenda for the meetings. Access to the highest political level is also available; the client reports meetings with both Swedish and Norwegian ministers of fisheries. Some stakeholders attribute their influence to 'the Swedish consensus culture', which indicates that it would have been impossible in the specific cultural context not to include all relevant stakeholders.</p> <p><u>Denmark:</u> The most important formal arena for consultations in Denmark is the so-called 'paragraph 6 committee', which is prescribed by paragraph 6 in the Fisheries Act. The committee (in Danish named 'Erhvervsfiskeriuudvalget' – the Committee on Commercial Fisheries) is an advisory body for the Government in all areas of fisheries legislation and management. It meets 7-8 times per year, and all stakeholders are free to attend. Meeting dates and agendas are published on the website of the Fisheries Agency, along with detailed minutes from the meetings. In addition, there is widespread informal contact between the authorities and stakeholders in the fishery. Stakeholders report consultation processes to be inclusive and transparent, with management authorities displaying consideration of the information obtained from stakeholders and largely explaining how it is used or not used.</p>
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		Based on the above, SG100 is met.	
c	Participation		
	Guide post	The consultation process provides opportunity for all interested and affected parties to be involved.	The consultation process provides opportunity and encouragement for all interested and affected parties to be involved, and facilitates their effective engagement.
	Met?	Y	Y
	Justification	Opportunities for interested and affected parties to be involved in the management process are provided by the NSAC, the annual consultation on fishing opportunities and the decadal review of the EC CFP. Meetings are announced publicly and all relevant stakeholders are well informed about where and when the meetings take place. At these consultation meetings the management authorities actively seek advice from all interested parties in preparation for international consultations and negotiations. Since 2010, the annual consultation on fishing opportunities has been made more transparent and accessible, with early publication of consultation documents. The creation of the Advisory Councils and the current consultation on the review of the EC CFP provides evidence of how the consultation process facilitates the effective engagement of interested and affected parties. As follows from SI 3.1.2b above, the consultation processes provide opportunity for all interested and affected parties to be involved at both national and international level. Stakeholders, and fisheries representatives both have short, direct lines to the authorities, and actively engage in consultation. SG 100 is met.	
References	<u>General</u> : EC, 1999; EC, 2004; EC, 2015a; EC, 2016a; EC, 2017b; EC website/consultations; NSAC website; interviews during the site-visits <u>Germany</u> : Germany, 1984 <u>Netherlands</u> : annual briefing on fishery legislation: https://www.rijksoverheid.nl/onderwerpen/visserij/documenten/brochures/2017/12/01/informatiebulletin-december-2017 Kenniskringen, e.g: http://www.wur.nl/nl/Onderzoek-Resultaten/Projecten/Kenniskring-Visserij.htm and: http://www.wur.nl/upload_mm/f/3/b/8a53e9b1-448e-43eb-98e4-16d6c1cdc4d3_201702%20Producten%20KK%20Vis%20met%20auteur_juni2017_2.pdf Visserij-Innovatiecentrum Zuidwest: https://visserij-innovatiecentrum.nl/ <u>Sweden</u> : Website of SwAM (www.havochvatten.se). <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 2016. 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.		

	<p>Referat fra møde i erhvervsfiskeriudvalget den 6. april 2017 [Minutes from Meeting in the Committee for Commercial Fisheries, 6 April 2017], available on the website of AgriFish.</p> <p>Referat fra møde i erhvervsfiskeriudvalget den 30. mai 2017 [Minutes from Meeting in the Committee for Commercial Fisheries, 30 May 2017], available on the website of AgriFish.</p> <p>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>
OVERALL PERFORMANCE INDICATOR SCORE:	100
CONDITION NUMBER (if relevant):	N/a

Evaluation Table for PI 3.1.3 – Long term objectives

PI 3.1.3		The management policy has clear long-term objectives to guide decision-making that are consistent with MSC fisheries standard, and incorporates the precautionary approach.		
Scoring Issue		SG 60	SG 80	SG 100
a	Objectives			
	Guide post	Long-term objectives to guide decision-making, consistent with the MSC fisheries standard and the precautionary approach, are implicit within management policy.	Clear long-term objectives that guide decision-making, consistent with MSC fisheries standard and the precautionary approach are explicit within management policy.	Clear long-term objectives that guide decision-making, consistent with MSC fisheries standard and the precautionary approach, are explicit within and required by management policy.
	Met?	Y	Y	Y
	Justification	<p>At all levels of the management system, fish resources are distributed based on some level of historical usage and attention to the social context within which the fishery takes place. At the international level, the NEAFC Convention states as its objective to ensure the long-term conservation and optimum utilization of the fishery resources in the Convention Area, providing sustainable economic, environmental and social benefits (Art. 2).</p> <p>The management system contains overarching environmental management objectives arising from international agreements (such as the UN Convention on the Law of the Sea and the UN Convention on Biological Diversity), and EC legislation (the CFP and EC environmental Directives). The use of the precautionary approach is required by CFP and UNCLOS. Both the Water Framework Directive (WFD; Directive 2000/60/EC), and the Marine Strategy Framework Directive (MSFD; Directive 2008/56/EC) outline the need for better water quality, and prescribes to achieve ‘good environmental status’, following the precautionary approach. The implementation of the Habitat- and Bird Directives (Council Directive 92/43/EEC and Directive 2009/147/EC) into designated Natura 2000-sites also provides long-term objectives that guide decision making. See also section 2.3.2.</p> <p>The CFP explicitly states in Article 2: (1) “The CFP shall ensure that fishing and aquaculture activities are environmentally sustainable in the long-term ...”, (2) “The CFP shall apply the precautionary approach to fisheries management, and shall aim to ensure that exploitation of living marine biological resources restores and maintains populations of harvested species above levels which can produce the maximum sustainable yield” and (3) “The CFP shall implement the ecosystem-based approach to fisheries management so as to ensure that negative impacts of fishing activities on the marine ecosystem are minimised, ...”.</p> <p>Each memberstate has implemented a range of environmental Directives (such as the Birds- and Habitats Directive), including designation of Special Protection Areas (SPAs) and Special Areas of Conservation (SACs). Where relevant, the measures taken for these sites have been included in the analysis of P2 Performance Indicators.</p>		

	<p><u>Germany:</u> The German Sea Fisheries Act aims at the protection of the fish stocks and the preservation of the marine environment and implements consistently the European fisheries legislation. Also the Bundesnatursschutzgesetz (Federal Nature Conservation Act) provides for measures to preserve and to promote the environment and the native plant and animal species in marine and inland waters. This approach is reflected also in State fisheries legislation, regulating the fishery in the German territorial waters. As mentioned above (3.1.1) Germany has also signed the FAO Code of Conduct for Responsible Fisheries (1995).</p> <p>In <u>The Netherlands</u>, several policy documents exist to guide decision-making with regards to the use of the North Sea (including fisheries). The Policy Document on the North Sea 2016-2021 (including The Netherlands' Maritime Spatial Plan) sets the policy for the spatial planning on the North Sea. It indicates areas for e.g. off-shore windparks. The National Water Plan 2016-2021, is the Dutch implementation of the Water Framework Directive (WFD). It describes how to achieve cleaner (fresh) water, but also how The Netherlands plan to stay save with rising sea- and river levels. The National Water Plan also outlines the goals set by the Marine Strategy Framework Directive (MSFD). The implementation of both the WFD and MSFD has taken place by amending the 'Water law' (Waterwet) in 2010. This Law operates in tandem with the Dutch Fisheries Act 1963. The Fisheries Act outlines the specifics of the fisheries management, based on the CFP. The Waterwet can set additional rules, e.g. with regards to water pollution and dumping of trash.</p> <p><u>Denmark:</u> The declared objective of the 2014 Fisheries Act is to ensure a sustainable basis for commercial fisheries and related professions, as well as possibilities for recreational fisheries. This is to be achieved through a management that secures protection and 'advancement' [ophjælpning] of living resources in salt and fresh waters and protection of other animal and plant life. Seen in the context of the requirements in the remaining law text, and legal acts at lower levels, the objectives are consistent with the precautionary approach to fisheries management, as defined, e.g., in the FAO Code of Conduct for Responsible Fisheries. Since they are codified at the level of law, they are required by management policy.</p> <p><u>Sweden:</u> The 1993 Fisheries Act and 1994 Regulation on Fisheries, Water Use and the Fishing Industry are sparse in terms of declared objectives, but contained in their numerous practical regulatory measures (see SI 3.1.1a) above) are at least implicit clear long-term objectives that guide decision-making consistent with the MSC standard and the precautionary approach. In the management plans and other official documents, such as the 2002 National Strategy for Sustainable Development, such objectives are explicit, e.g. sustainable use, precaution and ecosystem considerations. As these documents are not formalized in national law, however, they cannot be considered required by management policy. However, as Sweden also conforms to the CFP, and is implementing other EU legislation (such as the Habitats Directive), there are still sufficient clear long-term objectives consistent with MSC fisheries standard and the precautionary approach, explicit within and required by management policy.</p> <p>Based on the above, SG100 is met for all countries.</p>
References	<p><u>General:</u> EC, 1992; EC, 2011b; EC, 2013; FAO, 1995; UN, 1982; UN, 1992</p> <p><u>Germany:</u> Germany, 1984; Germany, 1989; Germany, 2009</p> <p><u>Netherlands:</u> Boon et al, 2011; EC, 2000; EC, 2008b.</p> <p>Ministry I&M, 2016: Policy Document on the North Sea 2016-2021 - including the Netherlands' Maritime Spatial Plan see: https://www.noordzeeloket.nl/beleid/noordzeebeleid/beleidsnota-noordzee/</p>

	Ministry I&M, 2016: Nationaal Waterplan 2016-2021 see: https://www.rijksoverheid.nl/documenten/beleidsnota-s/2015/12/14/nationaal-waterplan-2016-2021 Ministry LNV and I&M, 2014: Noordzee 2050 Gebiedsagenda Prins et al, 2011a and 2011b, through: http://www.wur.nl/nl/project/Kader-Richtlijn-Marien.htm The Netherlands, 2017. Waterwet: http://wetten.overheid.nl/BWBR0025458/2017-01-01 Denmark: 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. Sweden: Fiskelag (1993:787) [Fisheries Act], Svensk författningssamling 1993:787 t.o.m. SFS 2016:824, last updated 2016. Förordning (1994:1716) om fisket, vattenbruket och fiskerinäringen [Regulation on on Fisheries, Water Use and the Fishing Industry], Svensk författningssamling 1994:1716, t.o.m. SFS 2016:826, last updated 2017. Förvaltningsmål för nationellt förvaldade fiskbestånd [Management Objectives for Nationally Managed Fish Stocks], Aqua Reports 2016: 10. Sweden's National Strategy for Sustainable Development 2002, Government Communication 2001/02:171	
OVERALL PERFORMANCE INDICATOR SCORE:		100
CONDITION NUMBER (if relevant):		N/a

Evaluation Table for PI 3.2.1 Fishery-specific objectives

PI 3.2.1		The fishery-specific management system has clear, specific objectives designed to achieve the outcomes expressed by MSC's Principles 1 and 2.		
Scoring Issue		SG 60	SG 80	SG 100
a	Objectives			
	Guide post	Objectives , which are broadly consistent with achieving the outcomes expressed by MSC's Principles 1 and 2, are implicit within the fishery-specific management system.	Short and long-term objectives , which are consistent with achieving the outcomes expressed by MSC's Principles 1 and 2, are explicit within the fishery-specific management system.	Well defined and measurable short and long-term objectives , which are demonstrably consistent with achieving the outcomes expressed by MSC's Principles 1 and 2, are explicit within the fishery-specific management system.
	Met?	Y	Y	N
	Justification	Well-defined and measurable short and long term objectives are explicit within the fishery's management systems (EU and on all national levels). Short and long-term objectives consistent with achieving the outcomes of MSC Principles 1 and 2 are explicit in the CFP itself, like the long-term objective to ensure that exploitation of living marine biological resources restores and maintains populations of harvested species above levels which can produce the maximum sustainable yield (MSY). This is also reflected in the management plans. In the past, multi-annual plans for certain fish stocks existed (like multi-annual plans for plaice and sole in the North Sea). In 2016, the EU Commission proposed the multi-annual plan for demersal fish stocks in the North Sea (see e.g. EC, 2016b and 2018). This includes objectives to maintain fish stocks at sustainable levels and protect other parts of the ecosystem. This plan was accepted on 29 th May 2018. However, these management plans are not always demonstrably consistent to meet the outcomes expressed by Principle 1 such as the reference points. There are no similarly well-defined and explicit objectives for all of the Principle 2 outcomes, although these have been defined for some of the components (such as non-target and ETP species), there are still problems with habitat and ecosystem effects. SG80 is met, but SG100 is not met.		
References		<u>General</u> : EC, 1992; EC, 2013; EC, 2016b and 2018 <u>Germany</u> : Germany , 1984; Germany, 2009 <u>Netherlands</u> : The Netherlands, 1963; The Netherlands, 2017b <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 2016. 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.		

	<p><u>Sweden:</u></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>Förvaltningsmål för nationellt förvaltade fiskbestånd [Management Objectives for Nationally Managed Fish Stocks], Aqua Reports 2016: 10.</p> <p>Sweden's National Strategy for Sustainable Development 2002, Government Communication 2001/02:171</p>	
OVERALL PERFORMANCE INDICATOR SCORE:		80
CONDITION NUMBER (if relevant):		N/a

Evaluation Table for PI 3.2.2 – Decision-making processes

PI 3.2.2		The fishery-specific management system includes effective decision-making processes that result in measures and strategies to achieve the objectives, and has an appropriate approach to actual disputes in the fishery.		
Scoring Issue		SG 60	SG 80	SG 100
a	Decision-making processes			
	Guide post	There are some decision-making processes in place that result in measures and strategies to achieve the fishery-specific objectives.	There are established decision-making processes that result in measures and strategies to achieve the fishery-specific objectives.	
	Met?	Y	Y	
	Justification	<p>There are well established decision-making processes in place (see 3.1.2 above) and codified in the 2013 CFP (such as the Advisory Councils), as well as supporting national legislation (e.g. the national fisheries acts listed under 3.1.1a above), ensuring that strategies are produced and measures taken to achieve the fishery-specific objectives. Measures include, among other things, the establishment of TACs on the basis of scientific advice, regulation of access to the fishery and technical requirements such as closed seasons or areas and gear restrictions.</p> <p>The consultation process on the decision-making is outlined in section 1.1 (and also discussed under PI 3.1.2), and summarised here: The CFP includes rules on stakeholder involvement, through the Advisory Councils (ACs). The ACs are stakeholder-led organisations that provide the Commission and EU countries with recommendations on fisheries management matters. Both the North Sea Advisory Council (NSAC), and the North Western Waters Advisory Council (NWWAC) have working groups and focus groups dealing with specific issues. The annual consultation process for TACs and the decadal consultation on the review of the CFP provide opportunities for stakeholders to engage directly in the management process, and this involvement is facilitated at the EC and national level. Since 2010, the annual consultation on fishing opportunities has been made more transparent and accessible, with early publication of consultation documents (EC, 2016).</p> <p>Data provided by e.g. ICES (the international scientific advisory body for the fisheries authorities of countries around the North Atlantic), STECF, and Member States under the Data Collection Framework (DCF) form the basis for scientific opinions and recommendations formulated in STECF reports. The resulting scientific advice is used to inform the CFP decision making process. The data are disseminated in aggregated form for a target audience of experts for further use in scientific analyses and policy.</p>		

	<p>At a national level, administrations operate both formal and informal consultation procedures, in which they combine mailings on current issues and proposed changes to management systems, and schedule regular face-to-face meetings with key stakeholders.</p> <p>The most important formal arena for Danish stakeholder consultations is the so-called 'paragraph 6 committee', which is prescribed by paragraph 6 in the Fisheries Act. The committee is an advisory body for the Government in all areas of fisheries legislation and management. In addition, there is widespread informal contact between the authorities and stakeholders in the fishery.</p> <p>An additional layer of information is provided by the scientific observer programme under the direction of the National Institute of Aquatic Resources (DTU Aqua). Fishers are obliged under the Fisheries Act to accept observers onboard. While the purpose of their observation is science and not compliance, they report the level of discards per fishing trip (albeit individual vessels are neither identified nor penalised). The outputs of the programme also inform risk-based enforcement models.</p> <p>Sweden has a long tradition of including non-governmental organisations in fisheries management, with continuous consultation and close cooperation between governmental agencies and user-group organisations. Consultative meetings ('samrådsmöte') are held at least twice a year between SwAM and the POs, in recent years 4-5 times a year. Separate meetings are held between SwAM and other stakeholders (such as NGOs), and at least once a year a so-called 'grand meeting' ('stormöte') with all stakeholders is organised.</p> <p>In The Netherlands, there are several topic-based working groups from the Ministries (both LNV and I&M), that bring together all relevant civil servants, stakeholders, fisheries representatives, and researchers, to discuss current issues, ranging from nature conservation, to technical measures. For formal decisions, the General Administrative Law Act prescribes that stakeholder consultation is necessary. Managing authorities also have to demonstrate how the comments made by stakeholders have been taken into account, and if not, have to provide a rationale.</p> <p>Based on the German Sea Fisheries Act, the BLE organises annual meetings with both the fishing industry and the coastal State Governments. These meetings provide a forum for dialogue and the exchange of views and information, but they allow also to raise problems and to express criticism. These meetings take place before BLE decides on the distribution of quotas in order to guarantee a maximum of transparency in the process. More meetings can be held on request of any party in order to discuss upcoming questions. There is also a lively exchange between fishing industry and Government as well as between fishing industry and research institute. All POs have the possibility to address BLE or Thünen Insitute when necessary.</p> <p>Established decision-making procedures at national level in The Netherlands, at national and county level in Sweden and Denmark, as well as at state level in Germany, ensure that strategies are produced and measures taken to achieve the fishery-specific objectives (see SI 3.1.1a above). These systems includes extensive consultation mechanisms with user groups (see SI 3.1.2b above). The enforcement system is further described under PI 3.2.3 below.</p> <p>SG80 is met.</p>
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b	Responsiveness of decision-making processes			
	Guide post	Decision-making processes respond to serious issues identified in relevant research, monitoring, evaluation and consultation, in a transparent, timely and adaptive manner and take some account of the wider implications of decisions.	Decision-making processes respond to serious and other important issues identified in relevant research, monitoring, evaluation and consultation, in a transparent, timely and adaptive manner and take account of the wider implications of decisions.	Decision-making processes respond to all issues identified in relevant research, monitoring, evaluation and consultation, in a transparent, timely and adaptive manner and take account of the wider implications of decisions.
	Met?	Y	Y	N
	Justifi cation	ICES uses the best available scientific information to produce its advice which is then the basis for the setting of annual TACs by the Commission. Tried and tested procedures exist to adjust the TACs in response to annual scientific advice, ongoing monitoring results but also to <i>ad hoc</i> issues raised by the NSAC and NWWAC. The response of the management system to such issues is set out in reports and minutes that are available to stakeholders, providing transparency. Many but not all issues are taken into account in ICES assessments and management responses, and as such matters are not always recognised and responded to in a timely and adaptive way by the Coastal States. According to our interviews during the site visits, the established decision-making procedures respond to most issues identified in research, monitoring, evaluation or by groups with an interest in the fishery. This is ensured through the arenas for regular consultations between governmental agencies and the public, as well as both regular and <i>ad hoc</i> consultation with the industry and other stakeholders. In addition, there is close contact between authorities and scientific research institutions. Both scientists and user-group representatives claim that the relevant government agencies are open to any kind of input at any time. They feel that the authorities' response is transparent and timely and that the ensuing policy options take adequate account of their advice. However, some NGOs expressed concerns about the way stakeholder consultation is taken into account in the decision making process. Based on the above, we cannot conclude that all issues are responded to. SG80 is met, but SG100 is not.		
c	Use of precautionary approach			
	Guide post		Decision-making processes use the precautionary approach and are based on best available information.	
	Met?		Y	
	Justifi cation	Decision-making processes are based on best available scientific information collected by Thünen-Institut of Sea Fisheries (Germany), WMR (Netherlands), DTU Aqua (Denmark), SLU (Sweden), and ICES. Management uses the precautionary approach as codified in the CFP and the national Fishery Acts and supporting legislation. See also PI 3.1.3 above.		

		<p>The current CFP regulation requires that member states apply the precautionary approach to fisheries management. Article 2 of the Regulation states: The CFP shall apply the precautionary approach to fisheries management, and shall aim to ensure that exploitation of living marine biological resources restores and maintains populations of harvested species above levels which can produce the maximum sustainable yield (MSY). It is specifically mentioned that when targets relating to MSY cannot be determined, multiannual (management) plans shall provide for measures based on the precautionary approach, <u>ensuring at least a comparable level of protection</u> for the relevant fish stocks. The MSY exploitation rate shall be achieved by 2015 where possible and, on a progressive, incremental basis at the latest by 2020 for all stocks.</p> <p>Apart from the CFP, other EU Directives influence the management of fisheries, often at a national level. The Water Framework Directive (WFD; Directive 2000/60/EC), and the Marine Strategy Framework Directive (MSFD; Directive 2008/56/EC) outline the need for better water quality, and prescribes to achieve 'good environmental status', following the precautionary approach.</p> <p>In both the CFP and the MSFD, the precautionary approach dictates (as evidenced by the above example on MSY) that caution needs to be applied when information is not available, uncertain, unreliable or inadequate.</p> <p>This requirement to use the precautionary approach has been transposed in national fisheries' laws, the Danish 2014 Fisheries and Aquaculture Act (shortform: Fisheries Act) (revised 2017), the Swedish 1993 Fisheries Act (last revised 2016), the Dutch Fisheries Act 1963 (Visserijwet 1963). And the German 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 all takes this requirement into account. SG 80 is met.</p>		
d	Accountability and transparency of management system and decision-making process			
	Guide post	Some information on the fishery's performance and management action is generally available on request to stakeholders.	Information on the fishery's performance and management action is available on request , and explanations are provided for any actions or lack of action associated with findings and relevant recommendations emerging from research, monitoring, evaluation and review activity.	Formal reporting to all interested stakeholders provides comprehensive information on the fishery's performance and management actions and describes how the management system responded to findings and relevant recommendations emerging from research, monitoring, evaluation and review activity.
	Met?	Y	Y	N
	Justification	Reports on fishery's performance and management action are published at least on an annual basis und are available on the websites of ICES, STECF, EFCA and EU (e.g. Newsletters of Committee of Fisheries). <p>In <u>Germany</u>, reports on a national level are made available on the websites of Thünen-Institut of Sea Fisheries and BLE. Additional and/or more detailed information is available on request. SG80 is met. This does, however, not extend to formal reporting to all stakeholders.</p>		

		<p>In <u>The Netherlands</u>, reports on fishery's performance and management action on a Dutch level are reflected in annual reports by the Ministry of LNV. Updates on issues of concern, or ongoing policy-implementations are reported by the Minister to the Parliament, either regularly, or when asked by members of Parliament. This includes general updates on the control and enforcement efforts from the Coast Guard and NVWA. These updates are also publicly available. SG80 is met. The fisheries organisations (mainly VisNed and Nederlandse Vissersbond) also publish (bi)weekly newsletters to their members, which also become publicly available via their websites. This does, however, not extend to formal reporting to all stakeholders.</p> <p>In <u>Denmark</u> the Danish Fisheries Agency, DTU Aqua and the Fisheries Control produce annual reports that provide information on the fishery's performance and management action, and are available to the public on request. SG 80 is met. However, this stops short of formal reporting.</p> <p>SwAM and SLU in <u>Sweden</u> produce annual reports that provide extensive information on the fishery's performance and management action, and are available to the public on request. SwAM also has an advisory council for public access to information ('Havs- och vattenmyndighetens insynsråd') within its sphere of work. SG 80 is met. However, this also stops short of formal reporting.</p> <p>In all cases, SG80 is met, SG 100 is not met.</p>		
e	Approach to disputes			
	Guide post	Although the management authority or fishery may be subject to continuing court challenges, it is not indicating a disrespect or defiance of the law by repeatedly violating the same law or regulation necessary for the sustainability for the fishery.	The management system or fishery is attempting to comply in a timely fashion with judicial decisions arising from any legal challenges.	The management system or fishery acts proactively to avoid legal disputes or rapidly implements judicial decisions arising from legal challenges.
	Met?	Y	Y	Y
	Justification	<p>No management authority at either international, EU or national level for the fisheries under assessment here is subject to continuing court challenges.</p> <p>There are a number of mechanisms which act proactively to avoid legal disputes, and these are much improved in recent years. The CFP pays special attention to the stakeholder engagement in the management process as a means of proactively avoiding disputes. Stakeholder consultation through the NSAC is an integral part of the functioning of this system playing an important role in bringing parties together early on in the management process, thereby reducing the likelihood of management measures which trigger dispute.</p> <p>In order to avoid disputes national authorities seek to find solutions on a consultative basis in cooperation with user-groups or even on a bilateral basis (as outlined under PI 3.1.2): When occasionally taken to court by fishing companies, the management authority complies with the judicial decision in a timely manner. The management authority works proactively to avoid legal disputes through the tight cooperation with user-groups at the regulatory level, ensuring as high legitimacy as possible for regulations and other management decisions (see PI 3.2.3 below). Regulatory and enforcement authorities offer advice to the fleet on how to avoid infringements. Only the most serious cases are prosecuted by the police and possibly transferred to the court system.</p>		

		<p>There are no explicit mechanisms for the resolution of disputes in the EU–Norway regime for the North Sea fisheries, but – as is mostly the case at the national levels – disagreement is sorted out through dialogue, negotiation and compromise.</p> <p>Overall evidence indicates that the management system is acting proactively to avoid disputes and would rapidly implement any judicial decisions. SG100 is met.</p>
References		<p><u>General</u>: BLE website; EC, 2013; EU Committee of Fisheries Newsletters; NSAC website;</p> <p><u>Germany</u>: Germany, 1984; Thünen-Institute of Sea Fisheries website</p> <p><u>Netherlands</u>: The Netherlands, 1963; The Netherlands, 2017a; visned.nl; vissersbond.nl; Ministry LNV: https://www.rijksoverheid.nl/ministeries/ministerie-van-landbouw-natuur-en-voedselkwaliteit/nieuws?trefwoord=visserij&periode-van=&periode-tot=; letters informing Parliament e.g.: https://www.tweedekamer.nl/kamerstukken/brieven_regering?qry=%2A&fld_tk_categorie=Kamerstukken&srt=date%3Adesc%3Adate&clusterName=Brieven+regering&Type=Kamerstukken&fld_prl_kamerstuk=Brieven+regering&fld_prl_voortouwcommissie=vaste+commissie+voor+Landbouw%2C+Natuur+en+Voedselkwaliteit</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 2016.</p> <p>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.</p> <p><u>Sweden</u>: Interviews during the site visit; websites of SwAM (www.havochvatten.se) and SLU (www.slu.se)</p>
OVERALL PERFORMANCE INDICATOR SCORE:		85
CONDITION NUMBER (if relevant):		N/a

Evaluation Table for PI 3.2.3 – Compliance and enforcement

PI 3.2.3		Monitoring, control and surveillance mechanisms ensure the management measures in the fishery are enforced and complied with.		
Scoring Issue		SG 60	SG 80	SG 100
a	MCS implementation			
	Guide post	Monitoring, control and surveillance mechanisms exist, and are implemented in the fishery and there is a reasonable expectation that they are effective.	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.	A comprehensive monitoring, control and surveillance system has been implemented in the fishery and has demonstrated a consistent ability to enforce relevant management measures, strategies and/or rules.
	Met?	Y	N	N
	Justification	<p>The fishery takes place in EU and Norwegian waters. The basis for the EU enforcement system is the Control Regulation (1224/2009). The Regulation applies to all activities covered by the CFP carried out on the territory of member states or in EU waters, and by EU fishing vessels or nationals of a member state. It is the responsibility of the EU Member States to make sure that the rules agreed under the CFP are enforced. Some of the substantial requirements are that member states operate VMS and AIS systems, that they make use of fishing logbooks (vessels > 10m) or electronic logbooks (vessels > 12m). Based on Council Regulation a number of Union Inspectors has been nominated. "Union inspectors are mandated, under EU legislation, to carry out inspection and surveillance of fishing activities in European Union waters, outside the zones under the sovereignty of Member States, and in international waters" (EFCA website). The first Union Inspectors were nominated in 2011, their number reached 1924 from Member States and 46 from ECFA and DG MARE in 2016 (ECFA Annual Report 2016). At the end of 2017 ECFA announced the charter of a fisheries patrol vessel, the Lundy Sentinel, that will be deployed in 2018 in international, EU and third country waters.</p> <p>Fisheries controls play a central role in encouraging compliance, deterring fraud and ensuring sustainable fishing. The European Fisheries Control Agency (EFCA), set up in 2005 and operational since 2007, has the mission "to promote the highest common standards for control, inspection and surveillance under the CFP". "Its primary role is to organise coordination and cooperation between national control and inspection activities so that the rules of the CFP are respected and applied effectively." The Agency, in cooperation with the European Border and Coast Guard Agency and the European Maritime Safety Agency, each within its mandate, supports the national authorities carrying out coast guard functions. EFCA coordinates the implementation of the Specific Control and Inspection Programme (SCIP; see also section 0). In order to meet the objective of the uniform and effective application of conservation and control measures rules in the NS SCIP area, the EFCA provided, in collaboration with the Member State concerned, a specific organisational framework for operational coordination of control activities in this area, known as a joint deployment plan (JDP). The North Sea JDP (NS JDP) has been in operation since 2007 with the participation of Belgium, Denmark, France, Germany, Ireland, the Netherlands, Sweden and the United Kingdom which collaborate through activities that are carried out each year, on a permanent basis, in the framework of the North Sea joint campaigns.</p>		

	<p>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.</p> <p>In <u>Germany</u>, the fishery control is in the hands of BLE and of the competent State Agencies. BLE operates 3 sea-going vessels for the control of the German EEZ but also for operations in international waters (NAFO, NEAFC). The vessels also provide technical and humanitarian aid for fishing vessels. Landings of catches are controlled by BLE and State officers in each port that has been designated as official landing port (see BLE website). Germany has incorporated this task in the Sea Fisheries Act.</p> <p>The MSZ (Maritime Safety and Security Centre), established in 2007, combines the effort of several Federal and State Authorities in order to boost the effectiveness of maritime surveillance. Partners are the Navy, the Central Command for Maritime Emergencies, the German Waterways Police Reporting and Coordination Centre, the Federal Police Department of Maritime Security (Bundespolizei), the Federal Waterways and Shipping Administration, the Federal Customs Administration and BLE.</p> <p>In 2016 BLE conducted 457 controls at sea and recorded 22 infringements only. 117 of the controlled vessels were of German origin. This means in effect that less than 10% of the German fleet of about 1,400 vessels is controlled once a year. If only the vessels longer than 12m are taken into account (~300) every third vessel is controlled at sea once a year.</p> <p>In <u>The Netherlands</u>, the fishery control is carried out by the Coast Guard at sea, and on land by the NVWA. The legal basis for control and enforcement can be found in chapter VI of the Fisheries Act 1963, outlining the authorizations of the investigation officers, and the potential penalties that can be given and the specific laws that apply (especially Dutch Criminal Law). The Coast Guard is not only tasked with fishery-enforcement, but also i.e. shipping safety, maritime management, and enforcement of environmental laws at sea (mostly with regards to pollution). The Coast Guard is a Dutch Maritime and Aeronautical Rescue Coordination Centre (a Joint Rescue Co-ordination Centre -JRCC), and authorities working together in the Coast Guard are e.g the Ministry of Defense, the Ministry of Infrastructure and Environment (Infrastructuur&Milieu:I&M, which has to do with spatial planning, and establishment of shipping lanes), the Ministry of Justice (national police and Prosecution), the Ministry of Finance (mainly in relation to Customs), and the Ministry of LNV (through the NVWA). The fishery-specific work is managed through the Permanent Contact Group Enforcement North Sea (PKHN), in which all relevant Ministries are represented.</p> <p>The Coast guard operates 1 sea-going vessel for the fishery control on the Dutch EEZ, although if needed, other vessels can be used as well. The vessel can also be used to respond to emergencies at sea.</p> <p>The NVWA uses logbook-data (e-logbook), and VMS data to carry out controls of the landings, and also carries out inspections at ports and auctions. Landings of catches are controlled NVWA officers in each port that has been designated as official landing port. The auctions keep account of the amount of fish landed. The auctions inform the POs of the landed catches per member vessel. With this data, the POs monitor the utilisation of their respective quota allocation. Every two weeks, LNV gives an overview of the depletion of the national quota, based on the inspections and logbook data. With those two datasets, the POs can make sure that no exceedance of the quota take place. An additional layer of information is provided by the scientific observers from WMR. Fishers are obliged by law to take observers on board when management authorities require so.</p> <p>In earlier years (till 2013) detailed annual inspection reports were made available online. Since 2103, detailed reports have not been made available, and although the authorities indicated that information will become available again, no concrete data have been obtained on the amount of inspections carried out over the last few years, despite repeated requests to the authorities. However, as stated under 3.2.2d</p>
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	<p>reports on fishery's performance and management action on a Dutch level are reflected in annual reports by the Ministry of LNV. Updates on issues of concern, or ongoing policy-implementations are reported by the Minister to the Parliament, either regularly, or when asked by members of Parliament. This includes general updates on the control and enforcement efforts from the Coast Guard and NVWA. These updates are publicly available.</p> <p><u>Denmark:</u> The legal basis for enforcement of Danish fishery regulations is found in the Fisheries Act and the Regulation on Fisheries. Monitoring, control and surveillance (MCS) is in the main taken care of by the Fisheries Control, which is part of the Fisheries Agency. The Fisheries Control has seven regional offices: three on Western Jutland (Fisheries Control West) and Fisheries Control East (Eastern Jutland, Sjælland and Bornholm). A Fisheries Monitoring Centre (FMC), which is a constituent part of the Fisheries Control, is located in Kolding, Eastern Jutland. The Fisheries Control's offices are deliberately located outside the important fishing towns in order to avoid problems for the inspectors in their private sphere, but still within a distance that makes it possible to reach them in 1-2 hours.</p> <p>With the FMC as implementing body, the Fisheries Control keeps track of how much fish is taken from the quotas of different vessels at any time, based on electronic haul-by-haul catch information provided by the fishing vessels every 24 hours. Electronic logbook and VMS are mandatory for all vessels above 12 meters. Estimated landings, irrespective of landing country, are reported to Danish enforcement authorities before landing. Copies of sales notes are forwarded to the Fisheries Control, where they are used for official registration of quota uptake and control against information provided in the logbooks. The Fisheries Control carries out inspections at sea, in port in connection with landings of fish and at fish processing factories. It has three inspection vessels, of which one usually operates in the Skagerrak, one in the Kattegat and one in the Baltic Sea. At-sea inspections include physical checks of the last haul and fish in the holds, with the aim to reveal any discrepancies between actual and reported catches. By comparing the intermingling of, e.g., undersized fish or by-catch in the last haul and the hold, enforcement authorities can get an indication of whether illegal fishing has taken place earlier on the trip. While it is not illegal to have a higher amount of undersized fish or by-catch than allowed in one single haul (the fishers just need to stop fishing in that particular area), the absence of such catch in the hold raises a 'red flag' with authorities, and the vessel is followed up more closely than would otherwise have been the case (see below).</p> <p>In late 2013, the Fisheries Control changed its enforcement policy. The effort-based model with quantitative inspection goals was replaced by a risk- and effect-based model whereby special risk areas are identified and control effort is not considered as a goal in itself, but as a means to enhance compliance in the fisheries. This implied changes in the way ocean areas and specific vessels for inspection were identified, and the way inspectors relate to fishers during inspection. Firstly, more emphasis is now placed on 'focused campaigns' at both national and international level. During 2016, the Fisheries Control took part in a number of international Joint Deployment Plans (JDPs) and also coordinated several of them. The cod fisheries in the North Sea, Skagerrak/Kattegat and the Baltic Sea have been one of the prioritized areas of these campaigns. In accordance with the EU's Specific Control and Inspection Programme (SCIP), 80 so-called regulatory areas were selected for particular scrutiny in 2016, where an effect goal was set in terms of compliance. Each regulatory area consists of a combination of a specific rule, a fish species, an ocean area and a gear type. (See SI 3.2.3c below for information of performance and compliance.) Secondly, a point system operates at vessel level - not to be confused with the penalty points mentioned under SI 3.2.3b - in which 'Risk points' are attributed to individual vessels based on a cross-checking of a number of indicators, most notably past compliance level. Under this scheme, inspectors can prioritize some vessels for physical inspection over others. Thirdly, inspectors view their role during inspection as mainly to provide guidance in order to avoid future infringements. The vessels' score in the 'risk point' system is not open to the public, but it is openly discussed with the skipper during inspection. The inspector uses this as a starting point for discussions with the skippers on how they can avoid infringements in the future. Consultations are also provided at group</p>
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	<p>level, ranging from information meetings with local fishermen's associations to discussions about the Fisheries Control's communication efforts in the CFP Dialogue Forum. During 2016, a number of ad hoc meetings were with fishermen on the landing obligation. Finally, an administrative cross-control based on a number of sources of information, among them logbooks, VMS, landing declarations and other obligatory reports, is performed through the automated validation system VALID. A total of 95 control cases were opened following administrative cross-checks in 2016; the corresponding number was 128 in 2015.</p> <p>There is also a tight cooperation with the enforcement agencies of other EU and non-EU countries, including running exchange of data and joint risk assessments, as well as ad hoc initiatives. In addition to the JDPs mentioned above, where Denmark coordinated the campaigns for 6 weeks in the Baltic Sea and 11 weeks in the North Sea, Skagerrak and Kattegat in 2016, there were 18 exchanges of Danish inspectors to the control units of other EU member states and 15 exchanges the other way around.</p> <p>As follows, there are a number of possibilities for enforcement authorities to physically check whether the data provided by fishers through self-reporting are correct. In addition, VMS data enables control of whether area restrictions are observed, among other things.</p> <p><u>Sweden:</u> The legal basis for enforcement of Swedish fishery regulations is found in the Fisheries Act, according to which fishery inspectors ('fisketillsynsmän') can be appointed both under the national fisheries management authority (currently: SwAM) and the county boards. Detailed regulations on control of fisheries in Sweden are found in a separate regulation issued by SwAM. The Swedish Coast Guard is responsible for inspections at sea. The Coast Guard is subordinate to the Ministry of Justice; it has 22 'coastal stations' along the Swedish coast and has several dozen vessels of different size and functionality at its disposal. The national Fisheries Monitoring Centre (FMC) is located with SwAM. All vessels above 12 meters have electronic logbooks, and data are transmitted to the FMC after each haul, at least once a day. All landings have to be reported in advance, the period allowed depending on the type of fishery and amount of catch, but with two hours as minimum – this allows inspectors from SwAM to reach any point of landing on the Swedish western coast in the period from reporting to actual landing. VMS data are submitted every hour, but with increased frequency if enforcement authorities suspect any illegal activity. Inspections at sea include physical checks of both the catch from last haul and fish in the hold. By comparing the intermingling of, e.g., undersized fish or by-catch in the last haul and the hold, enforcement authorities can get an indication of whether illegal fishing has taken place earlier on the trip. While it is not illegal to have a higher amount of undersized fish or by-catch than allowed in one single haul (the fishers just need to stop fishing in that particular area), the absence of such catch in the hold raises a 'red flag' with authorities, and the vessel is followed up more closely than would otherwise have been the case, as part of a risk-based control effort.</p> <p><u>In Norway,</u> enforcement is taken care of in cooperation between the Directorate of Fisheries, the Coast Guard and the fishermen's sales organizations. The Directorate of Fisheries keeps track of how much fish is taken of the quotas of individual vessels, different vessel groups and other states at any given time, based on reports from the fishing fleet. Real-time data are forwarded to the Directorate of Fisheries, with the possibility to make corrections of data submitted each day within 12 hours into the next day. Norway has agreements in place with a number of other countries about exchange of ERS data, including the EU. The self-reported catch data can be checked at sales operations through the sales organizations, which have monopoly on first-hand sale of fish in Norway, and through physical checks performed by the sales organizations, the Directorate of Fisheries and the Coast Guard. The sales organizations are required to record all landings of fish in Norway and keep track of how much remains of a vessel's quota at any given time, on the basis of the landings data. This information is compared to the figures provided by the vessels to the Directorate of Fisheries through the electronic logbook. The value of any catch delivered above a vessel's quota is retained by the sales organization and used for control purposes. The sales organizations have their own inspectors who carry out physical controls of landings. They check, among other things, weighing equipment, quantity and size distribution of the catch, the quality of the fish and documentation. The Directorate has seven regional offices along the</p>
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	<p>coast, staffed with inspectors that carry out independent physical control of the fish at the point of landing, including total volume, species and fish size. All landings have to be reported six hours in advance in order to give the inspectors the possibility to check the landed catch. The landed volumes are compared to the volumes reported to the Directorate through the logbooks. Both landing and at-sea control is conducted using a risk-based framework aimed at utilizing resources to optimize compliance at any given moment. The Coast Guard is administratively part of the Norwegian Navy but performs tasks on behalf of several ministries, including the Ministry of Trade, Industry and Fisheries. Its most important field of work in practice is fishery inspections. Coast Guard inspectors board fishing vessels and control the catch (e.g. catch composition and fish size) and fishing gear (e.g. mesh size) on deck and the volume of fish in the holds. Using the established conversion factors for the relevant fish product, the inspectors calculate the volume of the fish in round weight and compare this with the catches reported to the Directorate through the logbooks. The Coast Guard has 20 ocean-going inspection vessels, some of which are the largest in the entire Norwegian Navy.</p> <p>Further, all four POs have their Codes of Conduct and can introduce sanctions towards a vessel when the provisions are not complied with. Hence, enforcement is in place for the fishery. There is also cooperation with the enforcement agencies of other EU and non-EU countries, including running exchange of data and joint risk assessments, as well as ad hoc initiatives. A monitoring, control and surveillance system has been implemented in the fishery. However, despite the efforts made within EU to establish a comprehensive MCS system it has to be stated that, compared with e.g. the Norwegian system, the control density in EU waters is considerably lower and therefore less dissuasive. Hence, it cannot be concluded that the system has demonstrated an ability to enforce relevant management measures, strategies and rules; see also SI 3.2.3c below. With regards to discards and the landing obligation (LO), Regulation (EU) 2015/812 mentions the following: As discards constitute a substantial waste and affect negatively the sustainable exploitation of marine organisms and marine ecosystems, and as compliance by operators with the landing obligation is essential for its success, infringements of the landing obligation should be categorised as serious under Regulation (EC) No 1224/2009. The landing obligation represents a fundamental change for operators. Accordingly, it is appropriate to postpone for 2 years the application of the rules on serious infringements as regards infringements of that type. 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.</p> <p>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>			
b	Sanctions			
	Guide post	Sanctions to deal with non-compliance exist and there is some evidence that they are applied.	Sanctions to deal with non-compliance exist, are consistently applied and thought to provide effective deterrence.	Sanctions to deal with non-compliance exist, are consistently applied and demonstrably provide effective deterrence.
	Met?	Y	Y	N

	Justification	<p>The EU Control Regulation obliges each member state to “ensure that appropriate measures are systematically taken, including administrative action or criminal proceedings in conformity with their national law, against the natural or legal persons suspected of a breach of any of the rules of the common fisheries policy.”</p> <p><u>Germany:</u> Based on the Control Regulations, a variety of sanctions to deal with non-compliance are set out in the German Sea Fisheries Act and the implementing legislation. Provisions to deal with minor offences as well as serious crimes are set in the Sea Fisheries Act and the accompanying Sea Fisheries Penalty Regulation.</p> <p><u>The Netherlands:</u> The Fisheries Act 1963 provides the basis for the use of penal and administrative sanctions, although in most cases, other laws will be referred to, like the Economic Crimes Law (Wet op de economische delicten), or even Criminal Law. Both LNV, the NVWA and the POs (based on their Code of Conduct) can issue sanctions to non-compliant vessels/members, varying from ‘penalty points’, to fines, or in extreme cases jail time. For certain infringements, the sanctions provide effective deterrence, e.g. in the case of exceeding quota (which is first dealt with by the PO). In the case of technical measures or closed areas, there seems to remain some non-compliance issues.</p> <p><u>Denmark:</u> The Fisheries Act provides the legal basis for the use of penal and administrative sanctions. Unless the infringement falls under the Penal Code, it is punished through fines or confiscation of fish and/or gear. In addition, a point system is applied, whereby fishers are given a specified number of points for different kinds of violations. When a specific number of points is reached, the fishing licence shall be automatically suspended for a period of at least two months, increasing with repeated violations. If the fishers do not accept a sanction, they can take their case to court. The decision of a lower-level court can then be appealed to higher-level courts.</p> <p><u>Sweden:</u> The Fisheries Act provides detailed provisions of penal and administrative sanctions. The most important penal sanctions are fines, prison up to one year (up to two years for particularly serious infringements) and confiscation of catch, gear or vessel. Administrative sanctions include a ‘sanction fee’ in the range SEK 1,000–500,000. In addition, a point system is applied, whereby fishers are given a specified number of points for different kinds of violations. When a specific number of points is reached, the fishing licence shall be automatically suspended for a period of at least two months, increasing with repeated violations. If the fishers do not accept a sanction, they can take their case to court. The decision of a lower-level court can then be appealed to higher-level courts.</p> <p><u>Norway:</u> Statutory authority for the use of sanctions in the event of infringements of fisheries regulations is given in the Marine Resources Act. Intentional or negligent violations are punished with fines or prison up to one year, while infringements committed with gross intent or negligence may be punished with prison up to six years. In the judgment of the seriousness of the infringement, the economic gain of the violation, among other things, is to be taken into consideration. Alternatively, catch, gear, vessels or other properties can be confiscated.</p> <p>The Norwegian enforcement agencies use a graduated sanctioning system, with sanctions ranging from oral warnings, written warnings and administrative fines to formal prosecution. If the fishers do not accept the fines issued by the enforcement or prosecution authority, the case goes to court. The decision of a lower-level court can then be appealed to higher-level courts.</p> <p>According to available information from both the enforcement bodies, fishermen representatives, and the fishers interviewed for the assessment, sanctions are consistently applied and in general thought to provide effective deterrence. Non-compliance is dealt with by the relevant national authorities through their criminal justice systems, using agreed and tested procedures. SG80 is met. However, it cannot be concluded that the system has demonstrated a consistent ability to enforce all relevant management measures, strategies and rules; see SI 3.2.3c below. Hence, SG100 is not met.</p>
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c	Compliance		
	Guide post	Fishers are generally thought to comply with the management system for the fishery under assessment, including, when required, providing information of importance to the effective management of the fishery.	<p>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>There is a high degree of confidence that fishers comply with the management system under assessment, including, providing information of importance to the effective management of the fishery.</p>
	Met?	Y	N
	Justification	<p><u>Germany</u>: From other certifications it is known that the Erzeugergemeinschaft für Nord- und Ostseefischer generally complies with the management system, provides information whenever demanded and readily accepts scientific observers from the Thünen-Institut on board their vessels. The Norwegian Directorate of Fisheries has confirmed that none of the vessels has been prosecuted for any violation in the last 3 years. The German Authority BLE, however, was unable to give any information on the behaviour of the fleet. Reason for that is a revision of the Sea Fisheries Act from last year. Besides some other changes the Third Law amending the Sea Fisheries Act from 23 December 2016 the new §14a has been incorporated in the law. This paragraph strictly interdicts the disclosure of personal data to third parties. It is even not the PO or vessel owner but only the captain of the vessel in question who is entitled to have that information. With the help of the Managing Director of EZG, who is at the same time Managing Director of eight of the 11 participating fishing companies (each vessel is owned by a separate company), it was possible to get an extract from the national infringement register, confirming that there are no records of infringements for those eight vessels. The issue of data availability will be on the agenda of the next meeting between BLE and the Ministry.</p> <p><u>The Netherlands</u>: Through general information (e.g. letters from the Minister to Parliament), and earlier certifications of (parts of) the fishery, it is known that members of the CVO generally comply with the management system, and also cooperate with the WMR-observer programme. The NVWA however, has not provided information on the amount of inspections, and outcome of these inspections carried out over the last few years, despite repeated requests to the authorities. It is therefore difficult to assess the situation fully, but some evidence exists to demonstrate fishers comply with the management system under assessment.</p> <p><u>Denmark</u>: In accordance with the risk-based approach to enforcement, the Fisheries Control in 2016 set specific effect goals for 80 regulatory areas (the combination of a specific rule, a fish species, an ocean area and a gear type; see SI 3.2.3a above). At the end of the year, it was concluded that compliance was high in 75 of these areas. Only one had developed in a negative direction since the preceding year (incorrect estimation in logbook of sole from the North Sea caught with passive gears), while two areas has moved in a positive direction (incorrect estimation in logbook of plaice from the North Sea caught with towed gears; and highgrading of cod from the North Sea caught with towed gears). The number of regulatory areas with a low degree of compliance has decreased year by year the last four years, from 14 in 2013 to 5 in 2016 (the total number of regulatory areas reduced from 89 to 80). In 2016, 219 infringements were registered following physical and administrative inspection. As explained under SI 3.2.3a above, there were 2809 inspections in port that year, 560 at sea and 95 based on automated cross-checks by the VALID system – which gives an infringement ratio of approx. 6 %. The majority (66 %) are minor violations of reporting requirements that do not lead to any sanctions beyond a warning. No points for serious infringements were given in 2016 (down from 14 in 2014 and 2 in 2015).</p>	

	<p><u>Sweden:</u> In accordance with the risk-based approach to enforcement, SwAM identified nine 'risk categories' (combination of species, area and gear, as well as type of infringement) for special scrutiny in 2016, with accompanying goals for increase in compliance rates. Compliance levels increased in eight of the categories, while the specific goal was achieved in seven of them. Most risk-areas were defined in the Baltic Sea. In the 'Western Ocean' (North Sea, Skagerrak and Kattegat), incorrect completion of the logbook in the cod fishery with active gear was identified as a risk area. The share of inspections resulting in the detection of an infringement was reduced from 26 % in 2014 to 11 % (the goal being below 20 %) in 2016. 760 landing controls were carried out in 2016, and infringements (of various levels of seriousness) were detected in 12.5 % of the inspections. A slight increase has taken place in the infringement level over the last few years, from approx. 8 % in 2013 and 11 % in 2014 and 2015, which SwAM attributes to the gradual transition to a risk-based enforcement approach during this period (with less inspections taking place in areas where compliance is known to be highest, i.e. avoiding 'boosting' compliance levels). During 2016, 89 administrative fines were given (71 in 2014 and 96 in 2015), while sanctioning points (see SI 3.2.3 b) above) were given in 13 cases. No cases were transferred to the court system in 2015 and 2016 (3 cases in 2014). The Coast Guard carried out 8593 'control measures' in 2016, 59 % in leisure fisheries and 31 % in professional fisheries, 275 of which were full inspections at sea. 179 cases from the 8593 'control measures' were transferred to the police.</p> <p><u>Norway:</u> Norwegian enforcement authorities report compliance to be high in Norwegian waters. In 2016, the Coast Guard carried out 1599 inspections at sea, selected within a risk-based framework. 74 inspections (4.6 %) resulted in a fine or prosecution.</p> <p>With regards to the LO, the team has noticed that compliance is an issue in any fishery currently under the LO. According to the Advisory Council Consultation Document 'Towards new SCIPs' (2018): <i>"Independent research, audits of the MS control systems conducted by the Commission, and the 'last-haul' and other project initiatives driven by the EFCA alongside the MS authorities all indicate³ a general lack of compliance with the LO and that illegal and unrecorded discarding is widespread. There is a consensus among relevant actors involved in fisheries control, that traditional means of control, such as inspections at sea and aerial surveillance, are not effective to monitor the LO. The absence of effective control and enforcement is reflected by the fact that, despite the fact that illegal discarding is widespread, there have been very few confirmed infringements of the LO by conventional inspections. Levels of non-compliance are expected to increase in 2019 with the full introduction of the LO."</i> The concern for non-compliance with the LO is also noted in STECF reports (STECF, 2017), EU reports (EU, 2017) COM(2017) 192 final), and by NGOs.</p> <p>As follows from PIs 3.2.3a and b above, 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. In addition to these coercive compliance mechanisms, various forms of norm-, legitimacy- and communication-related mechanisms have also proved effective to deliver compliance. First, there is a degree of social control in the coastal communities from which the fishery takes place, and the high level of user-group involvement (see PI 3.1.2 above) may provide regulations with a degree of legitimacy that increases fishermen's inclination to comply with them. The same applies to the relationship between fishermen and enforcement officers, which is reported to be very good. The MSC Fisheries Standard does not give any specific guidance as to what level of compliance is required to conclude that fishers 'comply with the management system under assessment'. Nor would that be reasonable since the absence of infringements in inspection statistics might</p>
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³ The reported catch composition of CCTV equipped trial vessels ("reference vessels") differs significantly from non-reference vessels engaged in the same fisheries (AC Consultation Document, 2018).

		<p>as well imply that inspectors are not competent (or willing) enough to detect non-compliance, or that they focus attention on those parts of the fishery where compliance is highest; cf. the note on risk-based control in the previous paragraph. Hence, compliance statistics can only give an indication, and must be seen in relation to other factors, such as the comprehensiveness of the enforcement system, the legitimacy of the management system as such, assumptions on the reliability of data provided by the enforcement authorities and other anecdotal evidence of compliance. It is the qualitative judgment of the assessment team that the requirement that fishers are generally thought to 'comply with the management system' is met in this fishery, i.e. SG60 is met. – this does not imply that infringements never take place (which is probably not the case in any fishery), but that most rules are generally respected. The requirement that fishers provide information of importance to the effective management of the fishery is definitely met.</p> <p>So the question remains whether 'some evidence exists' that fishers comply (required for an 80 score), or whether there is 'a high degree of confidence' that they comply (required for a 100 score). While the enforcement system as a whole is considered to be somewhat comprehensive (see 3.2.3a), 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 concern has been expressed in e.g. recent STECF reports and by stakeholders about ongoing non-compliance, although the assessment team could find no evidence that this is indeed the case. Taking 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>	
d	Systematic non-compliance		
	Guide post		There is no evidence of systematic non-compliance.
	Met?		N
	Justification	<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 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>	
References		<p>Germany: BLE website; EC, 2005; EC, 2008a; EC, 2009a; EC, 2009b; EC, 2011a; FAO, 2001; Germany 1984; Germany, 1989; Germany, 1998</p> <p>The Netherlands: NVWA: https://www.nvwa.nl/onderwerpen/vis-en-visproducten/rol-nvwa</p> <p>Letter to Parliament pertaining to fishery controls: https://www.rijksoverheid.nl/onderwerpen/visserij/documenten/kamerstukken/2017/08/30/kamerbrief-over-ijsselmeer-de-zeevisvergunning-voor-sportvisseren-en-reactie-op-europese-rekenkamer-rapport-visserijcontroles</p>	

	<p>Denmark:</p> <p>Fiskerikontrol 2016: Erhverv og rekreativ, kontrol og resultatet [Fisheries Control 2016: Commercial and Recreative, Control and Results], Copenhagen: Ministry of Environment and Food, 2017.</p> <p>Interviews with representatives of AgriFish and the Fisheries Control during the site visit.</p> <p><u>Sweden</u>: Årsredovisning 2016 [Annual Report 2016], SwAM.</p> <p>Email correspondence with SwAM.</p> <p>Fiskelag (1993:787) [Fisheries Act], Svensk författningssamling 1993:787 t.o.m. SFS 2016:824, last updated 2017.</p> <p>Fiskeriverkets föreskrifter (FIFS 2004:25) om resurstillträde och kontroll på fiskets område [The Fisheries Directorate's Regulation on Access to Resources and Control in the Field of Fisheries], Havs- och vattenmyndighetens författningssamling, last updated 2017.</p> <p>Förordning (1994:1716) om fisket, vattenbruket och fiskerinäringen [Regulation on on Fisheries, Water Use and the Fishing Industry], Svensk författningssamling 1994:1716, t.o.m. SFS 2016:826, last updated 2017.</p> <p>Interviews during the site visit.</p> <p>Websites of the Coast Guard (www.kustbevakningen.se) and SwAM (www.havochvatten.se).</p> <p>Norway:</p> <p>Årsrapport Kystvakten 2016 [Annual Report for the Coast Guard 2016], Oslo: Ministry of Defence.</p> <p>Email correspondence with the Coast Guard and the Directorate of Fisheries.</p> <p>Lov om forvaltning av viltlevande marine ressursar (havressurslova), LOV-2008-06-06-37, 2008 [Marine Resources Act].</p>	
OVERALL PERFORMANCE INDICATOR SCORE:		65
CONDITION NUMBER (if relevant):		1

Evaluation Table for PI 3.2.4 – Monitoring and management performance evaluation

PI 3.2.4		There is a system of monitoring and evaluating the performance of the fishery-specific management system against its objectives. There is effective and timely review of the fishery-specific management system.		
Scoring Issue		SG 60	SG 80	SG 100
a	Evaluation coverage			
	Guide post	There are mechanisms in place to evaluate some parts of the fishery-specific management system.	There are mechanisms in place to evaluate key parts of the fishery-specific management system	There are mechanisms in place to evaluate all parts of the fishery-specific management system.
	Met?	Y	Y	N
	Justification	<p>An overview of the management evaluation can be found in section 2.8.</p> <p>At EU level, the management system or parts of it are internal and externally evaluated on a regular basis and not only from scientific and managerial points of view: On occasion, specific aspects of the CFP are independently evaluated by the European Court of Auditors (ECA). The ECA's role as the EU's independent external auditor is to check that EU funds are correctly accounted for, are raised and spent in accordance with the relevant rules and regulations and have achieved value for money. Also ICES advice, the basis of the management system, is subject to regular evaluation by ICES and STECF.</p> <p>The <u>German</u> fisheries policy is integral part of the CFP which apply to all German marine waters. Therefore, there is generally no internal nor external review of the management of national waters. Whenever it comes to a revision of the CFP Germany cooperates closely with the EU. Needs for improvements detected by the German Government will be introduced in these discussions. The BMEL doesn't make use of external expertise but involves Thünen-Institut as well as BLE.</p> <p><u>The Netherlands</u>: The Dutch fisheries management system is regularly evaluated by LNV and the POs (especially with regards to stock-management), and occasionally by WMR (usually on request of the Ministry LNV, on a subject basis, e.g. an evaluation of certain gear measures).</p> <p><u>Denmark</u>: The working of the management system is reviewed on a running basis at both ministerial and agency level as well as within the Fisheries Control and DTU Aqua. Regulations are evaluated by 'the paragraph 6 committee' on a running basis and every time a new regulatory measure is introduced. The Auditor General reviews the effectiveness of management bodies in financial terms and occasionally also in policy terms. For instance, in 2016 it investigated the concentration of quotas in Danish fisheries, and it cooperated with the Norwegian Auditor General's Office on the latter's review of the fisheries management regimes in the North Sea and Skagerrak. Key parts of the management system are evaluated.</p> <p><u>Sweden</u>: The working of the management system is reviewed on a running basis within SwAM, which has its own internal auditor, as well as within the Coast Guard and SLU. Key parts of the management system are evaluated.</p>		

		Although many aspects of the management system are evaluated, it is a principal challenge to claim that ‘all’ parts of a fisheries management system are subject to review. It seems reasonable to expect some sort of a formal and holistic evaluation of the system as such to be in place for SG 100 to be met, which does not seem to be the case for any of the countries. SG80 is met, SG100 is not met.		
b	Internal and/or external review			
	Guide post	The fishery-specific management system is subject to occasional internal review.	The fishery-specific management system is subject to regular internal and occasional external review.	The fishery-specific management system is subject to regular internal and external review.
	Met?	Y	Y	N
	Justification	<p>The fishery-specific management system operates at the EU level, and the member states have to transpose the regulations and directives into national legislation. The main reviews of the management system also happen at the EU-level: The CFP is reviewed every 10 years and went through a substantial review in 2012. Such a review is internal but offers the opportunity for all stakeholders including the general public to contribute to the revision of the policy. The ICES advice (including stock assessment methodologies) is also regularly reviewed internally. STECF provides occasional external review of specific fisheries management systems at the request of the Commission. At a national level, Member States have their own ways to review the implementation of the management system:</p> <p>The <u>German</u> fisheries policy is an integral part of the CFP which applies to all German marine waters. Therefore, there is generally no internal nor external review of the management of national waters. Whenever it comes to a revision of the CFP, Germany cooperates closely with the EU. Needs for improvements detected by the German Government will be introduced in these discussions. The BMEL does not make use of external expertise but involves Thünen-Institut as well as BLE in the preparations of these discussions.</p> <p>In <u>The Netherlands</u>, due to the co-management of the quota through the POs, the national management is reviewed internally within the PO, by LNV, and from time-to-time by WMR. With regards to the broader management, the management through LNV is subject to annual review (at least financially; detailed in the annual reports, and subject to audits from The Netherlands Court of Audit). Updates on issues of concern, or ongoing policy-implementations are reported by the Minister to the Parliament, either regularly (annually), or when asked by members of Parliament. These updates are publicly available. The reviews by Parliament can be regarded as external reviews.</p> <p><u>Denmark</u>: As mentioned under SI 3.2.4a above, the implementing fisheries management bodies (until August 2017: AgriFish Agency; since then the Danish Fisheries Agency under the Ministry of Foreign Affairs and the Agricultural Agency) conduct regular internal review of the management system on a regular basis. Regulations are also evaluated by ‘the paragraph 6 committee’ on a running basis.</p> <p><u>Sweden</u>: As mentioned under SI 3.2.4a above, SwAM has its own internal auditor, who conducts regular internal review of the management system. In addition, SwAM’s Council for Public Access to Information (‘Havs- och vattenmyndighetens insynsråd’) consists of politicians and representatives of civil society, business and other state bodies of governance. Its aim is to ensure that the public receives necessary information on the working of SwAM. (Similar councils have been set up with most Swedish bodies of governance in recent years.) It meets for one day four times a year, where it receives presentations and updates from the SwAM staff on issues throughout the latter’s sphere of authority. In the opinion of the assessment team, this cannot count as an ‘external review of the fishery-specific management system’. However, several other inspection bodies under the Swedish Government and Parliament (Riksdagen) perform regular external reviews of the workings of the country’s system for fisheries management. The Swedish National Financial Management Authority, subordinate to</p>		

		<p>the Ministry of Justice, reviews the finances and efficiency of management practice of the central bodies of governance in Sweden. Likewise, the Swedish National Audit Office, operating on behalf of Parliament, performs reviews of both financial spending and, increasingly, policy performance of the executive power. The Chancellor of Justice, also appointed by Parliament, has as its main task to detect systematic challenges in Swedish public administration.</p> <p>Given the fact that the management system is formed and reviewed at EU level, the team has focussed on this review. The review of the CFP takes place under the direction of the EU, and the Member States cooperate in the process. The management system is subject to regular internal reviews (every 10 years) and to occasional external reviews. Hence, SG80 is met, but SG100 is not.</p>
References		<p>General: EU Commission Newsroom: https://europa.eu/newsroom/home_en</p> <p>Germany: BLE website: http://www.ble.de/EN/Topics/Fisheries/fisheries_node.html; Thünen-Institute of Sea Fisheries website: https://www.thuenen.de/en/sf/publications/?no_cache=1</p> <p>The Netherlands: Interviews during the site visit.</p> <p>annual report Ministry LNV (formerly Economic Affairs): http://www.rijksbegroting.nl/2016/verantwoording/jaarverslag?hoofdstuk=40.6</p> <p>Updates to Parliament, e.g.: https://www.rijksoverheid.nl/documenten/kamerstukken/2017/06/15/voortgangsrapportage-implementatie-gemeenschappelijk-visserijbeleid</p> <p>Denmark: Fiskerikontrol 2016: Erhverv og rekreativ, kontrol og resultatet [Fisheries Control 2016: Commercial and Recreative, Control and Results], Copenhagen: Ministry of Environment and Food, 2017.</p> <p>Interviews with representatives of AgriFish and the Fisheries Control during the site visit.</p> <p>Rigsrevisionens beretning om kvotekonsentrationen i dansk fiskeri afgivet til Folketinget med Statsrevisorernes bemærkninger [The Danish National Audit Office's Report on the Concentration of Quotas in Danish Fisheries, Submitted to the Folketing with Comments from the State Auditor], Copenhagen: Danish National Audit Office, 2016.</p> <p>Riksrevisjonens undersøkelse av fiskeriforvaltningen i Nordsjøen og Skagerrak [The Office of the Auditor General's Investigation of the Fisheries Management in the North Sea and Skagerrak], Dokument 3:9 (2016–2017), Oslo: Office of the Auditor General, 2017.</p> <p>Website of the Danish National Audit Office (www.rigsrevisionen.dk).</p> <p>Sweden:</p> <p>Interviews during the site visit.</p> <p>Websites of SwAM (www.havochvatten.se), the Swedish National Audit Office (www.riksrevisionen.se), the Office of the Chancellor of Justice (www.jk.se) and the Swedish National Financial Management Authority (www.esv.se).</p>
OVERALL PERFORMANCE INDICATOR SCORE		80
CONDITION NUMBER (if relevant):		N/a

Appendix 2 Conditions

One condition is raised under Principle 3, as detailed in the following table.

Note: this condition was subject to an Objection as detailed in the General Background Report (Appendix 5, 3135R06-1A) and was remanded for reconsideration by the assessment team. The below table therefore presents the revised condition and milestones as accepted by the Independent Adjudicator and differs from the condition shown in the Final Report (3135R05-3A). The Client Action Plan was also revised accordingly.

Table 4. Condition 1

Performance Indicator	PI 3.2.3 Monitoring, control and surveillance mechanisms ensure the management measures in the fishery are enforced and complied with.
Score	70
Rationale	<p><u>Scoring issue 3.2.3a (SG80)</u> 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.</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 a 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><u>Scoring issue 3.2.3c (SG80)</u> 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 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><u>Scoring issue 3.2.3d (SG80)</u> 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</p>

Performance Indicator	PI 3.2.3 Monitoring, control and surveillance mechanisms ensure the management measures in the fishery are enforced and complied with.
	<p>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	<p>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.</p>
Milestones	<p>Year 1: 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: 70)</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: 75).</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</p>

Performance Indicator	PI 3.2.3 Monitoring, control and surveillance mechanisms ensure the management measures in the fishery are enforced and complied with.
	<p>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>
Client action plan	<p>The clients acknowledge that the implementation of the LO is a huge task for the MCS-system in place and that evidence of proper monitoring and control of, and compliance by, fishermen is important. The clients work with their own national management and control authorities on several levels and monitoring and control (including that for the LO) have been continuous points of discussion throughout the years. Further to this, the clients will continue to actively participate in meetings relevant to ensure that management is appropriate, notably in the North Sea Advisory Council (NSAC) and meetings with national research institutes, workshops and/or expert groups. With this in mind, it is our aim to address the condition under one joint plan, but we acknowledge that the implementation of the LO is challenging, and that this might lead to different approaches by our management authorities. However, by year 4 all data and methods presented should provide evidence on improvement if required and/or compliance with the LO, and that the MCS mechanisms have demonstrated an ability to enforce relevant management measures, strategies and rules (with a specific focus on the LO).</p> <p>Year 1:</p> <p>The client will present a plan (possibly with different national sections) to:</p> <ol style="list-style-type: none"> 1. Demonstrate that MCS mechanisms work together to enforce relevant management measures, strategies and/or rules, particularly with a focus on the LO. The clients understand that the approach for monitoring and control for the different national authorities are still being developed and may end up differing between countries, which is why we will continuously work actively with our management authorities and provide evidence of these activities and meetings at yearly audits to show progress. Further to this, depending on the location of the audits, the clients will seek to ensure a party from at least one of the national management authorities can be available (either in person or remotely), so the audit team can raise any specific concerns and be assured that the MCS mechanisms are working together, and there continues to be a focus on the LO in particular. Further to national discussions, the clients work on these matters in the NSAC, which is consulted by the Scheveningen Group and asked for recommendations in relation to, for example, discard plans. Any discussions on MCS and the LO in these forums will also be presented at the audit. 2. Show (increased, if necessary) compliance with the relevant management measures, strategies and/or rules and improvements throughout the certification period. The clients will seek to provide an overview from national management authorities on the number of infringements and sanctions (with a specific focus on the LO) from the Units of Certification. Further to this, the clients will include any general national control reports from authorities and explore methods to further show the extent of (non)compliance (including the four methods put forward by the CAB as potential options), and we will detail how one or more will be used. These methods are not new for fisheries to consider, as; last-haul analysis are already used by the management authorities

Performance Indicator	PI 3.2.3 Monitoring, control and surveillance mechanisms ensure the management measures in the fishery are enforced and complied with.
	<p>to control for infringements to the LO (see ex. p. 14 in Danish Fishery Control Report for 2017); reporting of discards in logbooks some clients can secure (the same way we managed to get these for this full assessment), and where there might be issues, the plan will describe an alternative way to obtain and collate reported landed discards from the UoCs. Furthermore, current and planned projects on monitoring and reducing discards in general will be explored, for example: any relevant gear development projects and/or measures; charging a dedicated discard consultant with gathering data or helping fishermen with ways to reduce unwanted bycatch and discards; review the progress and results from the project on Fully Documented Fisheries (catch registration using video cameras), which started this year and in which the majority of CVO's member POs participate through their umbrella organisation VisNed. All of these considerations for the different methods will be reviewed and the method(s) chosen will be presented in the plan(s) put forward by the clients.</p> <p>Further to this, the plan will include a specific section on measures taken, should any general noncompliance for the LO be detected for a member vessel. One approach to be considered is reviewing and amending the clients' different Code of Conduct for their fishermen and including a sanction annex in relation to serious infringements. This is already included in the DFPO's Code of Conduct, and it could be focused specifically on the LO. Hence, should any general noncompliance for the LO be detected for a member vessel, the clients will be able to remove these from the Units of Certifications.</p> <p>Year 2:</p> <p>As for year 1, the client will demonstrate that MCS mechanisms work together to enforce the LO, and we will continuously work actively with our management authorities and provide evidence of these activities and meetings at yearly audits to show progress. As described in year 1, the clients will seek to ensure participation from at least one of the national management authorities at the annual audit. We will also continue to discuss the MCS of the LO in international forums.</p> <p>At the audit, the clients will show progress towards the plan as presented in year 1, detailing how the data has been obtained and analysed for a meaningful segment of the fleet. Both through the cooperation with the authorities, and the data analysis, we will be demonstrating both compliance and the MCS system's ability to enforce measures, strategies and/or rules (key amongst which is the LO). To this end, each client will provide evidence from national authorities of MCS mechanisms, particularly with a focus on the implementation of the LO.</p> <p>Year 3:</p> <p>As for the previous years, the client will demonstrate that MCS mechanisms work together to enforce the LO, and we will continuously work actively with our management authorities and provide evidence of these activities and meetings at yearly audits to show progress. As described in year 1, the clients will seek to ensure participation from at least one of the national management authorities at the annual audit. We will also continue to discuss the MCS of the LO in international forums.</p> <p>At the audit, the clients will show progress towards the plan as presented in year 1, detailing how the data has been obtained and analysed for a significant portion of the fleet. Both through the cooperation with the authorities, and the data analysis, we will be demonstrating both compliance and the MCS system's</p>

Performance Indicator	PI 3.2.3 Monitoring, control and surveillance mechanisms ensure the management measures in the fishery are enforced and complied with.
	<p>ability to enforce measures, strategies and/or rules (key amongst which is the LO). To this end, each client will provide evidence from national authorities of MCS mechanisms, particularly with a focus on the implementation of the LO. If compliance has been deemed inadequate previously, the fleet will show improved compliance with the LO and reporting on any necessary measures by the POs themselves and/or further discussions with authorities will be given.</p> <p>Year 4:</p> <p>As for the previous years, the client will demonstrate that MCS mechanisms work together to enforce the LO, and we will continuously work actively with our management authorities and provide evidence of these activities and meetings at yearly audits to show progress. As described in year 1, the clients will seek to ensure participation from at least one of the national management authorities at the annual audit. We will also continue to discuss the MCS of the LO in international forums.</p> <p>At the audit, the clients will provide proof that the plan as presented in year 1 has been implemented fully and the clients are judged to be compliant with the requirements of the LO. Both through the cooperation with the authorities, and the data analysis, we will be demonstrating both compliance and the MCS system's ability to enforce measures, strategies and/or rules (key amongst which is the LO). To this end, each client will provide evidence from national authorities of MCS mechanisms, particularly with a focus on the implementation of the LO. If compliance has been deemed inadequate previously, the fleet will show improved compliance with the LO and reporting on any necessary measures by the POs themselves and/or further discussions with authorities to ensure that any general non(compliance) is not within the Units of Certification.</p>
Consultation on condition	Letters of support from the authorities are included below.

Appendix 2.1 Letter of intent Danish Ministry of Foreign Affairs and Fisheries Agency (Fiskeristyrelsen)

English extract from email below:

(...) Therefore, the agency does not think it is right to give the impression that the agency can assume such a role beyond the authority's task. This does not change, of course, that the agency's government duties will be resolved and therefore the agency will not prevent DFPO from incorporating the two quotes mentioned in the DFPO's reply to the certification agency if you wish to describe how the Danish authorities lead control of compliance with the landing obligation by the fishery.*

The Fisheries Agency, like previous certification processes, is available to the certification agency if, during the certification process, it had to have questions about fisheries control, including the landing obligation.

*The two quotes referred to are:

- "The Fisheries Agency is therefore committed to developing our landing obligation control tools" (Quotation Fisheries Agency Control Report Press Release) and
- "There is also an expectation from politicians that there is an extra focus on the landing obligation and that the Fisheries Agency monitors this" (quotation from the Business Fisheries Committee meeting on 20 June 2018)

Fra: Mikkel Friberg (FST) <MIKFRI@fiskeristyrelsen.dk>

Sendt: 4. september 2018 17:12

Til: Ole Lundberg Larsen <oll@dkfisk.dk>

Emne: SV: Til Fiskeristyrelsen - forespørgsel om "Letter of Intent"

Kære Ole

Tak for din henvendelse med forespørgsel om "letter of intent".

Fiskeristyrelsen finder det ikke umiddelbart muligt at udstede et "letter of intent" til certificeringsbureauet, sådan som du skitserer.

Styrelsen har forstået henvendelsen sådan, at certificeringsbureauet spørger, hvad DFPO vil gøre for at sikre overholdelse af landingspligten. Overholdelse af landingspligten påhviler den enkelte fisker, mens Fiskeristyrelsen har ansvaret for at føre kontrol med overholdelsen.

Derfor finder styrelsen det rigtigst ikke at give indtryk af, at styrelsen kan påtage sig en sådan rolle, der ligger ud over myndighedsopgaven. Det ændrer selvfølgelig ikke på, at styrelsens myndighedsopgaver vil blive løst, og derfor vil styrelsen ikke stå i vejen for, at DFPO inddrager de to anførte citater i DFPO's svar til certificeringsbureauet, hvis I måtte ønske at beskrive, hvordan de danske myndigheder fører kontrol med erhvervets overholdelse af landingspligten.

Fiskeristyrelsen står, i lighed med tidligere certificeringsprocesser, gerne til rådighed for certificeringsbureauet, hvis de under certificeringsprocessen måtte have spørgsmål om fiskerikontrol, herunder landingspligten

Med venlig hilsen

MIKKEL FRIBERG / MIKFRI@FISKERISTYRELSEN.DK

KONTORCHEF / FISKERIKONTROLKONTORET

TLF: 22 71 99 29

UDENRIGSMINISTERIET

FISKERISTYRELSEN

NYROPSGADE 30 / 1780 KØBENHAVN V

TLF: +45 72 18 56 00 | MAIL@FISK-ST.DK | WWW.FISKERISTYRELSEN.DK

Appendix 2.2 Letter of intent Swedish Agency for marine and water management (SWaM)**Swedish Agency
for Marine and
Water Management**

15/11/2018

Regarding MSC certification

The SFPO has asked the Swedish Agency for Marine and Water Management (SwAM) of a letter of support regarding MSC certification. SwAM however, can not assume such a role beyond the authority's task.

Nevertheless, The Swedish Agency for Marine and Water Management will provide SFPO with official statistics, strategies and reports if it is requested. The information will be provided in accordance to Swedish regulations regarding public policy and laws.

SwAM will also, like previous certification processes and evaluations, be available to the certification agency if there are any questions concerning fisheries regulation and control.

Ingemar Berglund

Ellinor Rutgersson

Swedish Agency for Marine
and Water Management
Box 11 930
SE-404 39 Göteborg

Visit and delivery
Gullbergs Strandgata 15
SE-411 04 Göteborg

Telephone +46 10 698 60 00
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www.havochvatten.se

Appendix 2.3 Letter of intent Dutch Ministry of Agriculture, Nature and Food Quality (LNV)

English translation of email below:

The Ministry of Agriculture, Nature and Food Quality (LNV) supports the sector in its pursuit of certification, such as that by MSC. In this context, the NVWA is prepared to provide publicly available information about control and enforcement with regard to the Common Fisheries Policy. The NVWA is also prepared to clarify this information in a conversation. This statement has been drawn up in collaboration with the colleagues of the NVWA, who are also CCed on this mail.

From: Pondman, drs. M.E. (Marieke) <M.E.Pondman@minez.nl>

Sent: Friday, December 7, 2018 10:24

To: W. (Pim) Visser | VisNed.nl <wvisser@visned.nl>

Cc: W. (Wouter) van Broekhoven | VisNed.nl <wvanbroekhoven@visned.nl>; Buuren, drs. R.D. van (Richard) <r.d.vanbuuren@nvwa.nl>; Lam, drs. G.A. (Albert) <g.a.lam@nvwa.nl>; Hotsma, ing. P.H. (Piebe) <p.h.hotsma@minez.nl>

Subject: RE: verzoek aan LNV statement controle en handhaving MSC

Dag Pim,

Het ministerie van LNV steunt de sector in haar streven naar certificering zoals die door MSC. De NVWA is in dat kader bereid om openbare informatie te verschaffen op het gebied van controle en handhaving inzake het Gemeenschappelijk Visserijbeleid. Ook is de NVWA bereid om deze informatie in een gesprek toe te lichten. Dit statement is opgesteld in samenwerking met de collega's van de NVWA, die ook in cc in deze mail staan.

Met vriendelijke groet,

Marieke Pondman

MT-lid Visserij

Ministerie van Landbouw, Natuur en Voedselkwaliteit

Directoraat-Generaal Natuur, Visserij en Landelijk gebied

T.+31 6 46152285

Appendix 2.4 Letter of intent German Federal Agency for Agriculture and Food (BLE)

English translation:

Dear Mr. Schmidt, dear Mr. Schmöde,

You have asked the German Federal Agency for Agriculture and Food (BLE) to support the North Sea and Baltic Sea Fisheries Association's producer organization in the MSC certification of their North Sea fishery.

The Federal Agency is in Germany responsible national authorities for the implementation of the common fisheries policy of the European Union, which is based on the principle of sustainable fisheries. The responsibility of the BLE extends i.e. on fisheries management and fisheries control. As part of this role, and within its legal capacity, BLE is willing, as in previous MSC procedures, to assist the producer group in the process of MSC certification.

This can be done by providing information such as statistics and reports, as required by the certification body, and allowing the information can be provided legally. The BLE is also available to the certification body at any time for questions of fishery regulation and control.



Bundesanstalt für
Landwirtschaft und Ernährung

Bundesanstalt für Landwirtschaft und Ernährung, Haubachstraße 86, 22765 Hamburg

Erzeugergemeinschaft der Nord- und Ostseefischer GmbH
Herrn Kai-Arne Schmidt
Herrn Benjamin Schmöde
Niedersachsenstraße Halle 9
27472 Cuxhaven

Lutz Wessendorf
Referatsleiter

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FAX +49 (0)30 1810 6845 5574

lutz.wessendorf@ble.de
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www.ble.de

MSC-Zertifizierung der demersalen Fischerei in der Nordsee
Hamburg, 11.11.2018
Aktenzeichen: 522-02.04-20.65/18

SERVICEZEITEN

Montag bis Donnerstag
9 bis 12 Uhr und 13 bis 16 Uhr
Freitag
9 bis 14 Uhr

Sehr geehrter Herr Schmidt, sehr geehrter Herr Schmöde,

Sie haben die Bundesanstalt für Landwirtschaft und Ernährung (BLE) gebeten, die Erzeugergemeinschaft der Nord- und Ostseefischer GmbH bei der MSC-Zertifizierung Ihrer demersalen Fischerei in der Nordsee zu unterstützen.

Die BLE ist in Deutschland zuständige nationale Behörde zur Umsetzung der Gemeinsamen Fischereipolitik der Europäischen Union, die nach den Prinzipien nachhaltiger Fischerei ausgerichtet ist. Die Zuständigkeit der BLE erstreckt sich dabei u. a. auf das Fischereimanagement und die Fischereikontrolle. Im Rahmen dieser Funktion und im Rahmen ihrer gesetzlichen Möglichkeiten ist die BLE – wie bereits in vorhergehenden MSC-Verfahren – gerne bereit, die Erzeugergemeinschaft im Prozess der MSC-Zertifizierung zu unterstützen.

Dies kann durch Zurverfügungstellung von Informationen, wie beispielsweise Statistiken und Berichte, erfolgen, soweit sie von der Zertifizierungsstelle gefordert werden und eine Herausgabe der Auskünfte rechtlich zulässig ist. Die BLE steht der Zertifizierungsstelle jederzeit auch für Fragen der Regulierung und Kontrolle der Fischerei zur Verfügung.

Mit freundlichen Grüßen

Im Auftrag

Wessendorf

Wessendorf

Die Übermittlung eines elektronischen Dokuments, das mit einer qualifizierten elektronischen Signatur versehen ist, ist ausschließlich an info@ble.de möglich. Andere E-Mail-Adressen stehen hierfür nicht zur Verfügung.

Appendix 3 Peer Review Reports

Appendix 3.1 Peer reviewer 1

Summary of Peer Reviewer Opinion

<i>Has the assessment team arrived at an appropriate conclusion based on the evidence presented in the assessment report?</i>	Yes/No Yes	CAB Response
<i>Justification:</i> Overall the P3 assessment is thorough – the CFP and jurisdictional aspects are well covered in a broad sense. The country-specific aspects are also relatively well articulated. My sense however is that the broad scope of the assessment suggests that detail is lost on fishery specific objectives and measures – from the descriptions of the sector the CAB has done a fair job on describing the complexity, but there remains in my view a niggling uncertainty simply due to the many UoAs. P3 is however probably the easiest principle to deal with and many aspects of P2 I am sure will have issues. The raising of a compliance condition, given the multiple UoAs, is not entirely unexpected.		Thank you. We will respond to the issue on fishery specific objectives below.

<i>Do you think the condition(s) raised are appropriately written to achieve the SG80 outcome within the specified timeframe?</i> <i>[Reference: FCR 7.11.1 and sub-clauses]</i>	Yes/No No	CAB Response
<i>Justification:</i> The CAB has provided a comprehensive assessment of the fishery compliance aspects. While the conditions is also detailed, in my view some guidance should be provided on what constitutes “ <i>demonstrated an ability to enforce relevant management measures, strategies and/or rules</i> ”. As there are multiple UoAs at country-specific level, with quite different MCS systems, I would suggest that synergy will be needed in order to respond to this PI e.g. what constitutes an ability to enforce a management measure, particularly with multiple gears. Similarly for 3.2.3c “ <i>Evidence should be provided that the MCS-system has demonstrated an ability to enforce relevant management measures, strategies and rules</i> ”.		Thank you. In reviewing the condition against the milestones, we intend to look at both internationally available information (e.g. from ECFA) and national information. This national information will be requested from the respective authorities, and the request will be tailored to the fisheries undertaken by the specific client group. First and foremost, we would look into the coordinated efforts through EFCA to come to a comprehensive system of control and enforcement. Further, we intend to look at the implementation of the LO in each Member State, and the application of the rules on serious infringements with regards to the LO.

If included:

<i>Do you think the client action plan is sufficient to close the conditions raised?</i> <i>[Reference FCR 7.11.2-7.11.3 and sub-clauses]</i>	Yes/No NO	CAB Response

Justification: This is difficult to judge based on the para for the client action plan. As per my response above, it may seem adequate to state that for each country / UoA that each national authority WILL provide evidence on fisher compliance – in reality how does the client intend to do this, what sort of evidence would satisfy the assessment team? Without more specific guidance, I would anticipate a mixed response from each authority. This is a complex multi sectoral fishery, with multiple measures related to gears and management authority. I note that letters of support from each authority are pending – depending on their response greater clarity might be forthcoming.

This is a fine line to walk: too much guidance can be seen as advising which is not within the CAB's remit. As discussed above, we will tailor our approach to each client group and their respective national authority at surveillance.

Performance Indicator	Has all available relevant information been used to score this Indicator? (Yes/No)	Does the information and/or rationale used to score this Indicator support the given score? (Yes/No)	Will the condition(s) raised improve the fishery's performance to the SG80 level? (Yes/No/NA)	Justification Please support your answers by referring to specific scoring issues and any relevant documentation where possible. Please attach additional pages if necessary. Note: Justification to support your answers is only required where answers given are 'No'.	CAB Response
3.1.1	Yes	Yes	N/A	3.1.1a Ok, 3.1.1b OK, 3.1.1c OK, Certifier score is 100. The complexity of this assessment due to bilateral arrangements as well as EU management is well addressed and each country legislation appropriately referenced	No response required
3.1.2	Yes	Yes	N/A	3.1.2a Ok, 3.1.2b, 3.1.2c OK. Certifier score is 100. For each scoring category the rationale is comprehensive and scoring level supported.	No response required
3.1.3	Yes	Yes	N/A	3.1.3a. The rationale applicable to long term objectives for each country with respect to MSC objectives and the application of the precautionary approach supports SG100	No response required

3.2.1	Yes	No	N/A	<p>3.2.1a Fishery specific objectives. A partial score has been given. I have some difficulty understanding the rationale and separating it from 3.1.3. While the fishery is considered as one (Demersal) it has many gear components (Table 5). The rationale refers to long term objectives (EU) broadly but no fishery specific rationale is provided – apart from perhaps reference to the EU proposed multi-annual plan (also referenced in 3.1.3). In the description of the fishery it is stated that “This plan was accepted on May 2018 by the European Parliament. More information on the multi-annual plans (MAPs) can be found in the Principle 1 report (REF). This same ref is provided for 3.1.3 as supporting rationale for longterm objectives. Referring to SA4.7.2 “The team shall interpret “measurable” at SG100 to mean that in addition to setting fishery-specific objectives that make broad statements objectives are operationally defined in such a way that the performance against the objective can be measured. Further Referring to the guidance 7.10.6.3 “An exception to 7.10.6.2 is permitted only for those PIs that include only a single scoring issue at each SG level”. a. For these PIs, it is permitted to</p>	<p>We have amended the score. The rationales for both 3.1.3 and 3.2.1 reference the same management policy, since the CFP is the main policy with regards to this fishery. The CFP and other policies contain both gear specific and general objectives. However, we have chosen to mostly look at the management at an overarching level, and thus opted for a more precautionary score of 80, instead of splitting it into all fisheries and seeing if each scoring element would differ.</p>
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Performance Indicator	Has all available relevant information been used to score this Indicator? (Yes/No)	Does the information and/or rationale used to score this Indicator support the given score? (Yes/No)	Will the condition(s) raised improve the fishery's performance to the SG80 level? (Yes/No/NA)	Justification Please support your answers by referring to specific scoring issues and any relevant documentation where possible. Please attach additional pages if necessary. Note: Justification to support your answers is only required where answers given are 'No'.	CAB Response
				<p>'partially score' issues to obtain intermediate scores.</p> <p>b. A rationale shall be provided, clearly explaining which aspects of the scoring issue are met.</p> <p>While the rationale provided for 3.1.3 would seem adequate, the broad statements in 3.2.1 to justify a partial score would seem vague. As with other PIs, a specific breakdown of each UoA is needed with cross reference particularly to P2 and gear specific issues to substantiate the partial scoring, otherwise I would think a default score of 80 should be used.</p>	
3.2.2	Yes	Yes	NA	CAB scored 85. The rationale for each guidepost is appropriate and the scoring would seem correct	No response required

3.2.3	Yes	Yes	Yes	<p>CAB Scored 70.</p> <p>3.2.3a: the rationale provided is comprehensive that SG80 is NOT met and is SG60 met. 3.2.3b: OK</p> <p>3.2.3c: Rationale provided suggests not met at SG80. Based on the rationale provided it could be argued (in my view) that “some evidence does exist” and that SG80 is met. Suggest this scoring is reviewed although it is unlikely to change the need for a condition.</p>	<p>Given all the changes that are affecting the control and enforcement for this fishery due to the LO, the team felt it best to be precautionary.</p> <p>With regards to discards and the landing obligation, Regulation (EU) 2015/812 mentions the following: As discards constitute a substantial waste and affect negatively the sustainable exploitation of marine organisms and marine ecosystems, and as compliance by operators with the landing obligation is essential for its success, infringements of the landing obligation should be categorised as serious under Regulation (EC) No 1224/2009.</p> <p>The landing obligation represents a fundamental change for operators. Accordingly, it is appropriate to postpone for 2 years the application of the rules on serious infringements as regards infringements of that type. 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.</p>
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Performance Indicator	Has all available relevant information been used to score this Indicator? (Yes/No)	Does the information and/or rationale used to score this Indicator support the given score? (Yes/No)	Will the condition(s) raised improve the fishery's performance to the SG80 level? (Yes/No/NA)	Justification Please support your answers by referring to specific scoring issues and any relevant documentation where possible. Please attach additional pages if necessary. Note: Justification to support your answers is only required where answers given are 'No'.	CAB Response
3.2.4	Yes	Yes	N/A	Cab score : 80. Rationale and evidence provided supports the scoring adequately.	No response required

Appendix 3.2 Peer reviewer 2

Summary of Peer Reviewer Opinion

<i>Has the assessment team arrived at an appropriate conclusion based on the evidence presented in the assessment report?</i>	Yes	CAB Response
<u>Justification:</u> There are minor points of clarification, apart from 3.1.1 SI(e) which needs to be re-scored.		Thank you. We will respond in detail below.

<i>Do you think the condition(s) raised are appropriately written to achieve the SG80 outcome within the specified timeframe?</i> <i>[Reference: FCR 7.11.1 and sub-clauses]</i>	Yes	CAB Response
<u>Justification:</u> Yes, the question of suspected/ alleged non-compliance is always difficult to address. The audit team gave a precautionary score. The matter should be resolved by these fisheries within the timeline set in the condition.		No response required

If included:

<i>Do you think the client action plan is sufficient to close the conditions raised?</i> <i>[Reference FCR 7.11.2-7.11.3 and sub-clauses]</i>	Yes	CAB Response
<u>Justification:</u> The Client Action Plan clearly addresses the condition terms and milestones. Letters of support would need to be included in the final version.		No response required

Performance Indicator	Has all available relevant information been used to score this Indicator? (Yes/No)	Does the information and/or rationale used to score this Indicator support the given score? (Yes/No)	Will the condition(s) raised improve the fishery's performance to the SG80 level? (Yes/No/NA)	Justification Please support your answers by referring to specific scoring issues and any relevant documentation where possible. Please attach additional pages if necessary. Note: Justification to support your answers is only required where answers given are 'No'.	CAB Response
3.1.1	Y	Y/N	NA	SI(b): There has been no effective mechanism to deal with the specific issue of EU/Norway international agreements until now. I find only SG80 is met.	At EU and national level, there are effective and binding procedures in place to deliver management outcomes consistent with MSC Principles 1 and 2. In international waters, the cooperation can be considered organized and, in practice, effective (no systematic overshoot of the TAC in recent years, plus the temporary 'box' under NEAFC management authority works effectively), warranting an 80 score, although not binding (in the form of a permanent 'box'). The scoring has been adjusted accordingly.
3.1.2	Y	Y	NA		No response required

Performance Indicator	Has all available relevant information been used to score this Indicator? (Yes/No)	Does the information and/or rationale used to score this Indicator support the given score? (Yes/No)	Will the condition(s) raised improve the fishery's performance to the SG80 level? (Yes/No/NA)	Justification Please support your answers by referring to specific scoring issues and any relevant documentation where possible. Please attach additional pages if necessary. Note: Justification to support your answers is only required where answers given are 'No'.	CAB Response
3.1.3	Y/N	Y/N	NA	You should mention the Norwegian fisheries management policy too. I agree this would not change the score.	We have added the following: At all levels of the management system, fish resources are distributed based on some level of historical usage and attention to the social context within which the fishery takes place. At the international level, the NEAFC Convention states as its objective to ensure the long-term conservation and optimum utilization of the fishery resources in the Convention Area, providing sustainable economic, environmental and social benefits (Art. 2).
3.2.1	Y	Y	NA		No response required

Performance Indicator	Has all available relevant information been used to score this Indicator? (Yes/No)	Does the information and/or rationale used to score this Indicator support the given score? (Yes/No)	Will the condition(s) raised improve the fishery's performance to the SG80 level? (Yes/No/NA)	Justification Please support your answers by referring to specific scoring issues and any relevant documentation where possible. Please attach additional pages if necessary. Note: Justification to support your answers is only required where answers given are 'No'.	CAB Response
3.2.2	Y/N	Y/N	NA	SI(e): You should mention the Norwegian fisheries management approach to dispute resolution for penalties imposed on EU vessels fishing in their waters mentioned in SI(c). I agree this would not change the score.	We have added the following: There are no explicit mechanisms for the resolution of disputes in the EU–Norway regime for the North Sea fisheries, but – as is mostly the case at the national levels – disagreement is sorted out through dialogue, negotiation and compromise.
3.2.3	Y	Y	Yes	The letters of support are not included in my version, but the terms of the condition raised seem feasible and sufficient to improve the fisheries performance to the SG80 level.	No response required
3.2.4	Y	Y	NA		No response required

Optional: General Comments on the Peer Review Draft Report (including comments on the adequacy of the background information if necessary) can be added below and on additional pages

Despite the length and complexity of this mixed evaluation, detailed and clear rationales must be commended.
[Thank you.](#)

I suggest one last spellcheck to correct a few typos. [Done](#)

Page 8 section 1.2, 1st line, “With the exception of Division” should be “7d” not 7e. [Not so. The statement refers to a figure of the Greater North Sea Ecoregion which also includes 7e but which is not covered by this assessment.](#)

Appendix 4 MSC Technical Oversight

SubID	PageReference	Grade	OversightDescription	Pi	CABComment
29131	49	Minor	PI 3.1.1 SIb. All UoAs. The final paragraph of the rationale appears to be unrelated to the scoring issue. i.e. a conclusion is given on effectiveness in terms of delivering management outcomes, rather than the resolution of disputes. As such, the rationale provided does not conclude whether the international dispute mechanism (of the EU-Norway Agreement) is considered to be effective, as per the indicated scoring at SG80.	3.1.1,	This has been amended: 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 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.
29132	62	Guidance	PI 3.2.2. Sia. All UoAs. The rationale states that "The consultation process on the decision-making is outlined in section 1.1". The key elements of this process should be presented within scoring rationale to demonstrate that the scoring issue is fully and unambiguously met.	3.2.2,	The consultation process as part of the decision-making is only included as indication of the high level of stakeholder involvement. PI 3.2.2a as such does not inquire after the stakeholder participation (this is covered in detail under PI 3.1.2b and PI 3.1.2c), merely whether there are established decision-making processes that result in measures and strategies to achieve the fishery-specific objectives. However, for full clarity, a summary of the stakeholder involvement has been included.
29133	63	Minor	PI 3.2.2 SIc. All UOAs. The assessment team should present further evidence within the scoring rationale on how "management uses the precautionary approach", considering the scoring guidance given in SA4.8.1 and SA4.8.2.	3.2.2,	<p>As stated under PI3.1.3a, the precautionary approach is explicit with the management of the fishery. The rationale has been amended to further reflect this: The current CFP regulation requires that member states apply the precautionary approach to fisheries management. Article 2 of the Regulation states: The CFP shall apply the precautionary approach to fisheries management, and shall aim to ensure that exploitation of living marine biological resources restores and maintains populations of harvested species above levels which can produce the maximum sustainable yield (MSY). It is specifically mentioned that when targets relating to MSY cannot be determined, multiannual (management) plans shall provide for measures based on the precautionary approach, ensuring at least a comparable level of protection for the relevant fish stocks. The MSY exploitation rate shall be achieved by 2015 where possible and, on a progressive, incremental basis at the latest by 2020 for all stocks.</p> <p>Apart from the CFP, other EU Directives influence the management of fisheries, often at a national level. The Water Framework Directive (WFD; Directive 2000/60/EC), and the Marine Strategy Framework Directive (MSFD; Directive 2008/56/EC) outline the need for better water quality, and prescribes to achieve 'good environmental status', following the precautionary approach.</p> <p>In both the CFP and the MSFD, the precautionary approach dictates (as evidenced by the above example on MSY) that caution needs to be applied when information is not available, uncertain, unreliable or inadequate.</p> <p>This requirement to use the precautionary approach has been transposed in national fisheries' laws, the Danish 2014 Fisheries and Aquaculture Act (shortform: Fisheries Act) (revised 2017), the Swedish 1993 Fisheries Act (last revised 2016), the Dutch Fisheries Act 1963 (Visserijwet 1963). And the German 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 all takes this requirement into account.</p>
29174	Principle 3 report p36	Minor	Northern shrimp (Pandulus spp.) is not listed in Table 10, but is subject to the landing obligation. Furthermore, given that the list of overlapping fisheries in Table 11 is based on the species listed in Table 10, this list of overlapping fisheries will also need to be reviewed.		This has been amended.