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By email:- rebecca@our.fish

25th April 2019

Dear Ms Hubbard,

Thank you for your letter of 28 March 2019 regarding implementation of the landing obligation and the North Sea cod stock in particular.

I will address each of the points within your letter in turn, however, I should start by restating the Scottish Government's commitment to tackling the issue of discards and ensuring that accountability and confidence in our seafood product is maintained and enhanced. In our recently published national discussion paper on the Future of Fisheries Management in Scotland we confirm this commitment, whilst also acknowledging that there are issues with the implementation of the landing obligation that we want to address.

The introduction of the landing obligation requires significant change from our fishing fleets, not just in Scotland but across the whole of the EU. Any issues with the landing obligation should not be viewed in isolation, this is a EU wide problem, in very complex mixed fisheries. For example in Scottish waters there can be up to 12 different non Scottish nationalities of vessels present at any one time.

We are working closely with the Scottish industry and other stakeholders on implementation of the landing obligation and have various bodies in place to help us to do this, including the Scottish Discards Steering Group (SDSG) and the Fisheries Management and Conversation Group (FMAC). These groups are made up of representatives from the fishing industry and environmental groups and have been actively involved in implementing the landing obligation throughout the full phasing in period. We also work closely with the Scottish Producer Organisations (POs) who play a pivotal role in managing quota in support of the landing obligation.

I should explain some background in relation to quota 'top-ups' and reasons for discarding, which underpin the comments you refer to in your letter. The concept of the 'top-up' was intended to reflect the move away from the previous practice of having separate 'total allowance catch' and 'discards' columns within the EU TAC and Quota Regulation (TQR). This was on the understanding that, when the landing obligation was fully introduced, there should be no more discards (except for a limited number of exemptions) and therefore no need for a separate discards column in the TQR. Instead the discards column would be merged into the main TAC, meaning that quota previously set aside to account for discards would instead be available for use to land previously discarded fish. This was intended as a way to help fishers

to adapt to the landing obligation by giving additional quota, although it should be noted that in some cases the 'top-up' was not necessarily sufficient to account for all previous discards and, due to distribution methodology, wasn't necessarily available to the relevant fishers, creating further challenges in relation to the implementation of the landing obligation policy. This is particularly relevant in relation to North Sea cod.

It is important to remember that this top-up amount relates to all types of discards, for whatever reason, and is not just for undersized fish. Indeed, undersized fish is just one of the many reasons e.g. lack of quota, for discarding previously taking place. To argue, as you do in your report, that a) all discards are undersized and b) therefore the top-up in its entirety is related to undersized fish, is simplistic and inaccurate. The presence, or lack of, undersized fish on the quayside is not, in itself, an indication of compliance or otherwise with the landing obligation. For our North Sea whitefish fleet in particular, it is fair to say that they have worked hard at increasing selectivity to try and reduce and avoid the capture of undersize fish, as well as avoidance measures and seasonal closed areas where juvenile or spawning fish may be present. Some of this, of course, was in response to the Cod Recovery Plan, which saw North Sea cod return to health and achieve its MSC accreditation.

To respond to each of the points in your letter:

1. The landings data provided by MMO shows that zero undersize cod were recorded and landed from January – November 2018 by any of the UK fleet. Does the Scottish government believe that this does not represent a case of misreporting of undersize cod catches? i.e. Does the Scottish Government think that it is possible that the fleet caught over 21,000 tonnes of saleable cod without catching a single ton of undersize cod?

As set out above we acknowledge that there are issues with the implementation of the landing obligation. We also recognise that it is difficult to demonstrate compliance vs. non-compliance using the existing monitoring tools that we have. However, on the basis of our current monitoring, we are not aware of any issues regarding juvenile cod and can only report on what we are seeing. We have contacted our Marine Scotland vessel captains and asked them to specifically report their findings over the last year with regard to juvenile cod being seen within catches. To date all captains report very little juvenile cod is being seen, if any. This reflects the (small) amounts of undersized fish which are being landed at Scottish ports. The 2018 year-class of North Sea cod is estimated to have been one of the weakest on record which could go some way to explaining why very few juvenile fish have been landed.

2. Regarding avoiding capture of undersize cod, what percentage of the Scottish fleet is now using highly selective gear? What is the difference in uptake of highly selective gears between 2013 and 2018?

The North Sea whitefish fleet uses 120mm gear as standard. This gear is very selective and will get rid of most of the juvenile catch. The fleet is also exploring additional selectivity measures through the industry GITAG initiative, which complements work also being done by our Marine Scotland Scientists on the use of LED lights to attract/repel different species into or out of nets – this is at an early stage but the initial results are very promising.

3. Regarding monitoring compliance with the landing obligation, what percentage of at sea trips are monitored with onboard observers? Where and when do your compliance officers conduct their inspections?

Marine Scotland Compliance do not place observers on board vessels. Observers are placed on vessels for scientific monitoring purposes only, with approximately 2% of trips

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covered. Marine Scotland Science observers are not trained Compliance officials and are not able to undertake Compliance enforcement work. The discard estimates used in ICES assessments are derived from these observations.

Compliance officers operate a rigorous enforcement regime using an intelligence led risk based approach and using a range of tools including at-sea monitoring via our Compliance vessels and onshore monitoring including the presence of compliance officers on the quayside and within the marketplace. A key part of compliance monitoring and control has been a focused campaign on ensuring fishing gear construction and mesh size comply with the rules, a key component of our strategy to reduce discards and increase gear selectivity. Our Marine Protection Boarding officers regularly assess catches at sea and have reported that where fishing gear is compliant with these rules the quantity of juvenile fish (including cod) is negligible.

As you will be aware, we believe that the proportionate use of Remote Electronic Monitoring (REM) would help with future enforcement of the landing obligation. However, we also recognise the importance of having a level playing field so that Scottish vessels are not fishing alongside vessels from other countries which don't have equivalent measures in place. We have worked with Other Member States over a number of years to try and secure that level playing field, however, it is not within Scotland or the UK's gift to force these measures onto others. Nevertheless we continue to push for this at a European level.

4. What would you regard as a "significant level" of undersize cod in catch composition?

This is not a question we can answer because it depends on what is the proportion of undersize cod in the stock. As indicated above, if there are very few juvenile fish, then you won't see many juveniles in catches.

With regards to your closing statement that North Sea Cod is already under considerable pressure, it's worth reflecting on the actual science and what this tells us about the presence of juvenile fish in the North Sea. For 2018 scientific advice identified a very low recruitment of juvenile cod which in turn means that very few undersize cod should be present in the catch. This was a key element in the Scottish Government agreeing to the reduction of the overall cod quota for 2019 by 33% in support of sustainable and responsible fisheries management and in line with the ICES estimate of $F(m_{sy})$. In reality the cod biomass has stabilised in recent years after steadily increasing since 2006 and the overall trend is still upwards. Responsible and sustainable TAC management will clearly help with this in the future.

I hope this response is helpful.

Yours sincerely



Graham Black
Director
Marine Scotland