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I am writing to seek your assistance in addressing the significant choke risk posed by North Sea hake for Scottish and UK fleets under the landing obligation.

As you may be aware, hake is taken as unavoidable by-catch in the North Sea haddock fishery and since the year 2000 catches have consistently exceeded quota. This is because for around two decades only 3% of the global Total Allowable Catch (TAC) has been allocated to the North Sea, whereas scientific evidence points to the fact that the stock has expanded into northern areas and shifted its distribution such that much more is now found in the North Sea than has historically been the case.

This mismatch between historic distribution of quota and current distribution of fish creates a critical choke risk for which a solution needs urgently to be found to avoid Scottish vessels being tied up early in the year.

You will recall that, on behalf of the North Western Waters Regional Group, the UK introduced an 'AOB' discussion item on choke species at November Council 2016, pressing the Commission to heed the work underway in the Regional Groups to develop solutions. In reply Commissioner Vella urged Member States to develop innovative solutions that can be devised under the flexibilities already built into the Basic Regulation under Article 15.

However, while these flexibilities are welcome, they simply do not provide an answer for North Sea hake. For example: further selectivity and/or spatial avoidance is hard to achieve without reducing catches of target species to unacceptably low levels; a high survivability exemption is unlikely to be scientifically justifiable; *de minimis* is not an option as the amounts being discarded could not reasonably be described as such; the volumes of catches involved mean that neither inter-annual, inter-species nor inter-area flexibilities can resolve the challenge and/or may create unacceptable risks for other stocks; and finally 57% of hake quota is unavailable for inward swaps due to rules prohibiting them from any country that does not hold North Sea quota such as Spain, Ireland and Portugal – even if a suitable currency could be found in return.

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North Sea hake is therefore a true category 3 choke species, requiring an alternative approach at a supra-Regional level. I was therefore encouraged that the Commission itself noted in its July 2017 policy statement that the distribution of the stock has changed and now stretches further into the North Sea.

This appeared to open the door to exactly the type of innovative approach advocated by the Commissioner in November 2016. For the UK this means a request from the Commission to its own Scientific, Technical and Economic Committee for Fisheries (STECF) to offer a scientific view on the temporal and spatial evolution of the stock in recent years and the appropriate distribution of the global TAC – something which would benefit all Member States who fish in the North Sea. This could then inform further discussion about possible solutions to the choke problem.

You will recall during preparation of the 2017 December Council, and indeed during Council itself, that the UK repeatedly asked the Commission to put such a question of STECF. We made this comment in writing on the Commission's policy statement, in written comments on the TAC and Quota Regulation proposal, and in your speaking notes for the opening plenary and the Ministerial Trilateral during Council.

You will also recall that the UK refrained from seeking a formal Council Statement to this effect because of verbal assurances and tacit acknowledgements by senior Commission officials and the Council Presidency during Council that they would take this matter forward with STECF in early 2018.

It is therefore extremely concerning that this has not happened, despite significant efforts by my officials to ensure that the Commission includes a question in STECF's Terms of Reference for its Spring plenary. Instead, as late as April 2018, the Commission suggested that the North Sea Regional Group submit a joint request to this effect – reversing the Commission's previous stance that the Regional Groups should not make requests to STECF and leaving very little time to allow the Group to reach a consensus on this issue. Given the assurances we received at Council, I consider this to be a serious reversal of previous undertakings on the part of the Commission.

Of course, my officials continue to pursue this option, however, it is now clear that success cannot be guaranteed. Any delay would further diminish the prospect of identifying and developing a timely solution and to being able to effectively and responsibly implement the landing obligation in 2019.

As things stand currently, the Scottish fleet will be unable to implement the landing obligation in 2019 without tying up prematurely. I am sure you will agree that this would be intolerable, not least because under the terms agreed between the UK Government and the EU for the implementation period, this situation would continue without us being able to influence or change matters until at least 2020, thereby extending the period during which the Scottish fleet will be subject to the current landing obligation provisions with all the intractable and frustrating problems it brings.

Without further action on the part of the Commission and the UK Government, the Landings Obligation will fail in 2019. I must therefore insist that you write immediately to Commissioner Vella asking him to stand by the Commission's earlier approach and seek to rectify this issue - an issue on which the Commission has a decisive role. You could suggest he meets us both to agree a solution.

I find it hard to believe that the Commission will not want to rectify this issue, knowing as they do that it will seriously damage the credibility of their anti-discard policy, by preventing any Member State fishing in the North Sea from complying with the landing obligation without incurring serious economic damage to their fishing industries. I therefore request your urgent assistance to try and persuade them of this, while also seeking an immediate response from you as to what Scottish and UK vessels should do in these circumstances, should progress not be made to address the choke species issue.

There is no doubt that Brexit is consuming much oxygen on fisheries matters, on these islands and on the continent. But we must all also focus on policy matters at hand, particularly those which have the potential to do much harm to Scotland's and indeed, the UK's fishing interests. We must do all we can to resolve the hake choke species issue, deploying the strong scientific arguments for our proposals, without prejudice to wider Brexit negotiations or future fisheries management. Indeed, resolving issues like this are crucial to effective future fisheries management.

I look forward to an early response and receiving your support on this matter.

Yours sincerely

Fergus

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*PS This is obviously very serious
+ a high priority for us. Your support
as set out would be much appreciated.*