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Sent by email to [confidential]

The Hague, November 5, 2026

Our reference: ACM/UIT/1127180
Subject: ACM/25/197322 Informal guidance regarding Harvest Control Rule for North Sea Brown shrimp

Dear board members of Coöperatieve Visserij Organisatie,

The Cooperative Fisheries Organization (in Dutch: Coöperatieve Visserij Organisatie, or CVO) wishes to mandate a sustainability measure similar to that in the MSC Management Plan[1] of the MSC certification label of shrimp fishers for all of its members that catch North Sea Brown shrimp (the Initiative). The sustainability measure in question is the Harvest Control Rule. The objective of mandating this measure is the prevention of overfishing of the North Sea Brown shrimp.

You have indicated that the Initiative is compatible with the competition rules. You have asked the Netherlands Authority for Consumers and Markets (ACM) whether it shares that conclusion.[2] ACM has informally assessed the Initiative in accordance with the Policy Rule regarding ACM's oversight of sustainability agreements (the Policy Rule).[3] On the basis of the provided information, ACM finds it plausible that the competition rules do not stand in the way of the Initiative, and ACM sees no reason to conduct a further investigation.

In the below sections, ACM will first provide a summary of the Initiative. After that, ACM will explain its informal assessment of the Initiative.

The Initiative

CVO is a collaboration between three producer organizations.[4] In order to prevent overfishing and to safeguard the certification label's effectiveness, CVO wishes to mandate the Harvest Control Rule of the MSC certification label of shrimp fishers for all of its members that catch North Sea Brown shrimp.[5] CVO will

[1] MSC Management Plan. MSC stands for Marine Stewardship Council. MSC is an international non-profit organization.
[2] Mail from CVO dated 9 July 2025 with reference ACM/IN/1008084.
[3] ACM, 4 October 2023, Policy Rule regarding ACM's oversight of sustainability agreements.
[4] The three producer organizations are: Coöperatieve Producentenorganisatie Nederlandse Vissersbond U.A., Coöperatieve Producentenorganisatie and Beheergroep Noordelijke Visserij Alliantie U.A., and Coöperatieve Producentenorganisatie voor de Visserij Urk U.A.
[5] Also referred to as *Crangon crangon*, grey shrimp, or Dutch shrimp (in Dutch: Hollandse garnaal or Noordzeegarnaal).

do so by including the Harvest Control Rule in its Production and Marketing Program (in Dutch: Productie- en Afzetprogramma, or PAP).[6] As such, all CVO members must comply with the Harvest Control Rule.

For most fish species, fish stock management has been organized at the European level, for example, by using a fishing quota system, and annual catch limits. These are not used for North Sea Brown shrimp. In order to maintain the North Sea Brown shrimp stocks, CVO wishes to mandate the Harvest Control Rule of the MSC certification label specifically for North Sea Brown shrimp fishers.[7] The goal of the MSC certification label for shrimp is to safeguard a sustainable fisheries sector by ensuring that shrimp stocks remain healthy in the long term. Healthy shrimp stocks are also good for other marine life, for example for fish that eat shrimp.[8]

The Harvest Control Rule prevents overfishing because temporary effort restrictions are imposed the moment there is scarcity of North Sea Brown shrimp. Effort restrictions restrict the number of fishing hours at sea (the 'effort'). This is a maximum number of hours per week: 72 hours/week, 60 hours/week, 48 hours/week, etc.[9] As a result of the inclusion of the Harvest Control Rule in the PAP, fishers are required to comply with the effort restrictions. If they do not, they can be fined.[10]

Shrimp stocks are continuously monitored on the basis of the best available science, as individual fishers register their catches as well as the time they spend at sea, and as producer organizations tabulate that data. Effort restrictions are imposed if the total shrimp catches per hour, as added up by all MSC-affiliated producer organizations, fall below a pre-determined threshold value.[11] Small shrimp catches are an indication of a reduced state of shrimp stocks. Effort restrictions are then trilaterally imposed by the steering group of the MSC-shrimp certificate on all MSC-certified North Sea Brown shrimp fishers in the Netherlands, Denmark, and Germany.[12] CVO is part of this steering group. CVO will use the same, pre-determined threshold value for the Harvest Control Rule included in the PAP. The effort restrictions are temporary. A restriction only lasts for two weeks, and can be extended by another two weeks if the scarcity continues.[13] Between 2022 and 2025, measures were imposed or extended 17 times.[14]

For effective management of shrimp stocks, it is necessary that sufficient North Sea Brown shrimp fishers comply with the effort restrictions in times of scarcity. The effort restrictions only have the desired effect if sufficient fishers comply with them.[15] Fishers that do not comply with them are able to keep on fishing longer in times of scarcity, and are expected to do so since they can earn more in that way. As shrimp fishers have increasingly stopped using the MSC certification label since 2024, and thus no longer need to comply with the imposed effort restrictions resulting from the MSC Management Plan, CVO is concerned that it puts pressure on effective management of shrimp stocks. One consequence is that an independent auditor could decide that all shrimp fishers in the Netherlands, Denmark, and Germany lose the MSC certification label. In order to prevent that from happening, CVO wishes to mandate the Harvest Control Rule of the MSC Management Plan for all of its members.[16] Once the Harvest Control Rule has been included in the PAP, the incentive to leave the MSC certification label scheme will disappear because the Harvest Control Rule will remain in place through the PAP.[17] Shrimp fishers that wish to break away from the Harvest Control Rule will then have to give up their membership with the relevant producer organization

[6] The PAP is submitted to the Netherlands Enterprise Agency (RVO) for approval. RVO can approve the PAP, after which all Dutch fisheries that are members of CVO through their producer organizations must comply with the conditions as laid down in the PAP.
[7] Answers from CVO of 20 February 2026 with reference ACM/IN/1085739.
[8] ICES advice of October 2014 with reference ACM/IN/1018604.
[9] Answers from CVO of 20 February 2026 with reference ACM/IN/1085739.
[10] Draft PAP CVO, part 5 – sanctions and control measures, with reference ACM/IN/116747
[11] This is about the LPUE value. LPUE stands for '*landings per unit of effort*', and is expressed as kilograms per hour at sea. MSC management plan, p.8.
[12] The steering group consists of representatives from participating producer organizations from the three largest supply countries of the North Sea Brown shrimp: Denmark, Germany, and the Netherlands. CVO is represented in the steering group on behalf of the three Dutch producer organizations.
[13] Answers from CVO of 20 February 2026 with reference ACM/IN/1085739.
[14] Answers from CVO of 20 February 2026 with reference ACM/IN/1085739.
[15] Answers from CVO of 20 February 2026 with reference ACM/IN/1085739. Report MSC of November 2025, p.19-20.
[16] Minutes of meeting with CVO of 5 February 2026 with reference ACM/UIT/668908.
[17] Email from CVO with reference ACM/IN/1167472.

as well, for which there is a one-year notice period.[18] That is why the Harvest Control Rule is expected to apply to virtually all Dutch shrimp fishers, as soon as this has been mandated through the PAP.

CVO has explained that the Harvest Control Rule in the PAP will be identical to the Harvest Control Rule in the MSC Management Plan. If the MSC Management Plan is adjusted, for example as a result of new scientific insights, the PAP will be adjusted, too, according to CVO.[19]

Scope of the informal assessment
This informal assessment concerns effort restrictions on the basis of a Harvest Control Rule. This informal assessment does not cover the other measures of the MSC Management Plan, nor any other measures of the PAP.

In 2011, the ACM (formerly: the Netherlands Competition Authority) has assessed the MSC Management Plan. At the time, the Netherlands Competition Authority concluded that it seemed that, at that point, the planned control measures[20] were not allowed because there was no demonstrable acute danger (or a real danger in the future) to the survival of the population of North Sea Brown Shrimp. The MSC Management Plan includes, in addition to effort restrictions, several other requirements that MSC-certified fishers must meet such as requirements related to their nets in order to minimize the impact on other marine life. The Netherlands Competition Authority ruled, at that time, that other requirements as included in the MSC Management Plan fall outside the scope of the cartel prohibition of Section 6, paragraph 1 of the Dutch Competition Act, or that it is plausible that these requirements fall under the exemption of Section 6, paragraph 3 of the Dutch Competition Act.[21]

The scope of this informal assessment is limited to the effort restrictions that are part of the MSC Management Plan. As explained below, ACM takes into consideration in that context the deteriorated shrimp stocks, which, according to CVO, were reason for imposing the effort restrictions in certain weeks in the period 2022 through 2025.

With regard to the PAP's other requirements too, CVO must obviously assess whether those are compatible with the competition rules as well. This informal assessment does not further discuss those aspects. At a later point in time, ACM may decide to assess the other measures after all, for example if ACM receives a complaint about those measures.

ACM's informal assessment

ACM has assessed whether the Initiative is a sustainability agreement, and whether the Initiative is compatible with the competition rules. In that context, ACM relies on the information provided by CVO, and has not carried out an extensive investigation of its own.

Sustainability agreement

The Initiative as presented by CVO pursues a sustainability objective within the meaning of the Policy Rule. According to CVO, the objective of the Initiative is to prevent overfishing and to catch fully-developed shrimp after they have been able to procreate. In that context, the joint approach and the mandating of the effort restrictions are essential, according to CVO. This leads to a reduced impact on the environment, which contributes to the sustainability transition.[22]

ACM finds it important that the PAP uses the same threshold values as the MSC Management Plan. If new scientific insights in the future lead to any adjustments to the MSC Management Plan, it is important that these adjustments are also implemented in the PAP.

[18] Email from RVO of 4 June 2026 with reference ACM/IN/1119819. In addition, RVO has indicated that, for many fishing companies, cancellation of their membership can have consequences for their catch rights.
[19] Minutes of meeting on 20 November 2026 with reference ACM/UIT/1125168.
[20] On the basis of this control measure, the fishing times could be restricted (effort restrictions) when shrimp stocks were at risk.
[21] See informal opinion of NMa of 18 April 2011 with reference 7011/23.B27 (in Dutch) – MSC Management Plan.
[22] Answers from CVO of 20 February 2026 with reference ACM/IN/1018604.

No reason for further investigation

In its self-assessment, CVO concludes that the Initiative is compatible with the competition rules. In that context, CVO indicates that Dutch North Sea Brown shrimp fishers have increasingly stopped carrying the MSC certification label after effort restrictions had been included since 2024. If more and more North Sea Brown shrimp fishers stop carrying the certification label, the incentive to fish sustainably is reduced, with the risk of increased overfishing.[23]

For this informal assessment, ACM looks at specific rules for the fisheries sector. The cartel prohibition does not apply to agreements and decisions by producer organizations within the fisheries sector if the conditions laid down in Article 41 of the CMO regulation for fisheries have been met.[24] The Initiative is an agreement or decision by three producer organizations, and the Initiative concerns the catch and sale of North Sea Brown shrimp, which falls under fisheries.

Article 41 of the CMO regulation for fisheries refers to the European cartel prohibition laid down in Article 101 of the Treaty on the Functioning of the European Union (TFEU). The application of the Dutch cartel prohibition laid down in Section 6, paragraph 1 of the Dutch Competition Act (Mw) must be in line with the one laid down in Article 101 TFEU.

At first glance, ACM finds it plausible that the Initiative meets the five conditions laid down in Article 41 of the CMO regulation for fisheries, and does not see any reason for a further investigation. ACM will explain this per condition.

i. First of all, the agreement must be necessary for the realization of the agricultural and fisheries objectives of Article 39 TFEU.

In a nutshell, these objectives are: (a) increase agricultural productivity, (b) ensure a fair standard of living for the agricultural community, (c) stabilize markets, (d) assure the availability of supplies, and (e) ensure that suppliers reach consumers at reasonable prices. ACM will discuss each one of these five objectives, while having due regard for the specific effects thereof on the fishing industry.[25]

The Initiative's objective is a sustainable consumption of North Sea Brown shrimp in order to secure the availability (including future availability) of sufficient North Sea Brown shrimp, not just for human consumption, but also as food for other marine life.[26] In that way, the Initiative contributes to food security **(d)**. This also promotes the productivity of fisheries, because the ecosystem is maintained, and fishers of North Sea Brown shrimp are thus assured of sufficient North Sea Brown shrimp in the future, as a result of which they are able to keep on fishing **(a)**. In that context, CVO has explained that Dutch shrimp fishers have increasingly stopped carrying the MSC certification label during the period in which effort restrictions were in place, because shrimp stocks were deteriorating. During that period, these fishers were no longer bound by the effort restrictions, and were thus able to fish for shrimp longer. The number of Dutch North Sea Brown shrimp fishers that does not have a MSC certificate was, respectively: 0 in 2022, 1 in 2023, 28 in 2024, and 32 in 2025. In total, the Netherlands in 2025 had 150 North Sea Brown shrimp fishers.[27] Without the Initiative, CVO claims that the future availability of sufficient North Sea Brown will be jeopardized, and, by extension, so does the future productivity of fishers.[28]

Within the Initiative, no agreements are made regarding incomes for fishers, or prices for consumers. In times of scarcity, when effort restrictions are imposed, incomes could temporarily drop, and prices could

[23] In this context, CVO points to the 'tragedy of the commons', North Sea Brown shrimp fishers without MSC certificates are able to keep fishing for longer if temporary effort restrictions are imposed. The costs thereof are borne by all fishers, and ultimately borne by future generations. Answers from CVO of 20 February 2026 with reference ACM/IN/1018604.
[24] Article 41, CMO Regulation for fisheries, No. 1379/2013 of the European Parliament and the Council of 11 December 2013.
[25] Guidance document on the implementation of Chapter II "Professional Organizations" of Regulation (EU) No 1379/2013 establishing a common organization of the markets in fishery and aquaculture products. See: 503968be-e25a-4fce-b34c-c153cae05962_en
[26] ICES advice of October 2014 with reference ACM/IN/1018604.
[27] Answers from CVO of 20 February 2026 with reference ACM/IN/1085739.
[28] Minutes of meeting of 12 August 2026 (including written answers) with reference ACM/UIT/1119847.

temporarily go up. At constant demand, and under normal economic conditions, it seems plausible that reduced supply leads to a price increase. However, the goal of imposing those effort restrictions is to ensure availability of sufficient North Sea Brown shrimp in the longer term. According to CVO, without the Initiative, there is a risk that the North Sea Brown shrimp stocks recover insufficiently, which may lead to smaller catches (or smaller still)[29] and prices that may go up (or go up even further). Actually, by preventing just that, the Initiative contributes to a fair income for fishers **(b)** and ensures reasonable consumer prices **(e)**, also in the longer term.

Finally, the Initiative contributes to the stabilization of the market by ensuring, also in the longer term, stable or more-stable North Sea Brown shrimp stocks as well as stable or more-stable prices **(c)**.

In order to realize the abovementioned benefits (a through e), it is important that sufficient fishers comply with the restrictions. Unlike most other fish species, the North Sea Brown shrimp is not subject to any statutory control measure (no quotas). The more fishers commit themselves to the effort restrictions in times of scarcity, the better the measures' effectiveness can be ensured. Without the Initiative, Dutch fishers will leave the certification label scheme, as evidenced by the past few years. They can fish longer at sea, and free-riding behavior occurs.

The Initiative binds only those shrimp fishers that are affiliated (indirectly) with CVO through one of the three producer organizations. Since the North Sea Brown shrimp stocks are not limited to Dutch waters, it is important that sufficient Danish, German, and Belgian fishers also take part. So far, sufficient coverage has been ensured, in part because Danish and German fishers of North Sea Brown shrimp participate in the MSC certification label scheme, and, as of yet, there have not been any outflow of fishers in situations where effort restrictions were imposed.[30] Should future market circumstances change, for example because of an exit by Dutch, Danish and German fishers from the PAP or from the MSC certification label scheme, CVO will have to reassess whether the mandating of the Harvest Control Rule for its Dutch members still contributes to the objectives of Article 39 TFEU.

ii. Second, the agreement cannot include an obligation to charge a certain price.

According to CVO, the Initiative does not include such an obligation.

iii. Third, the agreement cannot lead to market fragmentation within the European Union.

According to CVO, the Initiative offers fishers the freedom to supply their North Sea Brown shrimp to anyone they would like. The Initiative bolsters and underscores the importance of the MSC certification label. ACM finds it important that, in addition to the MSC certification label, fishers can carry (or continue to carry) other certification labels too. Although many Dutch buyers seem to value the MSC certification label, it can be the case that other buyers (for example non-Dutch ones) also set store by other labels (sustainability labels or otherwise)[31], for example because consumers in other countries are used to another certification label. In order to prevent market fragmentation, CVO therefore needs to ensure that its members are allowed and are able to carry (and continue to carry) other certification labels next to the MSC certification label. For example, fishers can sell (and continue to sell) their North Sea Brown shrimp to buyers (including foreign ones) that may set store by other certification labels.

ACM finds it important that competition between certification labels remains possible. At the same time, sufficient collective coverage is important for effective management of shrimp stocks. Should another certification label offer at least a similarly collective protection for the North Sea Brown shrimp, CVO will have to reassess whether it is allowed to (only) mandate the Harvest Control Rule of the MSC label.

[29] Minutes of meeting of 12 August 2026 (including written answers) with reference ACM/UIT/1119847.
[30] Memo of CVO of 10 February 2025 with reference ACM/IN/957299. Belgian fishers do not participate. This is a relatively limited group, as a result of which sufficient coverage can be achieved with just Dutch, Danish and German fishers. Answers from CVO of 20 February 2026 with reference ACM/IN/1085739.
[31] According to CVO, there are other certification labels as well, for example labels that indicate that the fish in question is organic or comes from a specific region. MSC was the first global certification organization for wild fish that was granted formal recognition by the Global Sustainable Seafood Initiative. Mail from CVO of 9 April 2026 with reference ACM/IN/1101043.

iv. Fourth, the agreement cannot foreclose competition.

That is to say that the Initiative cannot lead to any exclusion of products for which there is considerable consumer demand.[32] On the basis of the information submitted by CVO, ACM finds it plausible that this condition has been met.

Although the Initiative does not mandate the MSC certification label, the Initiative can result in virtually all Dutch North Sea Brown shrimp fishers being MSC-certified, which was de facto also the case prior to 2024. Non-MSC shrimp will then be harder to get in the Netherlands. On the basis of information submitted by CVO, this does not seem to lead to exclusion of non-MSC shrimp because there does not seem to be considerable demand among consumers for specifically non-MSC shrimp.

Until 2024, all Dutch North Sea Brown shrimp fishers (bar one) had been MSC-certified, according to CVO, which means that they only sold MSC-certified North Sea Brown shrimp. As far as we know, that did not lead to any significant, unmet consumer demand in the period until 2024. This is connected to the fact that the majority of North Sea Brown shrimp is sold through supermarkets that only offer MSC-certified North Sea Brown Shrimp.[33]

North Sea Brown shrimp with and without the MSC certification label are, in essence, the same product, which, at first glance, meets the same consumption needs. In addition, the majority of traders actually prefer buying MSC-certified shrimp over non-MSC-certified shrimp. As explained above, the main reason is that major Dutch supermarkets wish to buy and sell MSC-certified shrimp only out of sustainability considerations.[34] The few traders that do buy non-MSC shrimp will later still be able to buy non-MSC shrimp from non-certified fishers (expected to be mostly Belgian ones).

On the basis of that information submitted by CVO, ACM finds it also plausible that the Initiative does not foreclose competition.

v. Fifth, the agreement cannot eliminate competition in respect of a substantial part of the products in question.

That is to say that a certain degree of residual competition must remain in the market. That last condition can be met, even in the case of a market-wide agreement, as long as the participants continue to compete fiercely on at least one key competition parameter.[35] Elimination of competition for a limited period (without having any consequences for the development of competition once that period has ended), too, is not necessarily an impediment to meeting this condition.[36] The Initiative practically covers the entire market, since almost all Dutch shrimp fishers are members of CVO. Since its members are able to continue to compete on, for example, service, reliability, and price[37], and since competition in respect of volume is reduced or eliminated only temporarily (in times of scarcity), ACM finds it plausible that the Initiative meets this condition.

[32] In that context, ACM similarly applies the explanation of the European Commission from C_202301446EN.000101.fmx.xml, section 8.2. In these guidelines, the European Commission in section 186 indicates that exclusion of competition requires clearing a high threshold in order to avoid overlap with intervention on the basis of the requirements of Article 39 TFEU.
[33] Additional information submitted by RVO on 4 June 2026, with reference ACM/IN/1119819. Minutes of meeting of 12 August 2026 (including written answers) with reference ACM/UIT/1119847.
[34] Additional information submitted by RVO on 4 June 2026, with reference ACM/IN/1119819. See also minutes of meeting with CVO on 5 February 2026, with reference ACM/IN/668908, and answers from CVO of 9 April 2026 with reference ACM/IN/1101044.
[35] See also Communication from the Commission – Guidelines on the applicability of Article 101 of the Treaty on the Functioning of the European Union to horizontal co-operation agreements, section 9.4.4.
[36] See also Communication from the Commission – Guidelines on the applicability of Article 101 of the Treaty on the Functioning of the European Union to horizontal co-operation agreements, section 9.4.4.
[37] Minutes of meeting of 12 August 2026 (including written answers) with reference ACM/UIT/1119847.

Conclusion

On the basis of the information provided by CVO, ACM at this point comes to the conclusion that it is plausible that the competition rules do not stand in the way of the Initiative, and that there is no reason to conduct a (further) investigation.

ACM points out that this assessment has an informal character. ACM assumes that the information that was submitted by CVO is correct. ACM did not conduct an extensive investigation of its own.

ACM may still decide to investigate the Initiative in greater detail at some point in the future, for example, if ACM receives a complaint about the Initiative. After such an investigation, it may turn out that the Initiative is, in fact, at odds with the competition rules. In that case, ACM will not impose a fine if CVO informed ACM in good faith, and if it cooperates with a subsequent adjustment process to bring the Initiative in line with said rules. Just to be clear: it is ACM's own decision to use its discretionary power to impose fines in this manner. Other competition authorities are not bound by this choice or by the contents of this informal assessment.

Yours sincerely,

The Netherlands Authority for Consumers and Markets,
on its behalf,

D.I. Bos
Director
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