



CONSEIL CONSULTATIF POUR
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NWWAC Advice on the implementation of the demersal Landing Obligation in 2017

13 May 2016

Background

The North Western Waters Member States Group is preparing a Joint Recommendation for a discard plan for 2017. The North Western Waters Advisory Council has contributed to this process by providing advice on specific issues in 2015 and 2016¹. This advice continues from that previously delivered, providing input to the development of the proposal for a Joint Recommendation by the NWW Member States².

Although the NWWAC has concerns over the approach adopted in North Western Waters with regard to the way fisheries have been defined for the purposes of phasing, the AC supports the concept of phasing and recognises that the diverse fisheries within the zone require a differentiated approach. Nevertheless, the level of complexity generated by the current approach will require good communication on behalf of the Member States so that industry and control authorities clearly understand what is required of whom, and to ensure that control and enforcement of the new rules is coordinated between Member States and proceeds smoothly across North Western Waters and in boundary areas with the North Sea and South Western Waters.

Phasing

The NWWAC recognises the political and legal imperatives that underpin the North West Waters Member States' commitment to extend the species/fisheries covered by the landing obligation in 2017 and support the concept of phasing to avoid a "Big Bang" at either the beginning or end of the implementation process.

It should be noted, that the scope of the CFP includes the conservation of marine biological resources and the management of fisheries exploiting them. In light of this, the NWWAC emphasises the requirement to take note of the potential harm to the ecosystem as a result of a ban on discards.

It is the NWWAC opinion that legislative impediments to the implementation of the landing obligation should be removed. For instance, review of the EU Cod Management Plan (as well as

¹ NWWAC answer to NWW Member State request for Advice on the Landing Obligation
[February 2016](#), [December 2015](#), [April 2015](#)

² Joint Recommendation for 2016: [link](#)



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catch composition rules and the “one net rule”) remains a hurdle to further implementation of the Landing Obligation.

Problems with *phasing-in*

The NWWAC does not have a clear understanding of how the toolbox of mitigating measures (technical measures, quota adjustments, exemptions) will be applied, individually or cumulatively, to minimise the problem of chokes. Consequently, there is an urgent need for the regional group of member states, working with the NWWAC, to develop a coherent strategy to identify and develop early solutions for choke situations. Such close collaboration will increase transparency, and the level of trust and understanding that is needed to achieve a higher level of compliance. The workshop organised by the UK on ‘Access to Quota’ was a good example of a productive collaboration between the different stakeholders and Member States to address the problems of choke species. Future, similar, initiatives would be highly recommended.

Scientific research has indicated that uncertainties exist concerning the impact of the introduction of the discard ban on fisheries and fish stocks and the wider ecosystem. Therefore, the secondary impact of landing all regulated species requires further analysis.

The Discard Atlas illustrates that inadequate data is a particular problem in North Western waters. Hence, the NWWAC has concerns with the quality of the data employed by ICES to estimate the discard rates, subsequently used to calculate the level of TAC uplifts. Good quality data are required to avoid the detrimental consequences of choke situations.

How to address these problems

The general approach to phasing for 2017 is similar to the approach that emerged for 2016 where the emphasis was placed on choosing species least likely to cause choking (Annex 0). The NWWAC agrees with the proposals made by the Member States on phasing-in for 2017 and notes that choking and the premature closure of fisheries is a real concern. Quota flexibilities and exemptions allowed for in the CFP may not provide suitable mitigation against such events and there is a strong possibility that choke species will jeopardise the economic viability of the fleets concerned. This alone is not a reason to forsake the landings obligation but it is strong reason to proceed with caution and continue using an adaptive approach.

It is the NWWAC’s view that this imposes a responsibility on all parties to work together to identify solutions to potential choke problems.



At a practical level, this requires:

1. The urgent development of an action plan on chokes, for the various fleets of the Member States;
2. Initiatives to predict and avoid chokes in advance³ (e.g. avoidance and selectivity trials) and contingency arrangements to address chokes if and when they arise;
3. A deeper understanding of the contribution that can be made by each mitigation measure;
4. Consideration of what safety net arrangement, such as a fast track process between the Member States group and the European Commission, science advisory bodies, and the NWWAC, might be appropriate for fisheries threatened with choking.

For example, with respect to sole VII hjk, the NWWAC suggests that the NWW Member State group ask STECF to consider the effect of removing sole VII hjk from the TAC regime, with specific reference to:

- a) Fishing mortality on sole;
- b) Fishing mortality of other species in the fisheries;
- c) What other management measures might be appropriate.

This is the subject of a separate request by the NWWAC to the Commission.

Survivability exemptions

STECF⁴ has pointed out the subjective nature of defining 'high survivability'. The NWWAC agrees that it is not possible to simply select a single percentage survival value and apply this to all species. The AC also agrees that further research is required in support of claims for high survivability but emphasises the need for a pragmatic approach when assessing claims where the scientific research has not yet concluded.

When assessing unsupported claims for survivability the North Western Waters Member States Group should take into consideration the impending impact on mortality of the stock in question. Arriving at the best decision will need to be assessed on a fishery-by-fishery basis and should take

³ DAMARA (MARE/2012/22 - LOT1: 2014-2016) Scientific support for the development of a management plan in the Celtic Sea
[STECF-14-19](#) Landing Obligation in EU fisheries-Part 4 (list of potential chokes are: skates and rays, brill, flounder, turbot, lemon sole, witch and dab, see also Figure 4.3-1 to 4.3-11, Table Annex III)
[ICES Mixed-fisheries](#) advice for Divisions VIIb,c,e-k (Celtic Seas)
DiscardLess (H2020-SFS-2014-2 topic SFS-09-2014): strategies for the gradual elimination of discards in European fisheries

⁴ STECF Scientific, Technical and Economic Committee for Fisheries (STECF) – Landing obligation in EU fisheries ([STECF-13-23](#)). 2013.



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into consideration such elements as the state of the stock and the contribution that discards make relative to the total mortality of the stock.

Industry members of the NWWAC stress that, to avoid an increase of actual fish mortality, when there is a realistic indication that an acceptable percentage of a species returned to the sea survives, that it can be recommended that the required scientific evidence is obtained, whilst the exemption is in application. In the specific case of sole in VII efg, the industry members of the NWWAC believe that expert opinion should be accepted so that survivability can be applied in the interim. This will provide suitable time for scientists to collect data in support of its longer term application. It should be noted that ICES assume the current discard rate to be approximately 2%.

The representatives of the Other Interest Groups stress the importance of having scientific evidence that demonstrates high survival rates before such an exemption is granted, because this essentially removes the stock from the landing obligation and thus the incentive to change fishing behaviour.

***De minimis* exemptions**

Decisions on the fisheries and candidate species that meet the conditions for the *de minimis* exemptions will be affected by decisions on phasing (e.g. new species, changes to thresholds, etc.), other flexibilities and exemptions, and must be considered in the wider context of these.

The industry members of the NWWAC point out that it is not clear how the 7% (gradually reducing to 5%) should be applied. The interpretation in the 2016 Joint Recommendation (applied only to the single species) should not be considered as a fixed criterion and different interpretations of the percentage basis should be possible for application of the *de minimis* exemption to other species.

The Other Interest Group members of the NWWAC support the interpretation of this provision used by the Member States group so far.