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ADVICE

Response to the NWW MS request for advice for the Joint Recommendation for 2018

Dublin

27th January 2017

General

The NWWAC acknowledges that the implementation of the landing obligation (LO) is an important requirement of the CFP, but it recognises that it will be difficult to balance the different CFP objectives. At the same time, the NWWAC has considered where we are in the process of implementing the landing obligation and feel it fundamentally important to draw attention to a number of major obstacles ahead, most significant of which is the lack of integration within the different elements of the CFP.

For example:

- The landings obligation timetable and requirements;
- The setting of TACs in mixed fisheries (e.g. cod, haddock whiting 7b-k) and coverage of non-target species (e.g. Plaice 7hjk);
- The MSY timetable which requires that all species are managed according to the principles of MSY by 2020, irrespective of stock status or consequences;
- The setting of zero TACs;
- Relative Stability allocations;
- The long process of the revision of the technical conservation regime and its ability to facilitate changes in the selectivity of fishing gear.

The NWWAC considers that it is difficult to foresee further transition to a management regime based around the principle of a requirement to land all quota species (even taking into account the exemptions and flexibilities available) without a serious attempt to resolve the potential conflicts of incompatible policies and requirements.

It is crucial that the LO is implemented to effectively increase the avoidance of unwanted catches and improve selectivity. The choke toolbox will be an essential tool in this process.

The NWWAC requests that the Commission and the Member States provide the AC with the results of the Member States' reports on the implementation of the LO. Based on the content of these reports, consideration should be given to appropriate actions.

Request

1. Lessons learned

Brief description of problems associated with the 2016 landing obligation

The Discard plan for NWW in 2016 uses thresholds to define fisheries, which has made it difficult to implement the regulation, specifically regarding the lists of vessels and the different treatment of vessels on the different lists. Differences in implementation between adjacent areas (North Sea, Bay of Biscay) also created inconsistencies that created problems in understanding the implementation of the LO on the ground.

The main choke situation that occurred in North Western Waters was for Belgian beam trawl fisheries in 7.hjk, effectively closing the area for Belgian fisheries from early June 2016. The displacement of effort of the Belgian fleet caused increased fishery effort in those areas where vessels were displaced to.

In order to make the LO workable for beam trawl fisheries, the *de minimis* exemption for sole in all areas was useful.

The collection of undersized catches is still under development with few, if any, options or facilities in place in ports.

Some members had difficulty in setting up EMFF program funding, which caused delays in the studies needed to improve further implementation of the LO.

In general, the NWWAC notes that at present, the LO is implemented for about 1 or 2 species by fishing gear, starting with those expected to cause fewest problems. The NWWAC recognises there is still a long way to go and there are serious challenges ahead with the many stocks that need to be implemented by 2019.

Brief description of positive experiences with the 2016 landing obligation

Despite the difficulties that can be expected in the first year of implementation of a new regulatory instrument, the experience of 2016 was not wholly negative. It was also a year where the NWWAC was actively consulted by the NWW MS group and the improved communication allowed for the discussion of the difficulties encountered and the exploration of solutions, e.g. through the development of a choke species action plan.

2. Documentation of catches

Brief description of specific cases where documentation of catches is hampered

The NWWAC is aware that not all NWW Member States have updated all of their catch documentation processes since the introduction of the landing obligation, which, among other changes, would allow skippers to accurately record catches. Unclear administrative requirements under the LO make it extremely difficult and almost impossible for skippers to fulfil their administrative obligations correctly.

Possible ways to improve the documentation of catches

Article 15(13) of the CFP Regulation stipulates that “Member States shall ensure detailed and accurate documentation of all fishing trips and adequate capacity and means, such as observers, closed-circuit television (CCTV) and others”. To support a level playing field, the JR should include minimum standards for Monitoring, Control and Enforcement measures.

It is vital that the implementation of catch documentation is harmonised across MS to ensure optimal implementation and data collection regarding the LO without significant additional financial costs for the industry. Catch documentation processes should allow for the accurate collection of data about catches above and below the MCRS, including catches and discards of species not yet subject to the LO. This means improved electronic reporting, as well as amendments to paper logbooks, where NWWAC members report that more space is needed to declare different types of discards.

The use of electronic systems and mobile technology has the potential to greatly facilitate the exchange of data and information among stakeholders and the relevant authorities. It also has the capacity to make information readily available to the public, in the interest of transparency, science and fisheries management.

The NWWAC notes that it is vital to raise awareness among fishermen about the reasons, uses and usefulness of observer data and catch reporting. The NWWAC will endeavour to raise such awareness amongst its members.

3. Phasing-in – *De minimis* – High survivability

General

Reducing unwanted catches must be the primary objective of measures introduced to implement the LO, and improvements of avoidance and minimisation of unwanted catches in the past year should be taken into account. Exemptions should be used where needed, but should not jeopardise the objectives of the CFP. Further clarification regarding the application of choke mitigation/adaptation tools is needed.

Based on these considerations and the points below, the NWWAC has prepared suggestions by stock, which can be found in the annex. The annex contains an evaluation by the NWWAC of potential stocks to be phased-in, in 2018, on the condition that tools to avoid or mitigate choke situations by stock are implemented. The NWWAC advises the Member States group to evaluate if sufficient information is available to identify specific exemptions, before stocks are (further) phased-in. If sufficient information is not available and it is likely that an exemption is warranted, then the AC encourages the NWW Member States group to carry out studies in 2017 and early 2018 so that appropriate evidence is available to evaluate exemption requests.

PHASING – general points

The NWWAC recognises the need to continue phasing so that the fishing industry and managers can ‘learn by doing’ in order to avoid a ‘big bang’ of all remaining potential chokes in 2019.

By the end of 2018, however, an analysis should be available with insight on the impact of the implementation of the LO (e.g. fishing mortality, selectivity, length distribution of the stocks, etc.)

Some industry members of the NWWAC are of the opinion that this analysis should be evaluated before proceeding with the phasing-in of more stocks.

The NWWAC recommends the NWW Group of Member States to ask the Commission to undertake a comprehensive study of other factors (e.g. climate change, wind and oil prospecting) that may be affecting the dynamics and health of stocks and the environment in general. ICES' Irish Sea working group (WKIrish) is a good example of an initiative to understand cumulative impacts on eco-regions, and identify the pressures and threats that they are facing from human activities.

It could be envisaged to introduce one or more species identified as "choke species" in 2018, on the condition that tools are in place to manage the "choke" effect, for example megrim in area 5.b and 6. This could identify difficulties associated with having a choke species under the LO before 2019 and "test" a choke species management tool, such as a "combined" (multiple species) *de minimis* exemption.

The NWWAC has positively evaluated the removal of some of the current thresholds for species already subject to the LO to simplify the implementation process, for example Nephrops in areas 6 and 7. This would mean that the LO would apply to all vessels for one of the species, which currently is partially subject to the LO.

The NWWAC recognises two situations where additional work is needed before all stocks could be covered by the landing obligation in a workable way:

1. No-quota stocks

In cases of Member States that currently have no quota for (marginal) bycatches by their fisheries, a solution should be sought, to include the establishment of by-catch quota to allow continuation of fisheries for target species.

Additionally, the possibility for grouping of TACs (e.g. Norway Others), deleting TACs (as per the NWWAC letter to the Commission of 21 June 2016 including the example of sole in 7hjk), should be evaluated.

2. Zero TAC stocks

For stocks where there is currently a zero TAC (for example cod in area 6.a), the NWWAC advises that the NWW MS Group evaluates how the LO could be implemented, whilst maintaining a balanced approach between the different CFP objectives.

Results of the UK spurdog study could be used as a basis for demonstrating the various management options available.

HIGH SURVIVAL EXEMPTION

As in the NWWAC advice of 13 May 2016, 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 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 recommend 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 the required scientific evidence is obtained, whilst the exemption is in application. The industry members of the NWWAC believe that expert opinion should be accepted so that survivability can be applied in the interim. This would provide suitable time for scientists to collect data in support of the longer term application of the exemption.

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.

In the specific case of the NWWAC proposals for survivability exemptions¹, the NWWAC considers it important to collect the evidence for high survival candidate stocks during 2017 and 2018, and therefore, these stocks cannot be introduced under the LO before 2019. The means required for data collection of this nature should be made available.

Some industry members of the NWWAC favour an introduction of these stocks in the LO in 2018 with a survivability exemption, in order to facilitate the collection of the required scientific evidence. Some OIG members of the NWWAC point out that introducing a stock to the LO under a high survival exemption without the required scientific evidence, even on a provisional basis, is likely to remove the urgency and priority given to such research and mean that 'residual mortality' of discarded fish cannot be taken into account. Such work can and should be carried out before the exemption is granted, as required by law. This would not represent any impact on fishing mortality.

FURTHER POINTS

The use of interspecies flexibility should only be used as a last resort, once the other available exemptions to make the LO workable have been exhausted. This provision should only be used for stocks within safe biological limits and safeguards are necessary to prevent other objectives of the CFP being compromised. Preventing the conversion of pelagic quota into demersal landings is one example of a necessary safeguard.

Alternative measures to alleviate the most pressing situations and to prevent the collapse of fishing enterprises necessarily include the wider utilisation of quota management tools such as quota swapping in the various possible ways. Application of the results of the workshops on quota management (Copenhagen, 11 March 2016; Edinburgh 14-15 April 2016) would undoubtedly help to better and fully use the fishing possibilities. The NWWAC encourages the organisation of further workshops to maximise the improvement of quota utilisation.

The introduction of an **"Other"** or **"By-catch"** quota should be evaluated and could be considered where:

- it does not increase fishing mortality,
- it facilitates the implementation of the LO,
- it ensures a level playing field and
- its application does not undermine relative stability.

Successful examples of technical measures and survival trials in the different member states should be shared and implemented widely, as soon as is feasible.

¹ See annex: Skates and Rays in areas 6 and 7, plaice in 6, plaice in 7.de, 7.fg, sole in 7.d, 7.e and 7.fg,

4. Specific requests from the MS

1. The introduction of saithe for all trawls and seines with a catch threshold of 50% for NWW sea area VIa, VIb and Vb:

The NWWAC supports that this stock be treated the same way as the North Sea stock to avoid border issues.

2. The wider application of the landing obligation for sole in VIIe once obstacles within the sole recovery management plan, that restrict the successful introduction of the landing obligation, have been resolved:

The NWWAC recognises that wider application of the LO for sole in 7e would pose problems for trawls and seines. Expanding the LO for this stock for trawls and seines would be problematic without any measures such as exemptions for high survival or *de minimis* and without a quota uplift to account for previously discarded catch.

3. The wider application of the landing obligation for pollack across NWW:

The stock of pollack is currently not analytically assessed by ICES, which will make it difficult to assess the impact of the LO for this stock for 2018.