



DISCUSSION PAPER

Exploration of options for implementing the landing obligation (LO) for demersal fisheries in the North Western Waters

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Introduction / Purpose

Dear members of the North Western Waters Advisory Council,

The discard plans for the introduction of the demersal Landing Obligation will be written by the NWW Regional Member State Group. At the meeting of their “Technical Group” in the Hague on 30 October 2014, attended for the NWWAC by Bertie Armstrong and Liane Veitch, a very clear request for the NWWAC to contribute was made.

The specific requirement is a decision on the basic choice of “Phasing Options”. The attached paper is distributed for your consideration at the Working Groups in Paris and we request that at the meetings, you consider which option would best suit your area and fisheries. Time is very short – the Technical Group needs our decision before they report to the high level NWW Regional Group at the end of the month. If we do not make an input they will have to make the decision themselves, to meet their own timescale.

The whole Landing Obligation issue will have a very large impact on European sea fishing. While the timetable is difficult, we have an opportunity to make constructive input and we recommend most strongly that we take it. We might consider favouring at the WGs one of the options and then seek an overall choice at the Executive Committee. We know this will be challenging, but ask for your best efforts. We look forward to discussing with you this subject at the NWWAC meetings in Paris.

1. The “species-based” approach

Under this approach, the landing obligation (LO) would apply for the species listed in Art 15(1)(c)(i) from 1 January 2016 in whichever “fishery” they are caught in; i.e. all cod, haddock, whiting, saithe, Norway lobster (*Nephrops*), common sole, plaice, and hake would be brought and retained on board (except where exemptions apply). Over 2018 and 2019, other quota species could be phased in to being covered by the landing obligation, with all having to be covered by 2019 as per Art. 15.



Benefits

- this interpretation is consistent with the wording at the beginning of Article 15.1, that “All catches of **species** which are subject to catch limits... shall be brought and retained on board”¹
- also consistent with the approach taken in the pelagic fisheries for which the LO applies from 1 Jan 2015 (i.e. throughout the pelagic fisheries where they are caught, all catches of named pelagic species, and named species for industrial purposes, must be landed)
- all catches of these species would be landed, so maximal quota uplift to account for the shift from a landings limit to a catch limit throughout the area where the species is caught on the basis of best scientific advice for achieving the MSY objective to account.
- all vessels operating in the North Western Waters would be subject to the same rules (i.e. required to land the same species) making monitoring, control and enforcement easier
- would avoid frictions between two vessels fishing alongside each other and being subject to different discard rules, thereby simplifying control and making adequate control measures more possible to implement
- provides time over 4 years to strengthen the knowledge-base for high survival and de minimis exemptions for remaining (i.e. not named) quota species
- avoids the need to apply more-or-less arbitrary management (fisheries) categories on an essentially dynamic industry, and the perverse incentives that could create (for example, because of the definition of fisheries in the cod recovery plan, many vessels changed their fishing patterns to avoid certain management measures required in the category they were previously defined by); fisheries definitions would only be necessary for exemptions
- would be simpler to explain at vessel level
- avoids the problem of vessels shifting fleet categories mid-year being subject to different discarding rules
- easier to apply to 3rd country vessels
- would avoid the potential problem of generating a trade in quota from vessels not subject to the LO in that species
- lower risk by comparison with a fisheries or hybrid approach with regard to compliance

Drawbacks

- potential for quota limitations to “choke” some fisheries, although it is unclear the extent to which the allowed exemptions and flexibilities could mitigate this
- could impact on different member state fleets differently
- Commission has concerns about justification of approach to industry stakeholders

Industry comment: Advantages are highly dependent on departing from the application of the landings obligation to the whole list of cod, haddock, whiting, saithe in year in year one, in favour of one, or at most two, species in year one.

¹ And also Recital 26, which states that “... **An obligation to land all catches** (“the landing obligation”) **of species subject to catch limits...** made during fishing activities... should be established and gradually implemented...” (emphasis added).



2. The “fisheries-based” approach

Under this approach, the LO would apply from 1 January 2016 for the species listed in each fishery type, i.e. for cod, haddock, whiting and saithe in the “whitefish fishery”, for Norway lobster in the “*Nephrops* fishery”, for sole and plaice in the “flatfish fishery”, and for hake in the hake fishery. In 2019 (or possibly earlier, depending on decisions), the landing obligation would apply to all quota species in all fisheries.

Benefits

- would give fleets more time to adapt by only applying to their target species (as named in the article), particularly for vessels deemed to be targeting *Nephrops* and flatfish
- in line with a possible legal interpretation of Article 15(1)(c)(i)
- potentially better compliance since the LO obligation would apply to fewer species in each fishery
- may be more justifiable/acceptable to *Nephrops* and flatfish fleets than a species-based approach
- provides some flexibility for vessels to adapt to the landings obligation

Drawbacks

- it will be very difficult to define all demersal fisheries across the North Western Waters, and the risk of the resulting definitions leading to perverse incentives is high (the simplification of fisheries categories is likely to create unintended consequences, as with the cod recovery plan explained above)
- would require a definition of “targeting” that can accommodate dynamic change, since many vessels cannot be pigeon-holed into permanent categories
- greater difficulty in controlling and accounting for the impact on fishing mortality from continued discarding in some fleet segments, in addition to the various exemptions and quota flexibilities
- difficulties splitting catch advice into landings quotas for some fisheries and catch quotas for others (with discarding factored in) – this will require substantial micro-management and administration
- smaller amounts of uplift available for vessels subject to the LO to adapt it, since discarding will be continuing in other fisheries
- the potential for participants in one metier to sell their quota for species that don’t “define” their fisheries to those that do, thus increasing the landing quota in the targeted fishery while continuing to discard in their fishery (which is likely to lead to increased fishing mortality); without rules to prevent this it would lead to the displacement of discarding as opposed to the minimisation of discarding and would also have implications for TACs the following year, particularly for vessels in the ‘targeted’ fishery
- a much bigger monitoring, control and enforcement problem since vessels fishing side by side could be subject to different discarding rules (de minimis and high survival exemptions) applying to different vessels depending on the fishery they are defined as belonging to
- difficulty assessing compliance with the LO for port or onboard inspection authorities if a vessel has been engaged in more than one target fishery/metier during the same fishing trip.



3. A hybrid “species-fisheries” approach

In this kind of approach, some species listed in Art 15(1)(c)(i) would be subject to the LO in all fisheries, while some would only be subject to the LO in the fisheries they “define”, e.g. cod might be subject to the LO in all fisheries, but other whitefish only subject to the LO in the “whitefish fishery”. This takes the same legal interpretation of the text in Art 15(1)(c)(i) as the fisheries-based approach (which contradicts wording in Art 15(1)), but goes further than the ‘minimum requirement’ by requiring that species will be subject to the LO across all fisheries. Over 2018 and 2019, other quota species could be phased in to being covered by the landing obligation, with all having to be covered by 2019 as per Article 15.

Benefits

- those species that are subject to the LO across all fisheries should receive a higher quota uplift, which may help alleviate potential “choke” issues
- will reduce the incentive to swap quota for species that are subject to the LO in all fisheries (cod, in the example above), which would prevent the potential to increase fishing mortality as identified in the “fisheries-based” approach, at least for those “cross-fishery” LO species
- could allow for higher flexibility at vessel level to adapt to the LO

Disadvantages

- the same disadvantages as the “fisheries-based approach”, including the potential to increase fishing mortality for species subject to the LO only in particular fisheries, plus;
- may be hard to justify politically as there will be losers as well as winners in going further than the minimum requirement in year one; could bring up issues of fairness and equal treatment.
- would be a control and enforcement nightmare
- multiple vessels would be subject to different rules
- could be the highest risk option in terms of compliance/monitoring



4. A transition “fisheries-to-species” based approach

This option follows the fisheries-based approach in 2016, where the species named in Article 15(1)(c)(i) would be subject to the landing obligation when caught in “their” fishery. In 2017, this would turn into the species-based approach, with all named species being subject to the landing obligation in any fishery they are caught in. Over 2018 and 2019, other quota species could be phased in to being covered by the landing obligation, with all having to be covered by 2019 as per Article 15.

Benefits

- the same benefits as the fisheries-based approach in 2016
- the same benefits as the species-based approach in 2017-2019
- more ambitious than just the fisheries-based approach or hybrid-approach, so the benefits of stock status and data could be expected sooner

Disadvantages

- the same disadvantages as the fisheries-based approach in 2016
- the same disadvantages as the species-based approach in 2017-2019
- difficult to explain to industry, since the rules would change every year