

Joint Recommendation of the North Western Waters High-Level Group

Discard Plan for Demersal Fisheries in the North Western Waters

1. Implementing authority

- a. Acting in accordance with Article 43(3) of the Treaty on the Functioning of the European Union and taking into account the authority granted by Articles 15.6 and 18.1 of Regulation (EU) No 1380/2013 to the European Commission to adopt discard plans by means of delegated acts, the Member States of the North Western Waters submit a joint recommendation, as per Article 18.3 of Regulation (EU) No 1380/2013, to the European Commission for a specific discard plan for demersal fisheries in the North Western Waters.

2. Objectives of the discard plan

- a. As a result of the reform of the Common Fisheries Policy (Regulation (EU) No 1380/2013), concluded in 2013 and effective from 1st January 2014, there is now a provision under Article 18 for Member States to elaborate joint recommendations for regional management measures specific to their fisheries and submit these to the European Commission for adoption via delegated acts.
- b. The scope of these recommendations is provided for in Article 18 of Regulation (EU) No 1380/2013 by way of reference to Article 15.6 thereof, which outlines the process for adoption of a specific discard plan by the European Commission for a period of no more than three years, to contain any of the specifications referred to in points (a) to (e) of Article 15.5.
- c. Under Article 15.6 of Regulation (EU) No 1380/2013, Member States may cooperate, in accordance with Article 18 thereof, in the drawing up of a specific discard plan with a view to the Commission adopting such a plan by means of delegated or implementing acts or via the ordinary Legislative Procedure.
- d. The adoption of such specific discard plans is considered important to the successful implementation of the landings obligation as specified in the reformed Common Fisheries Policy.

- e. As such, this discard plan will establish provisions for any of the specifications referred to in points (a) to (e) of Article 15.5 of Regulation (EU) No 1380/2013, including specific descriptions of any exemptions gained.
- f. It is intended that the Commission delegated act giving effect to this discard plan shall remain open to revision and adaptation at any time during its duration of up to two years in order to retain flexibility in addressing the challenges that will be posed by the introduction of the landing obligation for demersal fisheries. In particular, this discard plan shall remain open to the later inclusion of exemptions under high survival and de minimis, and to the inclusion of specific provisions for Minimum Conservation Reference Size (MCRS) to be specified at any time.
- g. In association with this discard plan, it is anticipated that there may be a requirement for complementary changes in technical measures in order to increase selectivity and reduce as far as possible unwanted catches. Any such measures may be brought forward in a separate recommendation as early as possible.
- h. In accordance with Article 18.2 of Regulation (EU) No 1380/2013, the North West Waters Group has undertaken regular and detailed engagement with the North Western Waters Advisory Council in the preparation of this plan. The recommendations of the Advisory Council have been fully examined and taken on board, where possible.
- i. It is considered to be the joint responsibility of the Commission and the Member States concerned to maintain oversight of the implementation of the provisions of this discard plan and to review and amend any element that evidence and/or improved data show is not fit for purpose.

3. Duration

- a. As per Article 15.6 of Regulation (EU) No 1380/2013, this specific discard plan shall have a duration of two years.

4. Scope

- a. In accordance with Article 15.1(c) of Regulation (EU) No 1380/2013, the Member States of the North Western Waters Group are committed to a progressive and incremental introduction of the landing obligation over the period 1 January 2017 to 1 January 2019.

- b. This Joint Recommendation covers species which define the highly mixed cod, haddock, whiting & saithe fishery; Norway lobster (Nephrops) fishery; mixed common sole and plaice fishery; hake, megrims and pollack fisheries. Bycatch species have also been added to some existing rules from 2016.
- c. In developing this Joint Recommendation, the North Western Waters Group has taken full account of the agreed recommendations, suggestions and information furnished by the North Western Waters Advisory Council. Those agreed positions, relating to the phasing-in of the landing obligation and the species which will be subject to the landing obligation from the 1st January 2017, have been accepted by the North Western Waters Group. The North Western Waters Advisory Council agreed that a gradual phasing in of the landing obligation will be critical to allow for adaptation to it and to retain stakeholder support (i.e. the need to avoid a “big bang”). The Advisory Council also accepted that a second “big bang” should be avoided if possible in 2019 i.e. that phased implementation should continue in 2018. The Member States of the North Western Waters Group also considered the views expressed by different stakeholders within the NWWAC, where those were not the agreed positions of the NWWAC.
- d. The North Western Waters Group, following the recommendations of the North Western Waters Advisory Council, has identified appropriate species for each relevant fishery to come within the scope of the landing obligation from the 1st January 2017. It is intended to build on this recommendation and that additional species in relevant fisheries will be included on a gradual and progressive basis. Consequently the North Western Waters Group will be submitting further Joint Recommendations for the adaptation of the delegated act giving effect to this discard plan in a timely manner in order to comply with the provisions of the landing obligation. Indeed, Member States remain committed to the progressive implementation of the landing obligation in 2018 in the North Western Waters (NWW) to avoid a “big bang” in 2019.

There are three ways in which the landing obligation can be progressed further in 2018:

1. The addition of new targeted fisheries which have not yet been covered by the landing obligation;
2. The reduction and/or removal of the catch thresholds currently associated with certain rules;

3. The addition of by-catch species to existing rules which do not represent a significant 'choke'.

Phasing proposals which were discussed but not taken forward for 2017 will be reconsidered for introduction in 2018 alongside any new proposals and lessons learned from the landing obligation to-date.

The Group is also keen to continue to work with the Advisory Council and the European Commission to find and apply solutions to 'choke' issues prior to 2019.

- e. Fisheries and the specific landing obligation recommended from the 1st January 2017 in respect of the species defining those fisheries are listed in the Annex 0.
- f. Vessels subject to a landing obligation determined by threshold criteria only shall be included in a list on the secure EU control website established under Article 114 of Council Regulation (EC) No 1224/2009. Further details are included in Annex I.

5. Exemptions

- a. Fish which has been damaged by predators like fish-eating marine mammals, predatory fish or birds can constitute a risk to humans, pets and other fish by virtue of pathogens and bacteria which might be transmitted by such animals. Consequently, as set out in Article 15.4(d) the landing obligation should not apply to such catches and the fish should be immediately disposed of at sea.
- b. Having regard to food safety provisions as set out in Regulation (EC) No. 853/2004 of the European Parliament and of the Council as well as in Commission Regulation (EC) No. 1881/2006, catches of fish for which flesh contaminants would exceed the maximum limits set by EU rules for human or animal consumption shall not be kept on board a vessel. Consequently, the landing obligation should not apply to such catches and the fish should be immediately disposed of at sea.
- c. Situations where the landing obligation shall not apply are specified in Article 15.4 of Regulation (EU) No 1380/2013. This refers to species in respect of which fishing is prohibited, as defined by a Council Regulation, species for which scientific evidence demonstrates high survival rates, and catches falling under the de minimis exemption, as outlined in Article 15.5(c) of Regulation (EU) No 1380/2013.
- d. The North Western Waters Group recommends that a high survivability exemption should apply in the following cases, full details in Annex IIIa&b:

- Norway Lobster (*Nephrops*) caught by Pots, Traps or Creels in ICES subareas VI and VII.
- Common Sole (*Solea solea*) under MCRS caught by 80-99mm otter trawl gears (OTT, OTB, TBS, TBN, TB, PTB, OT, PT, TX) in ICES division VIId within six nautical miles of coasts, albeit outside identified nurseries areas; the exemption applies to coastlines and fishing operations meeting the conditions laid down in Annex IIIb, especially in terms of bathymetry and tow duration. The NWW Group recommends that STECF be requested to swiftly evaluate this exemption, before deciding on it. Further research or evidence provided by Member States may allow this exemption to be applied more widely in future years.

The North Western Waters Group is aware that scientific research on other species and fishing methods is ongoing. Additional high survivability exemptions may be recommended when these studies have been completed and evaluated.

- e. The North Western Waters Group is making recommendations for *de minimis* exemptions as set out herein.

The recommendations will be examined and reviewed for 2018 with the objective of reducing and, over time, phasing out these provisions where possible. In reviewing the provisions, the NWW Group will take into account experience in the fisheries, progress on the Cod Recovery Plan and the results from scientific and technical trials. The phasing in of additional species under the Landing Obligation may necessitate the inclusion of further recommendations for *de minimis* exemptions.

The NWW Group recommends that before deciding on exemptions for reasons of *de minimis* STECF be requested to swiftly evaluate these exemptions and give supplementary advice on any further or changed conditions to such exemptions.

Full details for each case are set out in Annex IV:

- (i) A maximum of 3% for 2017 and 2018 for common sole of the total annual catches of this species by vessels using trammel and gill nets to catch common sole in the Channel and the Celtic Sea (ICES divisions VIId, e, f and g).
- (ii) A maximum of 7% for 2017 and 6% for 2018 for whiting of the total annual catches of this species by vessels, obliged to land whiting, using bottom trawls and seines <100mm (OTB, SSC, OTT, PTB, SDN, SPR, TBN, TBS, TB, SX, SV, OT, PT, TX) and pelagic trawls (OTM, PTM) to catch whiting in the Channel (ICES divisions VIId and e).

- (iii) A maximum of 7% for 2017 and 6% for 2018 for whiting of the total annual catches of this species by vessels, obliged to land whiting, using bottom trawls and seines ≥ 100 mm (OTB, SSC, OTT, PTB, SDN, SPR, TBN, TBS, TB, SX, SV, OT, PT, TX) and pelagic trawls (OTM, PTM) to catch whiting in the Celtic Sea and the Channel (ICES divisions VIIb-j).
- (iv) A maximum of 7% for 2017 and 6% for 2018 for whiting of the total annual catches of this species by vessels, obliged to land whiting, using bottom trawls and seines < 100 mm (OTB, SSC, OTT, PTB, SDN, SPR, TBN, TBS, TB, SX, SV, OT, PT, TX) and pelagic trawls (OTM, PTM) to catch whiting in the Celtic Sea (ICES subarea VII excluding divisions VIIa, d and e).
- (v) A maximum of 7% for 2017 and 6% for 2018 for Norway lobster (Nephrops) of the total annual catches of this species by vessels obliged to land Norway lobster (Nephrops) in ICES subarea VII.
- (vi) A maximum of 7% for 2017 and 6% for 2018 for Norway lobster (Nephrops) of the total annual catches of this species by vessels obliged to land Norway lobster (Nephrops) in ICES subarea VI.
- (vii) A maximum of 3% for 2017 and 2018 for common sole of the total annual catches of this species by vessels using TBB gear with mesh size of 80-119mm with increased selectivity, such as a large mesh extension, in the Channel (ICES divisions VIId and e) and the Celtic Sea (divisions VIIf, g and h); vessels obliged to land common sole in those areas.
- (viii) A maximum of 7% for 2017 and 2018 for megrims of the total annual catches of this species by vessels using bottom trawls and seines < 100 mm (OTB, SSC, OTT, PTB, SDN, SPR, TBN, TBS, TB, SX, SV, OT, PT, TX) in ICES subareas VI and VII; vessels obliged to land megrims in those areas.

6. Documentation of catches

- a. In accordance with Article 15.5(d), specific discard plans can make provisions on documentation of catches. Such provisions should be consistent with the rules outlined in Regulation (EU) no 1224/2009.

- b. Catches of species subject to catch limits shall be recorded in the appropriate fishing logbook with the correct scientific species name and/or with the appropriate codes in order to quantify the exact catches, in accordance with the Control Regulation. Documentation should be sufficiently rigorous to enable robust scientific assessments to be undertaken and the application of methods of control.
- c. Catches of species below a minimum conservation reference size should be recorded as a separate entry.
- d. For any species not subject to the landing obligation, all estimated volumes of discards above 50 kg live-weight equivalent in volume shall be recorded in the electronic/fishing logbook with appropriate codes denoting the species discarded.
- e. For any species not subject to the landing obligation pursuant to Articles 15.4 and 15.5 of Regulation (EU) No 1380/2013 of the European Parliament and of the Council all estimated discards in volume shall be recorded in the electronic/fishing logbook. The utilisation of the de minimis exemption shall be monitored by the competent authority.

The North Western Waters Group may wish to take account of any advice issued by relevant experts groups relating to the documentation of catches in due course.

Annex I: List of Vessels subject to a landing obligation determined by threshold criteria only

- Tables of Annex 0 of this Joint Recommendation include landing obligations that will only apply where a vessel has had landings of a particular species or group of species above the relevant percentage threshold in the years 2014 and 2015.
- Any vessels listed for 2016 for a specified fishery remain on the corresponding list, whatever the percentage for the period 2014-2015.
- A Flag Member State shall determine the vessels that meet the threshold criteria designated for a particular fishery and which are, therefore, subject to the landing obligation for that particular fishery.
- The Flag Member State shall compile lists of all such vessels and the landing obligation(s) applicable to those vessels.
- Vessels to which the threshold criteria do not apply are not required to be included on the lists.
- Each Flag Member State shall transmit its lists to the secure EU Control website by 1st January 2017.
- Lists will be updated from time to time by the Flag Member State and any such amendment will have effect as soon as it is listed on the secure EU Control website.
- A vessel is deemed to be subject to the Landing Obligation if it meets one or more of the definitions set out in Tables of Annex 0.
- The inclusion of a vessel on a list on the secure EU Control website shall be evidence (unless the contrary is shown) that that vessel is subject to a Landing Obligation determined by threshold criteria only.

- The exclusion of a vessel from a list on the secure EU Control website shall be evidence (unless the contrary is shown) that the vessel is not subject to a landing obligation determined by threshold criteria only.
- A vessel not on the list may be subject to one or more of the landing obligations in Tables of Annex 0 which are not determined by threshold criteria.

Annex II: Gear Code Acronym Table

Gear Code	Type of gear
OTB	Bottom Otter Trawl
OTT	Otter Twin Trawls
OT	Otter Trawls (Not Specified)
OTM	Midwater Otter Trawl
PTB	Bottom Pair Trawl
PT	Pair Trawls (Not Specified)
PTM	Midwater Pair Trawl
TBN	Nephrops Trawl
TBS	Shrimp Trawl
TX	Other Trawls (Not Specified)
SDN	Danish Anchor Seine
SSC	Scottish Seine (Fly Dragging)
SPR	Scottish Pair Seine (Fly Dragging)
TB	Bottom Trawls (Not Specified)
SX	Seine Nets (Not Specified)
SV	Boat or Vessel Seine
TBB	Beam Trawl
GN	Gillnets (Not Specified)
GNS	Gillnets Anchored (Set)
GND	Gillnets (Drift)
GNC	Gillnets (Circling)
GTN	Combined Gillnets-Trammel Nets
GTR	Trammel Net
GEN	Gillnets and Entangling Nets (Not Specified)
LLS	Set Longlines
LLD	Drifting Longlines
LL	Longlines Not Specified
LTL	Trolling Lines
LX	Hooks and Lines (not specified)
LHP	Handlines and Pole Lines (Hand Operated)
LHM	Handlines and Pole Lines (Mechanised)
FPO	Pots
FIX	Traps (Not Specified)