



Ministerie van Economische Zaken

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North Western Waters Advisory Council
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Our ref.
DGAN-ELVV / 15142614

Your ref.

Encl.
1

Date
Re Request for advice on the landing obligation

Dear Mr. Armstrong

On behalf of the North Western Waters Group of Member States, chaired by the Netherlands, I have the honour to send you this letter.

The North Western Waters Group is now preparing a joint recommendation for a discard plan for 2017 and possibly 2018. You are invited to take note of the amended work programme of the NWW Group for 2015 and 2016 (enclosed). This programme encompasses, amongst others, the preparatory work necessary to form and agree the joint recommendations. To enable us to progress this work we kindly seek the advice of the North Western Waters Advisory Council on the following issues:

1. Phasing of the landing obligation:

Based on Regulation 1380/2013 the landing obligation will be phased in between 2016 and 2019 using a fisheries based approach. The Regulation specifies the target species or clusters of target species for fisheries that come under the landing obligation in 2016. In the demersal JR the North Western Waters Group has, following consultation with the NWWAC, defined the fisheries in the North Western Waters. Every fishery starts in 2016 with the landing of all catches of at least one of the target species from the clusters mentioned in article 15.c(ii) of Regulation 2013/1380. In 2019 all regulated species will be brought under the landing obligation.

To ensure a progressive implementation of the landing obligation and to avoid a "big bang" in 2019, the North Western Waters Group seeks advice from the NWWAC on how to phase in the landing obligation in 2017 and 2018 in the different fisheries to include more species. You may wish to take into account the thresholds introduced in the first year of the landing obligation and the relationship with the cod recovery plan.

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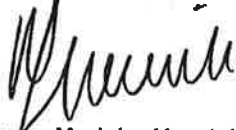
2. **De minimis:** The North Western Waters Group seeks advice from the NWWAC on specific *de minimis* proposals for species that will be brought under the landing obligation in certain fisheries in 2017 (or 2018) in accordance with the conditions as set out in Article 15.5(c).
3. **High survivability:** The North Western Waters Group seeks advice from the NWWAC on specific cases for an exemption based on high survivability in accordance with the conditions as set out in Article 15.4(b).
4. **Documentation of catches:** It is important that the actual species and quantities caught are documented accurately, both for target and by-catch species. This will need to be done in accordance with the control regulation as amended. The North Western Waters Group seeks advice from the NWWAC on specific cases where such documentation is hampered. Any advice should bear in mind the Commission's recent clarification that recommendations for documenting catches in regional discard plans may include provisions relating to control and enforcement measures as far as they concern the proper recording of catches.
5. **Minimum conservation reference sizes:** The North Western Waters Group seeks advice from the NWWAC on specific requests regarding adjusting, removing or introducing minimum conservation reference sizes for certain species. It should be noted that the MCRS are set for the protection of juvenile fish and deviations should be scientifically supported. Any changes to MCRS should be considered alongside any exemption requests.
6. **Choke species:** The North Western Waters Group seeks advice from the NWWAC on which species you expect to 'choke' first and possible solutions to mitigate the effects, taking into account the instruments offered, such as the quota uplift, exemptions, interspecies flexibility, quota swaps and others.
7. **Technical Measures:** The North Western Waters Group seeks advice from the NWWAC on possible technical measures which are strictly linked to the implementation of the landing obligation and which aim to increase selectivity and reduce unwanted catches as much as possible.

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Department of European
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and Food Security

The North Western Waters Group would appreciate advice from the North Western Waters Advisory Council on phasing of the landing obligation in 2017 and 2018 by 31 December 2015 and on the other points by 28 February 2016.

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Yours sincerely,



dr. ir. Marleke Mossink
MT European Agriculture and Fisheries policy and Food security

Work programme

**For the North Western Waters Group
Sept 2015 – Aug 2016**

September 2015

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1. Introduction

Article 15 of the Basic Regulation of the Common Fisheries Policy (CFP) states that a so-called 'discard plan' will be adopted for each fishery for up to a three-year period (01-01-2016 up to 31-12-2018 maximum), as long as the landing requirement is not yet included in long-term management plans. If the Member States involved in a region (each Member State with a fishing interest in that region) adopt joint recommendations, the European Commission can adopt these discard plans by delegated act. If the Member States are not successful, the European Commission itself will have to prepare a discard plan and have this adopted by delegated act with only provisions for *de minimis* exemptions

In 2014 the North Western Waters Group has submitted to the European Commission a joint recommendation for a discard plan (JR) for pelagic fisheries for the period 2015 – 2018. In 2015 the North Western Waters Group has submitted to the European Commission a JR for demersal fisheries for 2016. In the JR for demersal fisheries the North Western Waters is divided in subregions. Every demersal fishery in each sub region starts in 2016 with the landing of at least one of the regulated species from article 15.c(ii) of Regulation 2013/1380.

Between 2017 and 2019 the other regulated species mentioned in article 15.c (ii) should be phased in, in the North Western Waters fisheries and the pelagic discard plan will need reviewing in light of its first year of operation. This document describes the work programme for the joint recommendation of the NWW Group for a discard plan for demersal fisheries in the North Western Waters for 2017 and possibly 2018 and for a review of the pelagic discard plan.

2. Inclusion of additional fisheries in the discard plan for demersal fisheries for 2017

a. Objectives

The North Western Waters Group aims at a progressive implementation of the discard ban that avoids a big bang in 2019 and allows time and flexibility for fishermen to adopt their management to the new regime. Given the nature of the mixed fisheries in the North Western Waters, unwanted bycatches cannot be reduced to zero. The discard plan should consider cases where exemptions to the landing requirement are necessary, as well as any other issues mentioned below.

b. Content of discard plan

The JR has a limited scope, as laid down in Article 15 of the CFP's basic regulation. The following issues can be included in the JR:

- Specific provisions regarding the fisheries concerned.
- Specification of exemptions from the landing obligation for species with a high survival rate, including the supporting scientific justification.
- Provisions for *de minimis* exemptions from the landing obligation, including the supporting scientific justification on selectivity or other pertinent justification of disproportionate costs of handling unwanted catches.
- Measures concerning the documentation of catches.
- Where appropriate, determining minimum conservation reference sizes.
- Where appropriate, determining technical measures which are strictly linked to the implementation of the landing obligation and which aim to increase selectivity and reduce unwanted catches as much as possible.

The basis for the JR is the discard atlas for the North Western Waters. The template of the JR is based on the JR for 2016.

c. Roles and responsibilities

North Western Waters Group

The North Western Waters (NWW) Group makes the joint recommendation for the discard plan and submits this to the European Commission.

In order to prepare for the High Level Group, meetings will be held at a technical level, to which the national experts of the Member States will be invited. All Member States of the NWW Group are themselves responsible for coordination with stakeholders in their own countries.

North Western Waters Advisory Council (NWWAC)

The NWWAC shall be consulted on joint recommendations.

- The planning of the meetings will be shared for the purposes of information.
- The NWWAC shall be consulted on several questions from the NWW Group in their recommendations (see under heading *Consultation*).
- Where relevant, the NWWAC will be invited as observers to attend parts of the High Level Group meetings and the technical meetings.

European Commission

The European Commission reviews the final JR or any amendments to same and is empowered to adopt the plan by delegated act. If the JR is not approved by the European Commission for any of the reasons stipulated in Article 18.5 and 18.6, the European Commission will itself adopt with a delegated act *de minimis* exemptions of no more than 5% of annual catches of all species to which the landing obligation applies. In such a case other legal elements regarding the landing obligation would have to be established through co-decision.

The European Commission may be involved in preparing the joint recommendations for a discard plan.

- Where relevant, the European Commission will be invited as observers to attend all or parts of the NWW High Level Group meetings and the technical meetings as appropriate.

Scientific research

Research institutes from the Member States provide technical support during the technical meetings. Member States taking the lead for a subject will provide this technical support. They may be assisted by scientists of other Member States with an interest in these fisheries.

Under certain circumstances it may be necessary to request advice from ICES or STECF through the European Commission.

NWW control experts group

A separate NWW control group of experts has been asked to provide recommendations regarding enforcement of the landing requirement.

Politics

Article 18 of the CFP (1380/2013) sets out the regionalisation procedure. This procedure does not provide for political approval of the joint recommendations. Where relevant, opportunities will be explored for the Ministers of the NWW Group countries to discuss the issue of the discard plan, for instance in the margins of the Agriculture and Fisheries Council.

d. Procedure

Coordination

The NWW Group's consultation structure will be used for coordination between the Member States.

For coordination with the European Commission, the Commission will be invited to attend parts of the High Level Group meetings and technical meetings of the NWW Group where relevant.

The NWWAC's standard consultation structure will be used for coordination. Where relevant, the NWWAC will be invited to parts of the High Level Group meeting and technical meetings of the NWW Group.

Consultation

The first step is a consultation of the NWWAC in writing for recommendations regarding the following issues:

1. **Phasing of the landing obligation:**

Based on Regulation 1380/2013 the landing obligation will be phased in between 2016 and 2019 using a fisheries based approach. The Regulation specifies the target species or clusters of target species for fisheries that come under the landing obligation in 2016. In the demersal JR the North Western Waters Group has, following consultation with the NWWAC, defined the fisheries in the North Western Waters. Every fishery starts in 2016 with the landing of all catches of at least one of the target species from the clusters mentioned in article 15.c(ii) of Regulation 2013/1380.

To ensure a progressive implementation of the landing obligation and to avoid a "big bang" in 2019, the other species mentioned in article 15.c(ii) of Regulation 2013/1380 should be phased in by 2019. In 2019 all other regulated species will be brought under the landing obligation.

The North Western Waters Group seeks advice from the NWWAC on how to phase in the landing obligation in 2017 and 2018 in the different fisheries, considering the thresholds and the relation with the cod recovery plan.

2. **De minimis:** Specific cases for a *de minimis* exemption in accordance with the conditions as set out in Article 15.5(c). *De minimis* applications should apply to all fisheries across Member States that fish with the same gears, in the same areas and target the same species. The North Western Waters Group seeks advice from the NWWAC on possible *de minimis* proposals for species that will be brought under the landing obligation in certain fisheries in 2017.
3. **High survivability:** The North Western Waters Group seeks advice from the NWWAC on specific cases for an exemption based on high survivability in accordance with the conditions as set out in Article 15.4(b).
4. **Documentation of catches:** It is important that the actual species and quantities caught are documented accurately, both for target and by-catch species. This will need to be done in accordance with the control regulation as amended. The North Western Waters Group seeks advice from the NWWAC on specific cases where such documentation is hampered. Any advice should bear in mind the Commission's recent clarification that recommendations for documenting catches in regional discard plans may include provisions relating to control and enforcement measures as far as they concern the proper recording of catches.
5. **Minimum conservation reference sizes:** The North Western Waters Group seeks advice from the NWWAC on specific requests regarding adjusting or introducing minimum conservation reference sizes of certain species. It should be noted that the

MCRS are set for the protection of juvenile fish and deviations should be scientifically supported. Any changes to MCRS should be considered alongside any exemption requests.

6. **Choke species:** The North Western Waters Group seeks advice from the NWWAC on expected choke species and possible solutions to mitigate the effects, taking into account the instruments offered, such as the quota uplift, exemptions, interspecies flexibility, quota swaps and others.
7. **Technical Measures:** The North Western Waters Group seeks advice from the NWWAC on possible technical measures which are strictly linked to the implementation of the landing obligation and which aim to increase selectivity and reduce unwanted catches as much as possible.

Time frame for the consultation

The North Western Waters Group would appreciate advice from the NWWAC on phasing of the landing obligation in 2017 and 2018 by December 2015 and on the other points in February 2016.

Submittal of joint recommendation to the European Commission

The joint recommendations for a discard plan will subsequently be submitted to the European Commission.

3. Review of the discard plan for pelagic fisheries

a. Introduction

The landing obligation in the pelagic fisheries has been in force since 1 January 2015. In June 2014 the North Western Waters Group submitted a JR for a discard plan in pelagic fisheries. In October 2014 the European Commission published a delegated act for a discard plan based on the JR.

The North Western Waters Group intends to evaluate with the Pelagic AC the JR to see if any amendments are needed.

b. Roles and responsibilities

Roles and responsibilities of NWW Group, European Commission, scientific research, control experts group and politics are the same with the demersal discard plan (2c)

Pelagic Advisory Council (PelAC)

The PelAC will advise on the discard plan.

- The planning of the meetings will be shared for the purposes of information
- The PelAC will be asked to provide advice and address several questions for the NWW Groupw in their recommendations (see under heading Consultation)
- Where relevant, the PelAC will be invited as observers to attend parts of the High Level Group meetings and the technical meetings.

c. Procedure

Coordination

The NWW Group's consultation structure will be used for coordination between the Member States.

For coordination with the European Commission, the Commission will be invited to attend the High Level Group meetings and technical meetings of the NWW Group.

The Pelagic AC standard consultation structure will be used for coordination with the sector and NGOs. Where relevant, the Pelagic AC will be invited to parts of the High Level Group meeting and technical meetings of the NWW Group.

Consultation

The first step will be a consultation of the PelAC in writing for recommendations regarding the following issues:

1. **Lessons learned:** The North Western Waters Group seeks advice from the Pelagic AC on lessons learned and possible amendments to the joint recommendations for a discard plan for pelagic fisheries in the North Western Waters
2. **Minimum Conservation Reference Sizes:** The North Western Waters Group seeks advice from the Pelagic AC on specific requests regarding adjusting or introducing minimum conservation reference sizes of certain species. It should be noted that the MCRS are set for the protection of juvenile fish and deviations should be scientifically supported. Any changes to MCRS should be considered alongside any exemption requests.
3. **Choke species:** The North Western Waters Group seeks advice from the Pelagic AC on choke species and possible solutions to mitigate the effects, taking into account the instruments offered, such as the exemptions, inter species flexibility, quota swaps and others.
4. **Technical Measures:** The North Western Waters Group seeks advice from the Pelagic AC on possible technical measures which are strictly linked to the implementation of the landing obligation and which aim to increase selectivity and reduce unwanted catches as much as possible.

4. Planning

The included timeline is indicative and merely a practical necessity to guide the work of the NWW group in the immediate future and does not in any way prejudice the views / position of the Advisory Council.

Action plan

- Formal adoption of work programme by NWW High Level Group 24 Sep 2015
- The work programme will be shared with the NWWAC, the PelAC and the European Commission 24 Sep 2015

Consultation

- First written advice NWWAC Dec 2015
- Second written advice NWWAC Feb 2016
- Ongoing consultation NWWAC Jan - May 2016
- Written advice from PelAC on the discard plan Jan 2016

Preparation of discard plan

Meetings/Themes	Date	Location
Technical meeting - Work programme	16 September 2015	The Hague
Not-JR related issues - TAC uplift - Non-direct human consumption		

- ToR Technical Group art. 11 procedures		
Control Expert Group	22/23 September 2015	The Hague
High Level Group Meeting: - Adoption work programme - Consultation letter to NWWAC Not JR-related issues - TAC uplift - Non-direct human consumption - ToR Technical Group art 11 procedures	24 September 2015	The Hague
Technical meeting: Non-JR related issues - Monitoring de minimis - 0-quota species	15 October 2015	The Hague
High Level Group meeting Non-JR related issues - Control pelagic landing obligation	28 October 2015	The Hague
Technical Meeting: - Interspecies flexibility workshop?	4 November 2015	The Hague / Paris?
High Level Group Non-JR related issues - Interspecies flexibility	25 November 2015	The Hague
Technical Meeting - Advice of NWWAC - Phasing-in 2017	20 January 2016	Paris
High Level Group - Advice of NWWAC - Phasing-in 2017	17 February 2016	Paris
Technical Meeting - Phasing 2017 (2018 and 2019?) - Exemptions - MCRS	24 February 2016	Paris
NWW High Level Group Meeting	16 March 2016	Paris
Technical Meeting - Exemptions - Technical rules	23 March 2016	Paris
NWW High Level Group Meeting	13 April 2016	Paris

- Consultation NWWAC		
-		
Technical Meeting	20 April 2016	Paris
- Exemptions		
- Technical rules		
- Documentation of catches		
NWW High Level Group Consultatie NWWAC	18 May 2016	Paris

The agenda's of the technical meetings are flexible. Mentioned subjects give an indication for the agenda. In any case the agenda/objective of the meeting plus documents for each meeting will be set and circulated in advance of the meeting.

Submittal of joint recommendations for a discard plan

- Submittal to the European Commission 1 June 2016

5 Contact persons

Member States

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Barbara Roegiers

France

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Ireland

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Colm OSuilleabhain

Spain

Ramon De la Figuera Morales

The Netherlands:

Henk Offringa
Carian Emeka
Marco van Riel

United Kingdom

Angus Cragg
Sarah Adcock
Liz Crocker
Anna Stansfield
Paddy Campbell

NWWAC

Bertie Armstrong
Liane Veitch

PeIAC

Ian Gatt

European Commission

Bernhard Friess
Jacques Verborgh
Joost Paardekooper
Frederik Schutyser
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