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**NOTE**

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From: Commission Services  
To: Permanent Representatives Committee/Council  
Subject: Implementation of the Common Fisheries Policy: Discard Plans

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Delegations will find attached an information note from the Commission Services on the above-mentioned subject.

## COMMISSION SERVICES Information note

*This document cannot in any circumstances be regarded as the official position of the Commission.*

*It is intended solely for those to whom it is addressed.*

### Landing obligation and joint recommendations on discard plans: state of play

#### Introduction

With the new Common Fisheries Policy, the landing obligation (Article 15 of Regulation 1380/2013) is introduced gradually for all fisheries. On 1 January 2015 the following fisheries (in Union waters) will be subject to the landing obligation: small pelagic fisheries, large pelagic fisheries, industrial fisheries, fisheries for salmon and fisheries in the Baltic Sea.

The new CFP provides for a series of provisions to facilitate the implementation of the landing obligation. There are generic flexibility provisions which can be applied by Member States in the context of the annual management of their national quotas. In addition, the new CFP provides for specific flexibility tools that need to be activated through multiannual plans, or in the absence of multiannual plans, in so called discard plans (whose validity is limited to 3 years). These flexibility tools are:

- exemptions for species with demonstrated high survival rates when returned to the sea;
- de minimis exemptions, under conditions, of up to 5 % of total annual catches (with possibility of a higher percentage in the first four years).

The Member States have been occupied with the preparation of discard plans, which are agreed at sea basin level and transmitted to the Commission in the form of joint recommendations for the Commission to transform them into EU law by adopting a delegated act. This will have to happen by the end of the year.

This note presents an overview of progress on the preparation of the 2015 landing obligation.

### Regionalization process: Member States groupings

In almost all regions groups of Member States have worked together on the development of discard plans. In the Baltic and North Sea Member States have used existing platforms (so-called Baltfish and Scheveningen Group respectively), while in the remainder of the Atlantic ad hoc groups have been created for the north and south western waters. In the Mediterranean sub-regional initiatives (western Mediterranean, Adriatic Sea, eastern Mediterranean) have begun to evolve. Member States in the Black Sea consider that no specific discard plan is merited for the Black Sea as the landing obligation will only cover sprat, so no initiative has emerged in this region.

### Regionalization process: Advisory Councils

Advisory Councils (stakeholders) have produced their own advice for discard plans to feed into the process. The level of consultation between the Member States and the ACs has varied considerably from region to region. The Baltic AC and the Pelagic AC have been the most proactive. The Baltic AC has reviewed the BALTFISH draft plan and has periodically discussed this with Baltfish. The Pelagic AC has gone so far as to develop a comprehensive set of recommendations for a discard plan and connected measures for all pelagic fisheries and stocks in the North Sea and the Atlantic. These recommendations and the underlying analysis were submitted to the relevant regional groupings.

The Mediterranean AC has made progress by sub-region, including the northern Adriatic, the Gulf of Lions, the eastern Mediterranean, the Strait of Sicily and other areas involving Italian fleets. It has mainly focused on identification of *de minimis*.

The ACs in the western waters have provided only limited input to the regionalization process so far.

## STECF

The Commission's Scientific, Technical, Economic Committee on Fisheries has analyzed and advised on a series of elements related to the landing obligation in general and the discard plans in particular. At the request of the COM STECF has analyzed the issues surrounding identification of fish that survive after return to the sea, issues related to identification and justification of *de minimis*, but also on other provisions (among others on the inter-species flexibility, full documentation, choke species). STECF has provided guidance that Member States and AC can use in development of the joint recommendations, and it has provided framework elements for assessment of the discard plans in the context of the legal requirements, once they are submitted to the COM.

### Joint recommendations: discard plans

To date, the Commission has received the joint recommendation for the Baltic discard plan. Other plans are still under consideration and should be sent to the Commission in the coming days/weeks.

The *Baltic Sea* plan comprises all species to be covered in the Baltic. It was discussed regularly with the Baltic AC. Under this plan all fisheries will be under the landing obligation by 1 January 2015. The plan identifies the timing for species to be included, it lists some surviving species in fisheries with specific (passive) gears, sets the minimum conservation reference size for cod at 35 cm (reducing the current 38 cm minimum landing size, scientific review has indicated that this would not affect fishing mortality), and lists possible provisions on documentation and monitoring, to be further developed in the near future. No *de minimis* provision is requested. Baltfish considers that fish (cod, salmon) damaged by seals should remain outside the scope of the CFP. Baltfish suggests declaring these fish as natural mortality. Baltfish would alternatively opt for use of *de minimis*.

The *North Sea* plan formulated by the Scheveningen Group focuses on NS herring stocks, northern mackerel, northern/NS horse mackerel, and on blue whiting (and includes greater silver smelt). The joint recommendation is based on a limited application of the flexibility provisions: in particular the Scheveningen Group proposes to eliminate the minimum conservation reference sizes for mackerel, horse mackerel and herring – so that all landings can potentially be used for human consumption (this proposal has not yet been scientifically reviewed). No *de minimis* provision and no provisions for exemptions based on high survivability are included. The Pelagic AC was consulted periodically, even if the joint recommendation deviates almost entirely from the recommendations developed by the Pelagic AC. In parallel a control group, comprising experts from the Member States and the EFCA is providing input for the documentation part of the plan. Their approach follows a risk-based logic and is that certain pelagic fisheries should be classified as high risk and therefore subject to strict monitoring. The Scheveningen group expects to submit the joint recommendations before end June 2014.

At the request of the Scheveningen Group, the Danish administration is preparing a discard plan for industrial fisheries. The plan should cover fisheries for sprat, Norway pout and sandeel in North Sea, Skagerrak, Kattegat. No exemptions (for surviving fish after return to the sea, for *de minimis*) are foreseen. The draft will be submitted to the Scheveningen with the aim to ensure that it be submitted to the Commission together with the pelagic North Sea plan.

In the northern and in the southern western waters joint recommendations are still under development. In the northern part of the Atlantic (dealing with the stocks of mackerel, herring, horse mackerel, blue whiting, boarfish and argentine) *de minimis* may be requested only for two specific fisheries (blue whiting and albacore tuna ). A third one is still under discussion (boarfish). No agreement has been reached on the fixing of the minimum sizes. The northern group is considering the expert advice on control. They also do not foresee any exemptions on the basis of high survivability.

In the southern part of the Atlantic the Member States are working on a plan, which will aim for consistency (presentation and content) with what is being produced for the North Sea and the north western waters. However, they are less well advanced than these groups and are only now beginning to define the fisheries and discuss the problems.

In the Mediterranean, Member States and the Mediterranean AC are discussing in particular the need for *de minimis*. A first set of draft joint recommendations (mainly on *de minimis* levels) are under preparation per fishery per management area across the Mediterranean. The Med AC is playing a central role in the process. Italy, Croatia and Slovenia are working together to define a more detailed joint recommendation for a discard plan for the Northern Adriatic.

#### Further process and timing

Member States had been informed by the Commission that timely delivery of the joint recommendations is essential for adoption and application of the discard plans. In concrete terms, this means that submission of joint recommendations is expected before the end of June 2014.

Once received, the Commission will make the assessment of the proposed measures, in light of the legal requirements: measures need to be compatible with the CFP objectives, with the scope and objectives of the landing obligation, and be at least as stringent as measures under Union law. This assessment also includes scientific assessment of the joint recommendations where necessary (for instance the underpinning of requests for exemptions for fish that survive after return to the sea). After positive finalization of this assessment, the Commission will adopt a Delegated Act (October), which will enter into force after two months if the European Parliament and the Council do not object. Delays in the described timing would lead to entry into force of the Delegated Act after 1 January.

Where no measures for a fishery have been adopted for the purpose of specifying the *de minimis* exemptions in the discard plan, the Commission shall proceed to adopt a Delegated Act to set the *de minimis* exemption for this fishery. This process would develop parallel to the process described above for the adoption of a Delegated Act on the measures in the joint recommendations. The Commission would base the level of *de minimis* on specific advice from scientific bodies.