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EAPO & Europêche 2nd Position Paper on the Implementation of the Landing Obligation

1. Current Status

The status of implementation of the landing obligation at the beginning of 2016 is that the pelagic sector and some demersal fisheries in the Baltic Sea have a year of experience under the relevant discard plans. For the demersal fisheries in the North Sea, the North Western and South Western Waters the phase-in of the landing obligation has started on the first of January.

The regional Member State Groupings are already focussing on the next steps and have accordingly requested the relevant ACs to give advice before 31 December 2015 on the phasing of the Landing obligation in 2017 and 2018. For the first quarter of 2016 AC advice is requested on exemption requests (de minimis, survival), documentation of catches, Minimum Conservation Reference Sizes (MCRS), expected choke species and solution proposals, and technical measures.

2. Understanding of the sector

On a political level, taken over by the relevant authorities, the fisheries representation is asked to pursue a pragmatic approach by the fishermen to achieve a smooth implementation of the landing obligation. At the same time the fishermen are asking their representatives about the promised bottom-up approach. Particularly when active in a mixed fishery they do not see how they will be able to continue to work sustainably if the discard avoidance is not adjusted to their activities instead of having to adjust their activities according to impractical political decisions.

More attention is needed to the reporting of fishermen's experience that all flat fish species, skates and rays, and nephrops are in most cases quite lively when released from the nets. This is still considered to lead to a high survival when these species

are returned to the sea. Many fishermen feel that the implementation as it stands now will increase the actual mortality of the species that are subject to the landing obligation. Therefore the majority view in the sector remains that Survival derogation should be generally applied in order to avoid that unwanted catches under an obligation to land are discarded ashore. Obtaining the required scientific evidence of high survival rates should be given more time. Several projects are already aiming at determining survivability and many fishermen are willing to continue their assistance to obtain such scientific evidence.

At the same time fishermen have done a tremendous work on improving selectivity and on improving the reporting of catches. The general feeling is that such efforts remain unrewarded and political decisions outweigh the reality of their profession. The expected unrewarded incremental workload for landing all the catches is already driving away the entrepreneurs and investors, and will drive away local fishermen from the sector they wish to work in. This can lead to a complete downfall of the mixed fisheries in Europe.

The fishermen's view is that the most sustainable solution for dealing with a landing obligation is to use the exemption and derogation possibilities to a maximum extent. The relevant regulation should ultimately be revamped into a selectivity (avoidance of unwanted catches) objective and an avoidance of regulatory discarding objective. There should be more appreciation for the efforts to minimize unwanted catches. All in all it should be taken into account that the landing of formerly discarded volumes will have a detrimental effect on the three pillars of sustainable fisheries.

3. EAPO & Européche Position and Advice

EAPO and Européche are looking to actively discuss with the relevant authorities on how to address the concerns expressed above. As it stands now we feel the industry is not ready to accept any further phasing in of species over the next two years. A thorough impact assessment as part of good governance and duty of care is needed before pushing ahead with the implementation of the landing obligation.

Even without a comprehensive impact assessment, it is completely foreseeable that as things stand the landing obligation, even if all the quota flexibilities and exemptions are applied, will result in serious chokes that will jeopardise the economic viability of the fleets concerned. This alone is not a reason to forsake the landings obligation but it is strong reason to proceed with extreme caution. What is required is an adaptive approach that learns as it goes and clears obstacles before it is applied.

EAPO's and Européche view that it would be utterly irresponsible for member states and the European Commission to proceed to add new species to the landing obligation without making clear how chokes are going to be addressed. We stand ready to work through the relevant ACs or directly with the member states to address these issues but we cannot countenance putting our name to the inclusion of additional species that would in effect lead to the ruin of our industry.

Without a clear understanding of what is going to be done to mitigate the foreseeable problem of serious chokes that will prevent our members from catching their principle economic quotas, we are adamant that member states should not take a further step

into the dark. In addition consideration should be given to the consequences that will be felt by the wide range of ancillary businesses that rely on the catching sector.

Sooner or later it will be necessary for all of the management authorities to recognise the reality that the landing obligation, as currently configured is incompatible with the current policy regime which is largely based on the system of TACs and quotas. It is our firm view that these issues should be addressed before committing to adding further species in 2017, 2018 and 2019.

The emphasis from now on should be on avoidance and minimisation of discards and on incentives for the fishermen to work on realistic objectives. Any further phase-in should be subject to a thorough experience analysis. If after this, the exemptions and derogations in article 15 of the CFP appear to be insufficient to be compatible with the best practice of avoidance and minimisation, then this article latest in 2018 should be reviewed.

There are a number of gear trials that are ongoing or have been completed in different member states looking at different fisheries and various species selectivity. In addition members of EAPO are involved in a number of scientific programmes looking at survivability rates on various species. This data from the different programmes and member states should be collated and analysed. This information could potentially offer evidenced sign posting towards the most appropriate species for consideration in the phasing process. This would also flag up species for which gear selectivity and survivability are extremely difficult or not of any assistance.

It is important that any quota uplift associated with the implementation is directed towards those vessels/operators that are demonstrably affected by the landing obligation. The purpose of any such uplift must be to address the challenges as vessels face the practical and real implementation. EAPO and Europêche call on member states not to see quota uplift as 'new quota' and not to be tempted to use this for domestic political reason. We were disappointed that the Commission did not include this issue in its advice and recommend that as yet clear guidance/direction is given to member states on how to address this.

Overall EAPO and Europêche find it important (particularly in the early years) that flexibilities are interpreted and implemented in a pragmatic manner. It is also important that everybody has the same understanding of when and how *de minimis* can be used whilst the most ample interpretation should be given to this tool to assist with the implementation of article 15 of the CFP. Monitoring, enforcement and control, taking this and other tools into account, is at this point in time far removed from the level playing field that is needed.

EAPO and Europêche hope this advice and these recommendations can be helpful and constructive in moving forward on the road to reach the CFP objectives and obviously we are ready to elaborate and cooperate when and where-ever relevant authorities would find this useful.

(EAPO & Europêche 27 January 2016)