



EAPO and Europêche Position Paper on the Implementation of the Landings Obligation

1. Context

Members of EAPO . supported in this by Europêche . are in an exclusive position in relation to the implementation of the landings obligation and are more relevant to this process than many other industry organisations. While the specific functions of a PO vary depending on the internal arrangements of each Member State, each organisation will have a significant role in the future shape of the industry under the landings obligation. According to Council Regulation 1379/2013, on the common organisation of the markets, a key role of all POs is to promote viable fishing activities while reducing unwanted catches. The need to ensure a certain amount of economic stability in order to foster such viable activities will be one of the prime concerns of POs through the transition period and into the full implementation of Article 15 of the Common Fishery Policy 1380/2013. To avoid wholesale destruction of fishing communities and fish stocks, EAPO and Europêche must be considered as pivotal in the decision making process.

2. The Process to Date

The regional groupings and Member States individually are in the unfortunate position of being required to reach agreement within unwieldy time constraints. It is accepted that this timeline is prescribed by the regulation and that regional groups are well advanced in decision making for the initial year of implementation in the demersal fisheries. The need to facilitate a phased approach has, inevitably, led to definitions of fisheries that do not necessarily reflect a fisherman's reality and . while it is understandable that Member States might, in light of the short time period given to them to make these decisions, view this as the most easily implementable mechanism in the long term . this approach will prove cumbersome and intensify the negative outcomes of the implementation of the obligation. Although the avoidance of the big bang approach is welcomed, stakeholder organisations, including ACs, EAPO and Europêche, have previously made recommendations focussed on achieving the spirit of the regulation while balancing business realities during the initial period.

3. The Phasing Approach

3.1 The integration of the landings obligation into some fisheries may require a relatively minimal level of adjustment; this cannot be said for the highly mixed fisheries that typify so many sea areas. For such fisheries, catch composition is variable and this variability is often simply due to the nature of the fishery, with an absence of pattern

or explanation, rather than temporal or spatial factors. This leads to a plethora of problems when considering appropriate policy options. At this point in time many of the critical policy and technical aspects remain unclear, or indeed unknown, and it is impossible for fishermen to take measures to future proof their businesses or for managers, such as POs, to future proof their management mechanisms. What can be predicted is that the quota for certain species will be exhausted prematurely creating chokes, although the scale of this problem cannot be predicted with any certainty.

- 3.1.1 It is noted that the Member State regional groups appear to be in favour of using historical definitions to describe the phasing. In many ways this approach can be understood as it provides a definition that does not encourage an artificial alteration in the true activity of a vessel. This addresses the risk that any artificial alteration may actually increase mortality as a consequence of a skipper seeking to avoid for as long as possible what he believes to be an unachievable requirement to land all catches. The industry stakeholders involved in the North Western Waters have put forward a different view. For some fisheries, using historical definitions may be considered to be more appropriate than for others. Therefore the advice provided by the NWWAC should be considered in the context of regional difference to fully understand the difficulties and nuances of a fishery.
- 3.1.2 The differing, sea area specific, time scales of development of the phasing approach mean that fishing industry engagement with regional groupings and Member States needs to be modified for different areas to remain relevant. In cases where phasing methodology has not been formally agreed, the specific characteristics of the fisheries should be taken into account at this late stage and the advice provided by the NWWAC, and endorsed by EAPO, should be revisited to be taken into account within the joint recommendations of the regional groups. For avoidance of doubt, this advice centred on the recommendation of an elective approach in which the master of a fishing vessel would define the fishery in which he intends to participate for each trip or agreed period of time. Member States will be familiar with the arguments for this position, although an EAPO information paper on the subject has been attached (see Annex I).
- 3.1.3 There a number of very specific possible scenarios about which the industry is concerned in the event that a historical track record methodology is introduced, particularly in Area VII.
 - 3.1.3.1 By utilising historical fishing patterns a vessel may be categorised as being in a fishery in which it no longer participates. For example a whitefish gadoid vessel in the Celtic Sea in 2014 may have invested significant monies in refitting freezer systems to enable it to freeze Nephrops at sea. In this type of situation it would appear that the vessel would be subject to the landing obligation rules for whitefish gadoid vessels when in reality it is a Nephrops vessel.
 - 3.1.3.2 A second possible scenario is that when using the threshold test a vessel could in fact be assigned to several different fisheries categories. For example in the Celtic Sea a vessel could meet the requisite threshold for both a Nephrops and Gadoid vessel. It would be contrary to the phasing in principle if this vessel is subjected to a landing obligation for a number of different fisheries as this reduces the

vessels flexibility and ability to adapt to the Landing Obligation. It will also result in an un-level playing field whereby vessels in the same fisheries are treated differently.

3.1.3.3 In addition it could result in the nonsensical situation whereby a Nephrops vessels is by virtue of its historical catch composition categorised as a whitefish gadoid vessel for the purposes of the Landing Obligation implementation. One would presume (based on the CFP regulation) this vessel cannot be forced to revert to being a whitefish gadoid vessel but it would appear if the approach being proposed by the Member States Working Group is followed that it would be subject to a landing obligation for Whitefish (and not Nephrops). This would totally defeat the basic concept of a harmonised and fair fisheries policy for European citizens.

3.1.4 For sea areas where phasing has been agreed at regional level, industry feedback should be considered and POs should be central to further developments.

3.2 While the time constraints imposed upon Member States are recognised, the attempt at a road map from the Scheveningen group is welcome. An indication of the likely direction of travel between 2016 and 2019 is essential for fisheries businesses and the inclusion of POs in the process of construction is fundamental in trying to ensure coherence.

4. Exemption for High Survival

4.1 It is assumed that all stakeholders agree with the position that the implementation of the obligation to land all catches should not result in an increased level of mortality for any stock. It is clear that the most beneficial approach to the maintenance of the stocks of such species should be to grant high survival exemptions for them and that such action should be prioritised in the development of discard plans.

4.1.1 There are a number of stocks with a significant quantity of anecdotal and grey evidence to support post capture survival, but without the scientific evidence to rigorously defend the individual case. In such circumstances, a pragmatic approach should be taken towards such an exemption. The resolution of the supporting evidence can be improved over time, something that is encouraged by the finite life span of discard plans.

4.1.2 It is unlikely that rigorous scientific evidence will exist for survival of a species in all fisheries with all gear types. In this case the use of the exemption should be based on a risk based approach, pragmatically applying data from other fisheries and other gear types. Again, the resolution of these data can be improved over time.

4.1.3 The sector will consider any requests for assistance, from both existing and new investigations and would request that anecdotal information from and data collected by fishermen will be given the weight that it deserves.

4.2 Investment will undoubtedly be required in shore side infrastructure to process unwanted product but it is unforgivable to encourage such investment based on hyper-inflated tonnages that will disappear with a survival exemption that is likely at the outset.

5. De Minimis

In mixed fisheries operating in different areas almost any catch regulated species can become a choke species. The high number of catch regulated species that are likely to end up in a net of a mixed fishery vessel in combination with a limited availability of quota means that a mandatory premature shutdown of fishery operations can frequently occur. Therefore the De Minimis exemption should be applied to all catch regulated stocks for which there are no national quotas or the national quotas are fully used.

With reference to the CFP wording the percentage of what can be discarded should be applied to the annual catches of species that are subject to the landing obligation. The flexibility provided by article 15.7 is only satisfactory if the basis to calculate the De Minimis is sufficiently broad. This is why this article is written this way.

Additional exemptions should be considered, including fish damaged by predation in the gear itself or by rubbing against it, in order to avoid overwork of crewmembers and the increase of landing costs for the companies, which would see their viability affected.

6. Quota and MCRS

Quota uplifts . in combination with an assessment for which TACs the creation of new groupings, similar to Norway Others in the North Sea would be useful . should be determined based on the level playing field principle. The level playing field objective should also be the driver for ultimately agreeing the Minimum Conservation Reference Sizes for all species.

7. Landing obligation and safety at sea

The impact on safety at sea in a broad sense has not been assessed by the European co-legislators so far. The social partners in the Sectoral Social Dialogue Committee on Sea-Fisheries have pointed this out in an extensive letter to Commissioner Juncker, but have not received any serious reaction to date.

Threats to safety at sea as a result of implementing the landing obligation identified so far are:

1. Longer working hours resulting in fatigue and going against international and European minimum standards.
2. In order to avoid longer working hours the number of crew members on board will have to be increased;
 - a. Leading to dewatering of share wages resulting in income drops up to 50%;
 - b. Most fishing vessels lack additional crew accommodation.
3. Most fishing vessels lack accommodation for fisheries observers.

4. Declining revenues, which will lead to:
 - a. Loss of EU-skilled fishers to other EU (and non EU) maritime sectors;
 - b. Lack of availability of national skilled fishers leads to demand for fishers from other Member States but the free movement of fishers is hampered by the lack of a harmonized system of fishers' training and certification, which potentially leads to undermanned fishing vessels;
 - c. The combination of a shortage of skilled fishers and declining revenues will lead to the possible (illegal) deployment of cheap labour from outside the EU with all related threats to safety at sea attached thereto;
 - d. Worries and sorrows of fishers about financial (family) situation, resulting in possible accidents due to lack of concentration.
5. Fishing vessel stability may be compromised.
6. On top of the extra labour (costs) on board, the shore processing costs will exceed the proceeds and undermine the economical sustainability of fishing businesses, often SMEs and family businesses.

(EAPO & Européche . 11 May 2015)

Annex I

European Association of Fish Producers Organisations
Association Européenne des Organisations de Producteurs dans le secteur de la pêche



EAPO / AEOP
Jerse Zeestraat 50 Æ 8380 ZEEBRUGGE (Belgium)
☎ +32 50 37 72 57 Fax: +32 50 37 72 58
e-mail: info@eapo.com

EAPO Information Paper - Defining the Fisheries for the Landing Obligation: The Elective Approach

In the context of the North Western Waters, a drafting group of the NWWAC proposed that fisheries be defined by an elective approach during the Landings Obligation phase-in period and EAPO should support this approach. The elective approach requires vessel masters to declare/nominate which fishery they intend to target prior to leaving port using the mandatory (for vessels over 15 metres) electronic reporting system.

This elective approach would provide the requisite flexibility to enable vessels to adapt to the landing obligation, give them the confidence that it will be phased in in a workable way and avoid vessels being ring fenced into fisheries based on their historical fishing patterns which may by necessity have changed. In addition it would enable vessels to adapt to the implementation of the landing obligation from an economic point of view.

From a control and enforcement point of view this approach provides a number of advantages in that control agencies will know in advance of each trip what fishery a vessel has elected to participate in and therefore what elements of the Landing Obligation apply to them as they must send their election prior to departure. The location of the vessel is constantly verifiable using the mandatory VMS system (which provides Member States and Control Agencies with real time access to the vessel's activity and data). This will allow control agencies to carry out a risk based assessment to identify vessels that may be in a higher risk category. This will also assist in streamlining resources and reducing control costs thus impacting in a positive way budgets for the relevant Members States control agencies. For all parties this represents a more transparent system as it will be immediately apparent if a vessel is engaged in an activity other than that which they have elected.

For vessels under 12 m, and especially for vessels under 10 m, who do not have a mandatory VMS or electronic reporting system an annual/seasonal declaration by the vessel master could be utilised. However these smaller vessels are by the nature of their activities and fishing opportunities in a lower risk category from a control and enforcement point of view.

(EAPO . 4 May 2015)