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Subject: Annual report on the implementation of the landing obligation

Dear Mr Penas Lado,

In response to your request for information on the implementation of the pelagic landing obligation dating 3 December 2015 please find attached the Pelagic AC's contribution. The information in this document has been provided by members of the Pelagic AC and the amount of detail varies greatly by country.

In case you have any questions please do not hesitate to contact the secretariat.

Yours sincerely,

A handwritten signature in black ink that reads 'Ian Gatt' with a small flourish at the end.

Ian Gatt
Chairman Pelagic AC



Annex I: Experiences with the landing obligation in pelagic fisheries

General remarks

Provided below is a summary of issues identified per country by members of the Pelagic AC in relation to the implementation of the landing obligation in pelagic fisheries. This summary is by no means exhaustive, but draws attention to the most pressing issues and offers a good starting point for further reflection.

Denmark – RSW vessels

The control authorities have evaluated the implementation of the landing obligation in the pelagic sector. They have reported that there are no issues of concern in relation to compliance and that there have been no infringements related to the implemented landing obligation.

The main issues for the Danish sector is of legal and administrative nature and deals with how to manage fisheries for sandeel, sprat and Norway pout previously regulated by now obsolete “minimum percentage of target species” provisions. Industry and authorities are dealing with these issues in close collaboration.

France – general

Reporting obligations remain unclear, e.g. in regards to the uptake of de minimis exemptions. Fishermen are unsure how possible de minimis exemptions are applied, e.g. on individual vessel or Member State basis. It is therefore of the utmost importance to provide clarification on reporting obligations to fishermen using simple language that is easy to understand.

France – freezer-trawlers

The following issues have been identified on French freezer-trawlers, but might be transferable to freezer-trawler vessels in general.

- Does fish not destined for human consumption have to be sorted species by species? This is currently being done, (e.g. mackerel is not being mixed with boarfish or horse mackerel).
- A small amount of fish will fall onto the deck when hauling the net on-board or be trapped in the cod-end. Does this fish have to be brought into the factory deck?
- A situation can occur in which at the end of a fishing trip it becomes apparent that the last catch is bigger than what the vessel can hold, e.g. the catch could be 60 tonnes while there is only space for 50 tonnes. This is very difficult to estimate before the catch is being taken on-board. How should the remaining 10 tonnes be treated?
- Fish frozen for non-human consumption must not be packed (no plastic, no cartons) because the fish meal factories do not want any packaging. Consequently, the fish blocks move on the pallets in the cargo hold which creates a highly dangerous situation for the crew. How could this problem be solved?

Germany – freezer-trawlers

It has been noted in Germany that the interpretation of different regulations varies from Member State to Member State leading to confusion amongst skippers regarding which interpretations are correct. Several specific issues have also been identified:

1. Germany does not have quota to cover bycatch of hake and boarfish and obtaining such quota from other Member States is hardly possible.
2. There is a regulation on how to deal with boarfish bycatch in the horse mackerel fishery (5% rule), but this regulation is missing in the mackerel fishery.
3. Different minimum conservation reference sizes in the mackerel fishery (see below)
4. Discarding meshed fish that has fallen on deck is forbidden. At the same time this fish must not enter production facilities as this would otherwise violate veterinary regulations. A solution to this problem is urgently needed.
5. On pelagic trawlers it is forbidden to discard fish from production areas. At the same time some species can and must be legally discarded. How should this contradiction be solved? German inspectors have already noticed this issue.

Ireland – RSW vessels

Discards and bycatch can only be detected at factory level. Therefore it is not possible to report information on discards and bycatch during the fishing trip. This information can only be provided once the catch has been sorted in a factory.

For this year there has been a zero TAC set for herring in area VIa south, VIIb,c. How should bycatches of herring in VIa south, VIIbc in other pelagic fisheries be dealt with?

Netherlands, UK, France, Germany – freezer-trawlers

Hereunder is a list of issues identified for pelagic freezer-trawler vessels and relevant for vessels from The Netherlands, Germany, UK and France.

1. Bycatch of species for which no quota or not sufficient quota is available and for which it is very difficult or impossible to obtain quota. An example that has become apparent during this year in the pelagic fisheries in western waters is western hake (HKE/571214). For this bycatch no de minimis exemption has been defined. Inter-species flexibility cannot be applied either because ICES has not defined the PA reference points for his stock.
2. In area IVa mackerel can be caught in large quantities. This can be mackerel of TAC area MAC/2a34 or mackerel of TAC area MAC/2cx14 with the special condition MAC/*04a-EN (western mackerel to be caught in IVa). The minimum conservation reference size (MCRS) for western mackerel is 20 cm and for North Sea mackerel is 30 cm. The argumentation behind this difference in MCRS lies in the (far) past and it has not been able to retrieve it. The question is what MCRS applies to mackerel caught in IVa. 30 cm for all mackerel caught in IVa, independent if this is coming from MAC/2cx14 or MAC/2a34 quota? Applying an MCRS of 30 cm in IVa (which is the case at the moment) means that mackerel catches sized less than 30 cm are defined as below minimum size and can therefore not be used for direct human consumption. The value of non-human consumption mackerel is much lower. Mackerel with a size of for instance 27 cm is perfectly fit for human consumption. The solution must be sought in a downward revision of the MCRS for North Sea mackerel.

3. The Omnibus regulation stipulates under point 11 that article 15 of the CFP (1380/2013) shall not apply to undersized sardine, anchovy, herring, horse mackerel and mackerel, within a limit of 10 % by live weight of the total catches retained on board of each of those species. This means de facto that 10% of the total pelagic catches of these species, and on the condition that these are below MCRS, can be discarded, or, when not discarded, can be destined for direct human consumption. Although the Omnibus regulation has been published in May 2015 the pelagic freezer-trawlers do not apply this derogation to the landing obligation during their operation out of fear that control authorities in Member States are not aware of this derogation. This derogation could be the solution for the issue raised under point 2.
4. Before the introduction of the landing obligation pelagic freezer-trawlers all had a so-called discards chute through which catches of fish below minimum landing size or over-quota catches or catches of prohibited species were discarded. Since the introduction of the landing obligation and subsequent inspections at sea all pelagic freezer-trawlers have sealed off their discards chutes. This means that all catches are now retained on board. However, there are still catches that can or must be discarded. Such as catches under a de minimis exemption, bycatches of forbidden species and bycatches of species that do not fall under the landing obligation. On a pelagic freezer-trawler these catches become apparent mostly during the processing activities at factory deck level. Therefore, it is practically very cumbersome / difficult to throw these catches back to sea. This violates labor conditions on-board and creates problems for safety at sea for the crew concerned.
5. Quota uplift.
Quota uplifts as essential part of the implementation of the landing obligation – widely discussed at this moment in the demersal realm - have not played a role at all during the introduction of the pelagic landing obligation. Quota uplifts for species that are caught and bycaught in pelagic fisheries with the aim to ease the introductory difficulties can be a solution of bycatch problems in the pelagic landing obligation and should be discussed.
6. 'Waste' from the fishing operation.
During the various phases of a fishing operation – including the processing at factory deck level – a small portion of fish is not usable because it could be defined as a 'waste' product. This could be meshed fish, or remains of fish after cleaning the (buffer) tanks, or fish that has fallen out of the processing lines or fish that has been eaten by predators (mammals or birds). These are usually small amounts of fish and because this fish cannot be used anymore for direct human consumption it should be accepted by control authorities that this fish may be thrown back to into the sea.

Scotland - RSW vessels

No significant problems have occurred to date with the implementation of the pelagic landing obligation. Scottish RSW vessels have fished mackerel in January-February, blue whiting in March-April, herring in the summer and the mackerel fishery is again commencing in the autumn. Many vessels land mackerel in Norway and have not encountered any major issues. Small bycatches of horse mackerel in the quarter 1 mackerel fishery have been graded out. Marine Scotland stated that all whitefish bycatches must be covered with quota swaps. One vessel accidentally caught spurdog which is a zero TAC species and it remains unclear how to handle such catches when discovered in the processing factory. Clarification in this regard is urgently needed. One Scottish pelagic vessel has been piloting CCTV since 2013 in a joint project with Marine Scotland Compliance. A small vessel had to discard

mackerel because of safety issues. This was detected by an inspection airplane, but the case was classified as *force majeure*.

Spain – purse-seine vessels

To date no problems have been reported in Spanish pelagic (purse-seine) fisheries thanks to the de minimis and high survivability exemptions. Due to low bycatch rates these exemptions are sufficient to allow a smooth implementation of the landing obligation.

Sweden

The introduction of the landing obligation in the Swedish pelagic fishery has on the whole been less troublesome than expected. A reasonably good and healthy relationship with the competent authority and others has ensured a relatively smooth introduction of the landing obligation. One problem, however, is in terms of catches and quota coverage. Since ITQ only applies in the pelagic fisheries in Sweden, there is no option to have quotas on the species that may be bycatch. This is a problem that must be solved in due course. A need for better selectivity has been identified in the herring fishery during autumn when bycatch of saithe may occur. Therefore, a project has been initiated aiming at finding a sorting grid to drastically reduce the bycatch of saithe. Experience to date with this grid are very good and people are hopeful that the project will lead to positive results. From a control perspective, it is still a major problem with the way samples are to be taken. This requires clarification, but has in itself nothing to do with the introduction of the landing obligation. Nevertheless, this issue deserves immediate attention.