

Guidance document Interspecies Flexibility

Question to High Level Group

Do you accept this document as guidance for national administrations with the use of Interspecies Flexibility?

1. Introduction

As a consequence of the landing obligation, fisheries with a certain gear in a certain area face a closure when there is no quota allocation of certain species under the landing obligation (LO) or one of the quotas of a species under LO is exhausted. A 0-TAC species, a stock without an allocation for a specific Member State, or the first species for which the quota runs out is called a choke species. To avoid premature closures of fisheries the basic regulation provides certain quota flexibilities – the *year-to-year flexibility* and the *inter species flexibility* (reg 1380/2013 articles 15.9 and 15.8). The year-to-year flexibility is a tool that Member States are familiar working with. The interspecies flexibility (ISF) however is a new tool even though in very special cases it has already been applied under so called special conditions in the TAC and quota regulation (e.g. reporting of whiting catches in the sprat fisheries and counting on sprat quota). In two technical workshops (2014 and 2015) hosted by the Netherlands, technical experts of the Member States of the North Western Waters Group, South Western Waters Group and Scheveningen Group have explored the possible effects and management of the interspecies flexibility. In both workshops the Commission was represented. In the second workshop observers from the PELAC, NWWAC and NSAC participated in the discussions.

This document gives Member States guidance with the use of the interspecies flexibility as described in Regulation (EU) no 1380/2013 article 15.8.

2. Stocks currently eligible for Interspecies flexibility (Annex 1, Reg (EU) no 2016/72 and Annex I, Reg. (EU) no 2015/2072)

Stock	Area
Herring	IV North of 53° 30' N (HER/4AB)
Herring	IV, VIIId, and IIa (HER/2A47DX)
Herring	IIIa (HER/03A-BC)
Herring	IVc, VIIId (HER/DCXB7D)
Herring	VIIa (HER/07A/MM)
Herring	VIIg, VIIh, VIIj, VIIk (HER/7g-k)
Herring	IIIb-d, subdivisions 22-24 (HER/3BC+24)
Herring	IIIId, subdivision 30 (HER/3D-30)
Megrim	Vb and international waters of XII and XIV
Haddock	IIIa, subdivisions 22-32 (HAD/3A/BCD)
Haddock	IV; Union waters of IIa (HAD/2AC4)
Haddock	Vb en Via (HAD/5BC6A)
Whiting	VIIb, VIIc, VIIId, VIIe, VIIf, VIIg, VIIh, VIIj, VIIk (WHG/7x7A-C)
Nephrops	VI; Vb (NEP/5BC6)
Northern Prawn	IIIa (PRA/03A)
Plaice	Skagerrak (PLE/03AN)
Plaice	Kattegat (PLE/03AS)
Plaice	IV, Union waters of IIa, IIIa (PLE/2A3AX4)
Sole	VIIe (SOL/07E)
Sprat	Union waters of IIa en IV (SPR/2AC4-C)
Horse Mackerel	VIIIc (JAX/08c)

3. Possible effects of the use of Interspecies flexibility

- ISF is a useful tool in cases where MS have no or little quota and (considerable) by-catches, and swapping in additional quota from other MS is impossible or does not meet the need.
- However, the interspecies flexibility can lead to considerably higher catches than a TAC for by catch species, when multiple fisheries apply ISF to the same by catch species. In the extreme case of megrim for example, the maximum use of ISF in the sole, haddock and plaice fisheries could lead to a catch of 511% of the TAC of the Megrim quota.
- Some Member States indicated that ISF is to be used to land catches that were previously discarded. Since the previous discards are added to the TAC's and the TAC's are fully allocated through relative stability, the use of ISF will lead to increased mortality.
- Other Member States indicated that the use of ISF should not lead to an increased mortality in normal circumstances, since the catches that would be landed under ISF are currently discarded.
- However, if the ISF were to be wrongly used to target by catch species, the mortality of these by catch species will increase. This is only likely where the by-catch fetches a higher price than the target species. This may impact the achievement of Fmsy and have consequences for setting the TACs in subsequent years, possibly excluding the stock's availability for future ISF applications.
- Increased fishing mortality of by catch species may also occur in cases when the TAC of the target species increases and TAC of the by catch species remains largely unchanged or decreases. As above, this may impact the stock status and the stock's availability for future ISF.
- Where such a risk of increased fishing mortality of by catch species exists there is a need for additional measures. The technical experts have analysed different options with the pro's and con's.
- Only a limited number of stocks is eligible for ISF. ISF is therefore no solution for stocks outside safe biological limits.
- The interspecies flexibility may impact the relative stability significantly. A possible cap or restriction such as a conversion factor should take into account the relative economical value of the species in question.
- The ISF should be used as a last resort. I.e. MS should do their utmost to avoid the catch via selectivity measures, then swap quota. That ISF is to be used with constraint is also advisable as, being calculating on the 'end of the year quota', its utilisation might affect the availability of quotas for quota swaps between Member States. A workshop on quota swapping, to see to which extent swapping can help to avoid choke species, is considered very useful.
- An agreement on principles for the use of Interspecies Flexibility in the High Level Groups of the different regional groups is considered useful. Taking this into account the practical implementation of ISF is the responsibility of the individual Member States.

4. General principles agreed by Member States

1. Inter species flexibility is a means of last resort and is only used when all other options are exhausted such as:
 - a. Selectivity measures
 - b. National quota management
 - c. EU swaps between MS
 - d. Inter annual flexibility
 - e. De minimis
 - f. High survivability
2. ISF should not be used as long as a Member State still has quota available for the by-catch.

3. The “end of the year” quota is used as the basis to calculate the quota share available for ISF (after swapping, inter annual flexibility etc.)
4. Where possible, Member States should notify each other in advance of their intention to use ISF and between what species in order that cumulative impact on by-catch stocks can be considered. There should also be a yearly retrospective evaluation between MS in the regional group on the use of ISF in the previous year.
5. The use of ISF should be limited to the same sea basin(s) as the stock of the target species, unless the cross boundary stock in question has TACs in adjacent regions (for instance haddock, megrim).
6. ISF reporting should be incorporated in the FIDES system. The EU-Commission should therefore provide Member States with ISF catches with the respective codes for catch reporting.
7. Member States should take measures to avoid a severe increase of the mortality of by catch species. Three possible options to avoid a severe increase of mortality of by catch species have been identified in technical workshops and are briefly described in section 5.
8. Conversion rates based on cod equivalents may also be taken into account by MS when determining ISF.

5. Possible options to avoid a severe increase of mortality of by-catches

The technical experts explored the following options to avoid a severe overshoot of the TAC of by catch species.

1. Applying a ceiling also to the quota of bycatch species (similar to by-catch provisions in the TAC and quota regulation) – for example 9% or alternatively a ceiling that corresponds to the discards percentage
2. Conversion factors based on the price, where the price of the by catch corresponds with the price of the target species.
3. Use revenues of by catch species that were landed in excess of their quota for example for the benefit of research.

Pro’s and con’s of the listed options

Ceiling

- A ceiling of e.g. 9% limits the increase of the mortality.
- A ceiling of the by-catches % in a certain fisheries could make the ISF fit better the current discards practice. However, part of the unwanted catch can be deducted from the relevant quota if and as long as a quota for the by-catch is still available. To set a ceiling would require detailed information on the current discards percentages of by catch species in all separate fisheries. This information is not available in all fisheries.
- In case Member States hold a very small share of the TAC of a certain species, a ceiling would increase the choke species problem for this Member State. In case a Member State does not have a quota at all of the stock at stake, such a ceiling would have to be applied at EU level creating new administrative complications
- Installing a ceiling on the TAC of by catch species on EU Level raises distribution questions. [Relative stability or according to discards percentage?] Those Member States that have the smallest share of the TAC, or no quota at all might have the largest need for ISF. When installing a ceiling, consideration should be given to a minimum amount for all Member States.

Conversion factors

- Conversion factors based on price will avoid abuse of ISF to target by catch species, which means that with conversion factors the expectation is that only unavoidable by catches will be landed.
- Conversion factors alone however can still lead to a considerably higher catches than the TAC (if the full 9% of quota of sole, haddock and plaice are used for megrim, the TAC of megrim would be exceeded by 252%). The actual percentage of catches of the by catch species may

be lower, which means that perhaps not in all fisheries the maximum 9% of the quota of target species will be used.

- Conversion rates could make the use of ISF by fishermen a “cost neutral” option at best, which may not be enough to encourage behavioural change.
- Conversion factors are very difficult to establish. Prices differ greatly between Member States and even between ports inside Member States. Prices are also very volatile. They may need to be revised at regular intervals.
- The use of conversion factors would mean an extra administrative burden for Member States.

Use revenues of fish caught in excess of their quota for the benefit of for example research/pilot projects for selective fisheries

- Avoids fishermen targeting by catch species
- Confiscating revenues alone however can still lead to considerably higher catches than the TAC, when in multiple fisheries the maximum of 9% of the quota of target species is used. The actual percentage of the by catch species may be lower, which means that perhaps not in all fisheries the maximum 9% of the quota of target species will be used.
- Confiscating revenues would make the use of ISF by fishermen a “cost neutral” option which may not be enough to encourage behavioral change.
- Confiscating revenues avoids a complicated system with conversion factors and discussions on the distribution of a ceiling between Member States. However, it obliges Member States to establish the legal basis for such confiscations.
- Confiscating revenues would mean an extra administrative burden for Member States/PO's.

Interspecies Flexibility – Operational Matrix

Year / MS	Pre-notification at regional level of ISF activation (<i>a priori</i>)							
	Target species	By catch species (within safe biological limits according to the TAC and Quota Regulation applicable)	Gear code or métier	Percentage flexibility (max 9% on target species quota)	Voluntary ceiling? (y% on by catch species quota)	Conversion factor? (N or Y)	Reasons / Utilisation (e.g. per quarter)	Additional measure(s)
Example	HER/4AB	MAC/2A34	OTM	7%	9%	Y: 1 t MAC = 2,5 t HER	Low share in TAC / Second semester	Catch limit by vessel applies after activation.

Notification at regional level of ISF use (*a posteriori*)

2017 / FQ	- Final national quota - Final consumption without ISF - Final consumption with ISF	- Final national quota - Final consumption without ISF - Final consumption with ISF	Gear code or métier	- Percentage flexibility observed (/final national quota after conversion) - Tonnage	- Voluntary ceiling observed (/final national quota before conversion) - Tonnage	Conversion factor?	Reasons / Utilisation	Additional measure(s)
Example	HER/4AB 1000 t 800 t 822.5 t	MAC/2A34 100 t 99 t 108 t	OTM	2.25% 22.5 t	9% 9 t	Yes: 1 t MAC = 2,5 HER	Low share in TAC / July 2017 (closure in	Catch limit by vessel applied (500 kg of MAC per fishing trip) after activation.

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