

Commission Seminar on the Landing Obligation: Progress to date

15 November 2017

Agenda and Programme

Participants: EU Commission, Member States, European Control Agency, representatives of the European Parliament, Advisory Councils, other stakeholders

1. Opening by João Aguiar Machado, Director General

Director General underlined that the landing obligation is one of the key elements of the CFP. The landing obligation is phased in gradually, with some survivability exemptions. He thanked the ACs for trying to identify the chokes and mitigation tools. Referring to the control of the landing obligation, he said that there is growing evidence that catches of undersized fish are not fully documented. What to do with unwanted catches is an issue, since they cannot be used for direct human consumption.

2. Introduction by Veronika Veits, Director

Veronica Veits referred to the expectations of the seminar, which consisted of four working groups to focus on choke species, control, technical solutions and marketing issues.

3. Breakout into Working Groups

Each working group discussed the key issues associated with each of the topic areas and was facilitated by a panel of experts representing different sectors. "State of play" presentations preceded the discussions and acted as a stimulus for discussions.

4. Working Groups 1 and 2 (in parallel)

WG1: Choke analysis tool – Results and Implications

The aim of this session was to review the results and discuss the implications of the analysis of choke species using the Choke Analysis Tool conducted by a number of Advisory Councils in collaboration with the regional groups of Member States and the European Commission. Discussions focused on the types of mitigation measures available, who has responsibility for applying them and how far the measures are able to resolve potential choke issues.

Maja Kirchner chaired the meeting.

Dominic Rihan presented an analysis of choke species in North Western waters. Choke mitigation tools (CMT) include avoidance and selectivity. He presented the classification of stocks versus choke risk in the Celtic Sea. Under high risk he mentioned plaice, sole, whiting, haddock, skates and rays. A traffic light classification is used for chokes. For high risk species, chokes will occur whatever mitigation measures are used. In Western Scotland, cod and whiting are under high risk. 12 species are under high risk in the North Western waters. Fisheries are dynamic, so predicting choke situation is difficult. Discussions on choke issues should continue.

Emiel Bruckaert, representing the NWWAC gave a presentation. He referred to choke mitigation tools, which are part of a tool box, such as year-end flexibility, including banking

and borrowing. Postponing F_{msy} can help, but it deviates from a primary CFP objective. Current measures are successful in the case of some species. The Commission called for co-operation in the search for solutions outside the current framework. It is shared responsibility between fishermen, scientists and managers to make them work.

Questions to stimulate discussion:

- How can the measures identified to mitigate choke risks in the CMT reports be implemented and who should take responsibility?
- How can using the measures available be optimised in order to achieve choke mitigation?
- What is needed to enable the use of newly identified measures to mitigate chokes?

In the course of the discussion, it was stated that under Brexit, swapping will no longer be possible.

A representative of the German fisheries stated that external swaps with the third country (e.g. UK after Brexit) should be considered. There is also a need to map the choke species and conduct a risk analysis. He pointed out that scientists are not able to calculate survival rates. 10-20% survival rates should also be considered as high.

A representative of NAFO said that choke mitigation tools developed by the NWWAC are helpful to quantify the chokes. He pointed to the dynamic situation with chokes, which changes from one year to another.

Some representatives indicated the need to focus on high risk areas and species. There is never a one size fits all solution for chokes. More work on selective gears needs to be done. There are areas where data is lacking (southern waters). All choke mitigation tools will be needed in these waters from 1st January 2019. Underutilised quota should be transferred to those who need it. The reporting system should be improved. Survivability data needs to be improved. Relative stability should remain unchanged. Decisions with respect to choke mitigation tools are needed at 3 levels: stakeholders, Member States and the Commission. There is a need to focus on high risk species. Stakeholders should intensify efforts to improve selectivity. Member States should increase transparency, regional groups should play a more prominent role, unused quota should be re-distributed. The Member States should continue looking at the choke problem and propose real solutions. Better use of ICES mixed fishery advice was recommended.

WG2: Control and Catch Reporting Issues

This was a well-attended session, with presentations by EFCA, ICES and a Commission representative

The EFCA representative Mario Santos informed that EFCA has been supporting the implementation of the LO and he said some words about what they have been doing in terms of risk management, monitoring and control through the so-called Joint Deployment Programmes, stakeholder involvement and compliance evaluation. The LO is difficult to control, so it is very important to have cooperation with stakeholders, e.g. the ACs. Moreover, the industry recognises there is a problem and wants to find a solution. EFCA have done a Baltic Sea compliance evaluation and the results of this were presented.

Several participants were interested in highgrading. It was confirmed that this was an issue, but examples of it have not been seen in the Baltic. Article 15 of the Basic Regulation prohibits any form of discarding, and thus includes highgrading, so there is no need for a specific provision on highgrading.

The ICES representative Eskild Kirkegaard explained the importance of having the right data. Catch information - on the total uptake - is crucial in order to have the correct data to go into the ICES assessments. Discard data has already been included for the last 15 years. The consequence of not getting all the discard data can be a precautionary advice. The data used by ICES is the logbook data, and it cannot use officially reported data on discards. This is why it's important to have an observer scheme. ICES is not using its data for control purposes.

There was discussion about the use of observers onboard, as well as having CCTV/REM on board the vessels. There was not consensus on the use of CCTV and there were different views on having observers. The BSAC representative said that the refusal by fishermen to have observers on board is a problem, but the sector is working on that; there are also safety considerations to be taken into account, so flexibility is needed.

The Commission representative explained the need to bridge the gap between the current CFP and its Basic Regulation, and the Control Regulation which does not have specific provisions on the LO. It is difficult to ensure full control of the LO, and this is particularly the case at sea. There are significant incentives for non-compliance (there are mainly for commercial reasons). They anticipate an escalation of problems in 2019. The Commission sees REM as the most effective control option and the Control Regulation could be revised to include REM measures. CCTV could be used on board the large vessels and the remaining fleet dealt with by means of risk assessment.

There was further discussion of the use of CCTV and again differing views were put forward. For some it is essential for all fishermen to have this. Some fisheries representatives either were opposed to it or thought that its use must not be excessive. Current rules force discarding and there must be more incentives to allow fishermen to use other gears to avoid discards. The EFCA representative said that cameras could be used as a disincentive where there is a risk of discarding.

The session ended by discussing questions put forward by the Commission.

Some conclusions from this session were presented by the chair:

- The importance of data for science
- It is difficult to detect infringements
- A change in the rules is needed
- If CCTV /REM is to be introduced, it must be done in a broad way and take into account different fleet segments and vessel types
- Stick and carrot methods are needed
- There is a real need for a good technical measures framework
- Market considerations must be remembered: consumer awareness of discards

WG3: Technical solutions to reduce unwanted catches

One of the primary objectives of the landing obligation was to promote the use of more selective fishing methods and practices. Over the past few years and decades, considerable research into mechanisms to enhance selectivity has been undertaken. This session explored recent research from projects such as MINOUW and DiscardLess, with particular focus on the transition between development, demonstration and implementation of selective fishing techniques, to explore to what extent these have been used by the catching sector and how to promote growth in their use.

The MINOUW and DiscardLess projects were presented. The MINOUW is made up of over 15 different maritime science institutes and bodies from across Europe, and brings together scientists, fisherman, NGOs and policy makers.

It aims to encourage the adoption of fishing technologies and practices that reduce unwanted catches, and contribute to the eventual elimination of discards in European fisheries. In the North East Atlantic and Mediterranean European fisheries, discarding usually occurs for one of three reasons: to avoid unwanted catches; because fishing quotas have been reached; because potentially commercial species are below the minimum size allowed for consumption or are of low commercial value. The compliance with the landing obligation is low. The absence of markets for unwanted catches is also a problem.

The DiscardLess project will help provide the knowledge, tools and technologies as well as the involvement of the stakeholders to achieve the gradual elimination of discarding. These will be integrated into Discard Mitigation Strategies (DMS) proposing cost-effective solutions at all stages of the seafood supply chain.

The first focus is on preventing the unwanted catches from ever being caught. The second focus is on making best use of the unavoidable unwanted catch.

Results-based management under full documentation should be used. Each fisherman follows his best strategy. The impact of fisheries must be documented. Remote Electronic Monitoring like that used in lorries/trucks should be used (full coverage, cheap, unintrusive). REM can change behaviour.

The Commission representative noted that the landing obligation creates a pressure on fishermen to reduce unwanted catches. Fish with no or low value will be landed and counted against quota. Therefore a new approach to selectivity is needed. Knowledge sharing is sub-optimal. A user friendly website on innovative selectivity solutions would be a solution. Adoption of gear innovations is subject to legal impediments and economic constraints. There is no limit to improving the selectivity of a fishing gear. Loss of marketable catch is an immediate constraint (economic viability). There are several constraints such as legal impediments (landing obligation and catch composition rules are contradictory), co-decision makers are trying to amend Regulation 850/98, the technical rules are not adapted to the landing obligation. Economic viability differs by fishery / species mix / species morphology. Choke problem would not exit if we had complete selectivity.

A representative of the German fisheries stated that maybe there is no technical solution to choke problem. Cameras should be introduced on a voluntary basis only. In Germany, severe elements of the constitution are against control of employees with cameras. It is possible to fish sustainably without the landing obligation.

The BSAC representative indicated that fishermen fear that maps and cameras can be used against them. Therefore, these measures have to be introduced in close co-operation and with the agreement of the fisheries sector. More responsibility has to be given to fishermen. There are incentives to reduce discards, because fishermen go bankrupt if they don't do it. Hard to believe we spent so much time persuading COM to give more responsibility to fishermen. Less bureaucracy is also an incentive.

The Commission representative noted that the Commission is aiming at less prescriptive approach and results-oriented management. Cameras create controversies and need to be discussed with fishermen.

WG4: Marketing Issues

The question asked by the Chair was: What best possible use can be made of catches under MCRS?

There was collective recognition that this subject is anomalous in the situation where the LO requires the avoidance of discards and landing unwanted fish. If the goal is to reduce unwanted catches, so the dilemma is how to reconcile this with the need for large supplies of fish to use in e.g. fishmeal and fish oil?

There was a presentation of a French project EODE carried out at Boulogne Sur Mer to see how much added value can be put into fish below MCRS landed. The project showed that there is scope for the development of many very good quality products – but they can't be used for direct consumption. Moreover, fishermen are not remunerated for landing the unwanted fish.

There are costs associated with this, there is not enough revenue for the fishermen, and the supplies cannot be regulated in terms of quality and quantity, and the logistics are difficult. Moreover, no one wants to create a parallel market. So probably the best rationale is just to think about handling this fish as waste.

Another project in the Mediterranean flagged similar problems to the EODE project. With the long coastline and many ports it is difficult to create a critical mass of raw materials for the industry. Moreover, the sector does not want to create a parallel market alongside the market for consumption. The de minimis provisions in the Basic Regulation Article 15, 5c) gives some flexibility.

Guus Patoor from AIPCE-CEP was very worried about this topic. Fisheries is a big sector in the EU, strongly dependent on imports and looking for new resources. Today's discussion reminds him of the run up to the CFP reform and the adoption of the LO. Consumer confidence has returned, and now the fear is that it will slip back. The LO has to be workable; there are many things linked to it that are complex, and for it to work there has to

be flexibility. There is a need to boost the image of the sector with market sized fish. But what to do with the fish that is below MCRS? Sell it and use the revenue for research, donate the food to the poor, have transparent and controlled handling of the fish. We risk loss of reputation if the LO fails. But it's not possible to develop a business model for the use of this fish – not even for fishmeal.

General reservations were expressed by several participants about this subject. If the aim of the LO is to reduce bycatches before fish under MCRS even gets onboard the vessel, then they must support research into more selective gear, to reduce unwanted catches, and not to make a profit from it.

So the objective of the CFP is not to create a market for undersized fish, but to try to reduce unwanted catches, but what to do with the unwanted catches and at the same time the need to implement the LO?

Concerns were expressed about consumer confidence, the call for careful labelling and sourcing of products. Discarding is illegal fishing. Some participants repeated the call for CCTV on board vessels and the need for stronger monitoring and enforcement.

In summing up, the chair highlighted:

- The aim of the CFP is not to create a market for undersized fish
 - There is a need to try to avoid unwanted catches
- But the reality is that in implementing the LO there are unwanted catches, so how to deal with them?

6. Plenary session: wrap-up of the discussions

The working groups presented brief summaries of discussions and conclusions from their respective meetings.

- Summary of WG1 on choke species problem:

The WG reached consensus that there is a need to focus on high risk stocks and a more detailed analysis on the type of measures, which are applicable to specific cases. The discussion focused on the flexibility of quota swaps and a more formalised approach ("use it or lose it"). A number of possible solutions (all with positive and negative sides) were presented. Stakeholders should intensify efforts to improve selectivity. Member States should increase the transparency, regional groups should play a more prominent role, unused quota should be re-distributed. Member States should continue to look at the choke problem and propose real solutions.

- Summary of discussions from WG2 on control and catch reporting issues:

Discussions were very good. There was general consensus that the level of compliance is quite low. Attention was drawn to the huge implications for the quality of scientific advice /

sustainability of the industry, also lack of application of effective control. Some concerns were raised on the refusal to accept observers on board. REM with CCTV was one of the main points of the discussion, as one of the most promising, but at the same time a heavily criticized solution. EMFF funding was identified for the implementation of such systems. Such solutions would not necessarily increase the administrative burden on the MS. There were concerns regarding privacy and data protection, but it was also highlighted that cameras are often used for security reasons. There are technical solutions available to create a proper legal framework following the revision of the Control Regulation.

- Summary of WG 3 on technical solutions:

It was a very science-based workshop, chaired by prominent scientists involved in several important gear selectivity projects. The workshop focused on how to streamline the development of new gears. It discussed the existing barriers to innovation and whether technical measures should be a mandatory legislation or work on basis of voluntary adaptation.

The need for results-based management, flexibility and adaptation was recognised. The WG recognised the need for appropriate control and accountability, but reached no consensus on what the correct tools for appropriate control should be.

- Summary of WG on marketing of unwanted catches:

There is no wish to create a market for unwanted fish, but it is not easy to find ways to utilise them. Collective recognition that this subject is anomalous in the situation where the LO requires the avoidance of discards and landing unwanted fish. Research conducted in France indicates that there are ways to utilise unwanted catches. If dumping fish at sea is unacceptable, then is dumping fish on land acceptable? There was also a presentation on how to use the unwanted catches in the Mediterranean. The use of unwanted catches is a bottleneck of the landing obligation. So the objective of the CFP is not to create a market for undersized fish, but to try to reduce unwanted catches; but what to do with the unwanted catches and at the same time the need to implement the landing obligation?

Question from audience: what is the feasibility of achieving / implementing in parallel the landing obligation, MSY as well as economically viable fishery? The Commission replied that the landing obligation and MSY make the fisheries economically profitable.

Closing remarks from the chair of the meeting:

The Commission welcomes the fact that the Member States and stakeholders have intensified efforts to prepare for the full implementation of the landing obligation by the 1st January 2019. The Commission is committed to giving support on a case by case basis. The implementation of the landing obligation is a challenge for national administrations and the fishing sector. An amendment to the Basic Regulation will enter into force on 20/11/17 and will allow to extend the discard plans for the next 3 years.

The Commission recognises the need for measures to solve the choke species problem, and at the same time points out that there are many tools in the hands of the Member States, i.e. how national quotas are allocated.

The control of the implementation of the landing obligation is a big challenge. Problems with compliance are evident.

The seminar has given a lot of insights into the implementation of the landing obligation, making certain shortcomings clear. The Commission encourages everyone to come up with creative solutions. There is no intention to change the existing CFP. The objective of the landing obligation is to ensure the availability of the seafood and to reduce wasteful practices. The seminar is a milestone on the road to solutions.

Follow up meetings to continue the dialogue on the implementation of the landing obligation are planned.....