



# Implementation of the landing obligation in 2019: Urgent recommendations for the UK Government and Devolved Administrations

November 2018

## Background

Discarding of fish is an undesirable practice, not only because of the waste of resources, but also because of its contribution to the overexploitation of fish stocks. The introduction of the EU landing obligation (LO or discard ban) to reduce waste in our fisheries and improve fisheries management was strongly supported by the UK Government and over 870,000 members of the EU public. The LO has been phased in over the last five years and will apply to all species subject to catch limits from January 2019 and the UK Government has expressed its commitment to fully implement the LO. As intended, the LO has resulted in some improvements in fisheries management such as in the areas of selectivity (although selectivity measures have not been implemented as widely as they could have been) and quota re-distribution. However, its implementation has also presented a number of challenges such as chokes and non-compliance. We wish to draw attention to serious risks associated with its full implementation in January 2019 and call upon the UK and Devolved Administrations (DAs) to take immediate steps to address these risks effectively. We have provided key recommendations on how this might be achieved.

## Sustainability risks

### **Lack of effective monitoring - unrecorded catches, skewed stock assessments & overfishing**

Effective monitoring of fishing activities is an essential part of any fishery's sustainability policy. Discarding is a practice which occurs at sea and as such effective monitoring needs to include coverage of vessel activity at sea in order to be confident in understanding how well the LO is being implemented and complied with. The CFP requires that '*For the purpose of monitoring compliance with the landing obligation, Member States shall ensure detailed and*

*accurate documentation of all fishing trips and adequate capacity and means, such as observers, closed-circuit television (CCTV) and others*.<sup>1</sup> At present it is estimated that traditional monitoring covers less than 1% of at sea activities across UK fleets.<sup>2</sup>

Accurate monitoring of catches is critical to understanding and managing not just fishing activities but also their impacts on the marine environment and the status of fish stocks. It is a key responsibility and requirement of the UK and DAs. If the LO is not complied with or monitored effectively, our understanding of what and how much is actually being caught will become much less accurate. This catch information forms the basis of stock assessments, which in turn underpin the setting of future fishing opportunities. If these are not accurate, there is a serious risk of overfishing some stocks and the risk of stock depletion, with the resulting environmental and socioeconomic impacts. Whilst this is concern enough, reversal in sustainability and widespread reports of unrecorded and illegal catches could severely damage consumer and business confidence in UK seafood, something which UK seafood operators can ill afford at this important time as the UK leaves the EU.

## **Non-compliance**

In recent years, various formal and informal sources have alluded to a lack of confidence in catch and discards data across various fleets, enforcement concerns regarding the LO, and difficulties in fleets adapting to, and complying with, the LO. According to independent research, audits of Member State control systems conducted by the European Commission, other initiatives driven by the European Fisheries Control Agency (EFCA), Member State authorities and control experts, there is consensus that there has been a general lack of compliance with the LO to date and that illegal and unrecorded discarding is widespread.<sup>3</sup> We therefore expect that non-compliance will be substantial as we move into the full implementation in 2019. It is vital that the UK government and DAs have plans in place to address some of the serious implications that this will have for our fisheries and marine environment.

## **Recommendations**

### **Fully monitor catches**

It has long been anticipated that the LO will require an increased focus on monitoring and control of catches at sea as opposed to monitoring and control of landings in ports or throughout the supply chain. However, we are extremely concerned that plans to make this transition have not been put in place or indeed will not be sufficiently in place by January 2019. As highlighted in North Sea Advisory Council (NSAC) advice from 2016,<sup>4</sup> monitoring and control (MC) will be an

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<sup>1</sup> Article 15(13) Regulation 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC

<sup>2</sup> Course, G. P., 2015. Electronic monitoring in fisheries management. Commissioned and published by Worldwide Fund for Nature (WWF). 40pp. WWF report – EM in Fisheries Management.

<sup>3</sup> European Commission, DG Mare. Towards new SCIPs, Advisory Council Consultation. 2018. Available at <http://nsrac.org/wp-content/uploads/2018/02/Paper-9.1-SCIPs-AC-consultation-For-Information.docx> [Last accessed Sept 2018].

<sup>4</sup> NSAC, 2016. Monitoring and control under the landing obligation. NSAC Advice Ref. 04-1617. 15 Dec 2016. Available at <http://www.nsrac.org/wp-content/uploads/2016/12/04-1617-20161215-Monitoring-and-Control-under-the-Landing-Obligation.pdf> [Last accessed Sept 2018].

essential component of the successful implementation of the landing obligation. Better and more comprehensive documenting of catches also represents an opportunity to enhance scientific evidence and to improve the knowledge on which fisheries management and policy is based.

Given the very credible risks associated with non-compliance with the LO, and the additional benefits that fully documenting catches can provide for our fisheries, and also the requirement under Article 15 (13) of the CFP to 'ensure detailed and accurate documentation of all fishing trips' in relation to the LO, it is our view that the UK government and DAs need to roll out measures that will ensure that catches from all over 10m vessels (about 21% of all UK vessels) and selected<sup>5</sup> under 10m vessels are fully documented and monitored - either by Remote Electronic Monitoring (REM) with cameras or fisheries observers, supplemented by inspections at sea, or in some cases a combination of all of these. We believe this should be most urgently applied to all over 12m vessels. In particular, vessels over 12m identified by control experts (EFCA) as being of medium, high or very high risk of either non-compliance with the landing obligation,<sup>6</sup> or non-compliance with requirements to avoid prohibited species or stocks should be equipped with CCTV. As noted, failure to properly monitor catches under the LO could have severe ramifications. We wish to emphasise that our primary concern here is the need to maintain accurate data of what is being caught and discarded.

## **Apply quota uplift based on compliance with the LO**

In previous years, the EU has adjusted the Total Allowable Catch (TAC) upward for a number of stocks affected by the LO to cover previous discards that now have to be landed. Basing such adjustments (quota uplift or 'top-ups') on an assumption of perfect compliance has the potential to exacerbate the risks of skewed stock assessments and overfishing noted above, especially where catches are not fully monitored - a concern also raised by the Norwegians having had previous experience implementing a discard ban.<sup>7</sup> While in theory the LO will be in full force in 2019 (implying full uplift), serious concerns remain about widespread non-compliance. We therefore encourage the UK Government to ensure that any quota uplift that becomes available to UK fleets is only granted to those that can clearly demonstrate that they are complying with the LO, and that efforts to reduce unwanted catches, such as the application of best practice selectivity and avoidance, are being made wherever possible.

## **Access and allocate quota**

Providing quota within the scientifically recommended TAC to the vessels that need it in order to resolve choke situations and comply with the LO is a critical step that the UK and DAs need to take to help fisheries comply with the LO. Two of the three main types of choke situations identified by the NWWAC<sup>8</sup> involve there being sufficient TAC overall, yet either the allocation of quota within

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<sup>5</sup> Based on risk profile.

<sup>6</sup> Scheveningen control experts group. Report on control and monitoring of the demersal landing obligation: risk assessment and risk treatment. Available at <http://www.nsrac.org/wp-content/uploads/2016/02/Paper-4.1-Report-from-Sch-Control-and-Monitoring-Group-For-Info.pdf> [Accessed Oct 2018].

<sup>7</sup> Agreed record of fisheries consultations between Norway and the European Union for 2018. Bergen, 1 December 2017. Available at <https://ec.europa.eu/fisheries/sites/fisheries/files/2018-agreed-record-eu-norway-north-sea-12-2017.pdf> [Last accessed Sept 2018].

<sup>8</sup> NWWAC, 2018. Addressing high choke risk stocks under the landing obligation. Available at [http://www.nwwac.org/fileupload/Opinions%20and%20Advice/Year%202013/FINAL\\_NWWAC\\_ADG%20LO\\_advice%20High%20Choke%20Risk\\_Dublin\\_April\\_2018.pdf](http://www.nwwac.org/fileupload/Opinions%20and%20Advice/Year%202013/FINAL_NWWAC_ADG%20LO_advice%20High%20Choke%20Risk_Dublin_April_2018.pdf) [Last accessed Sept 2018].

the Member State is an issue, or the allocation of quota between Member States is an issue. In these cases, it seems feasible for the UK and DAs to manoeuvre so as to be able to gain access to the necessary quota and ensure it goes to the fisheries that both need it and, importantly, can demonstrate compliance with the LO.

### **Avoid unwanted catches: gear selectivity, real-time measures, mixed fisheries strategies**

An overarching aim of the LO was to improve the selectivity of fishing activities given the large amount of waste generated in commercial fisheries both locally, and globally where an estimated 30 million tons (23%) of worldwide catches are discarded.<sup>9</sup> Whilst we recognise the large changes needed in: behaviour, culture, fishing gear development and adoption, and harvest strategies to implement the LO, we are disappointed that much more hasn't been done to progress this change over the last five years as the LO has been phased in. It is even more disappointing that the UK has not made better use of the large amount of financial support available through the EMFF to make these changes.

We strongly urge the UK government and DAs to better incentivise and support the industry in adapting to the LO and to prioritise the improvement of the selectivity of commercial fishing activities. There are an array of options available to industry and managers, including: gear adaptations, real-time spatial measures and mixed fisheries harvest strategies and combinations of these. Mixed fisheries harvest strategies need particular attention in advance of December Council negotiations. The most suitable of these options now need to be quickly developed and applied to address the various choke situations that are expected in 2019. Strong government support is needed to make this happen. Such support should be viewed as an investment in the health and prosperity of our shared marine resources, coastal communities and global reputation, from which we would expect substantial financial return in the coming years and decades.

## **Conclusion**

With only a matter of weeks before the full implementation of the LO, we urge the UK government and DAs to do everything within their power, in line with our recommendations above, to prevent widespread non-compliance with the LO and to ensure that full documentation of catches, with all the associated benefits of this approach, is implemented as a matter of priority. Steps taken thus far and further plans and timelines need to be communicated with stakeholders to provide confidence that our fisheries will be properly supported and effectively managed during the full implementation of the LO. Though we recognise Brexit may have changed the focus of discussions in recent times, it is vital that this does not prevent the benefits associated with the LO from being realised – reduced waste, increased selectivity and full accountability for what we remove from our oceans.

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<sup>9</sup> Guillen J., Holmes S.J., Carvalho N., Casey J., Dörner H., Gibin M., Mannini A., Vasilakopoulos P., Zanzi A., 2018. A Review of the European Union landing obligation focusing on its implications for fisheries and the environment. *Sustainability*. 2018; 10(4):900. Available at <http://www.mdpi.com/2071-1050/10/4/900> [Last accessed Sept 2018].