**The North Sea Advisory Council**

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**(Final 8th December 2014)**

**Phasing the Implementation of the EU Landings Obligation for the Demersal Fisheries of the North Sea**

**1. Introduction**

1.1 The NSAC *Vision* paper has laid down the general principles and broad approach that the North Sea Advisory Council considers should be used to shape the implementation of the EU landings obligation.

1.2 The current paper now turns to more detailed and specific advice on the phasing of the Landing Obligation to be submitted to the North Sea cooperating member states (through the Scheveningen Group) as they prepare their joint recommendation for a discard plan for the North Sea demersal fisheries.

**2. Important Considerations**

2.1 The landings obligation has been described as a paradigm shift. It will certainly represent the most profound series of changes to the Common Fisheries Policy since its inception. These changes involve:

* The adaptation of fishing gear by fishers themselves to reduce unwanted catch;
* Improving best practices on board to improve survival of unwanted catch;
* Amending important aspects of the quota management systems in member states;
* Scaling-up and adapting the form of international quota swaps and transfers;
* The use of inter-species quota flexibility for the first time;
* The use and scale of inter-annual quota flexibilities;
* A reorientation of control and enforcement systems;
* Dealing with the new phenomenon of choke stocks;
* The logistics of bringing to shore unwanted catch of quota species;
* The establishment of new time series, and revision of the definitions of stock limits, as the basis for stock assessment models;
* Amending internal member state fishing vessel licensing rules.

2.2 All of these changes will occur within the context of:

* The timeframes set down within the CFP basic regulation.
* The development of a multiannual mixed fisheries management plan for the major North Sea stocks.
* Limited or deficient scientific data held on many fisheries.
* The implementation of decisions on *de minimis* and high survival exemptions
* The complete removal of those existing rules that are incompatible with the landings obligation so that operators and enforcement authorities are working within a clear legal framework.
* The need to ensure that the new rules are comprehensible and workable in the wheelhouse and on the deck of a fishing vessel; during inspections at sea; at the point of landing; and throughout the supply chain.
* Limited trialling of aspects of the landings obligation.

2.3 We consider a phased, adaptive approach to be a prerequisite for the transition to the full implementation of the landings obligation over the period 2016 – 2019. A phased approach is necessary because of the extent and complexity of these changes to well-established systems. Phasing is also necessary to limit the scope for adverse and unintended consequences, and to avoid fishers, shore-facilities, control and enforcement authorities, quota managers and member state authorities being swamped by the scale and extent of the changes. Getting the implementation of the landing obligation wrong would have especially severe effects upon fishing businesses, and would risk undoing the gains that have been made over the last decade in reducing fishing mortality.

**3. The North Sea Advisory Council Species Approach**

3.1 The NSAC has concluded, by majority, that a *species approach* should be adopted for phasing the introduction of the landings obligation in the North Sea demersal fisheries. Taking account of the needs of different fleets the NSAC advocates the following phasing:

* In 2016, the landing obligation will apply to haddock, sole and Northern prawn across all fisheries in the North Sea.
* In 2017, whiting, saithe and *Nephrops* will be added to the list above.
* In 2018, cod, hake and plaice will be added to the list above.
* By 2019, all other species subject to catch limits will be included, across all the fisheries in the North Sea.

3.2 These proposals are compatible with the spirit of the Landing Obligation legislation. Indeed, in some respects they go beyond what may be interpreted as the minimum legal requirements of Article 15.1(c). They also take account of Article 2.1, and will contribute to ensuring that fishing and aquaculture activities are environmentally sustainable in the long-term and are managed in a way that is consistent with the objectives of achieving economic, social and employment benefits, and of contributing to the availability of food supplies.

3.3 All members of the NSAC have considered carefully the above approach and a majority consider that it will offer the best approach to achieve long-term, effective workable Landing Obligation in the North Sea. The proposal does include a different timings for some species. Although some members of the NSAC are nervous about these timings, on balance it is felt that this approach overall is a positive one that will greatly contribute to the effective and straight forward implementation of the Landing Obligation as outlined further below. It is also important to recognise that such phasing need to be complemented with firm commitments from Member States to:

* Fully implement existing and proven selectivity measures.
* Significantly expand Fully Documented Fisheries (FDF) coverage.
* Undertake more pilot studies and trials, co-financed by the EMFF, to develop new and effective measures and incentives in the lead- up to the implementation of the Landing Obligation for each species.
* Extend those pilot studies and trials to include the testing of innovative quota management approaches such as quota transferability, quota buffers, risk pools, etc.

3.4 By adopting a species approach the landing obligation would apply across all the fisheries within the North Sea. Quota adjustments would be made on the basis of best available scientific advice to account for the shift from a landings limit to a catch limit throughout the area where the different species are caught. The adoption of a species approach has the following advantages:

* All quota species will be landed, in an appropriate sequence, unless subject to exemptions.
* All vessels operating in the North Sea will be subject to the same rules, making monitoring, control and enforcement easier.
* It will avoid the need to apply more-or-less arbitrary management categories on an essentially dynamic industry. Fisheries definitions will only be necessary for exemptions.
* It will simplify quota adjustments.
* It will be simpler to operate at a vessel level.
* It will avoid friction between two vessels fishing alongside that are subject to different discard rules.
* It avoids the problem of vessels shifting fleet categories mid-year.
* It lessens the potential for the landing obligation to generate perverse incentives.
* It is easier to apply to third country vessels.
* It will avoid the potential problem of generating a trade in quota from vessels not subject to the discard ban in that species.
* It will allow time to assess liquidity in the swaps and transfers market and encourage industry organisations and fisheries managers to adjust incrementally to the challenges of implementing the landings obligation.
* It will align with the procedures adopted by Norway.
* It will provide experience of choke species on a relatively limited (and therefore manageable) basis.

3.5 The phasing of species that has been suggested by the NSAC has the virtue of simplicity.

* It avoids the need to consider a multiplicity of fisheries, with different arrangements for each.
* It is not ideal but is essentially a pragmatic approach, representing the least damaging option.
* It has many merits in terms of control and compliance.
* It allows time for further scientific evidence to be gathered on some species, and for consideration of exemptions and their specificity with respect to fishing gears and areas.
* Problems will be able to be addressed sequentially and time will be allowed for developing the necessary new arrangements.

3.6 The proposed phasing is spread across the North Sea fisheries from north to south and provides some consistency across the different areas of the North Sea. It is based on our present state of knowledge and scientific work that we know is currently under way with respect to the development of more selective fishing gears and the avoidance of vulnerable species. It will provide the opportunity for fleets to trial new technical measures for species like whiting and plaice, and will allow more discard information to be gathered, quantified and verified from the different fleets catching cod, hake, and some other species. The phasing also allows more time for survival studies, for example on *Nephrops* and some of the flatfish species.

3.7 The fisheries for haddock, sole and Northern prawn are of considerable economic importance. By beginning with them in 2016 we will obtain a deeper understanding of how things will work out for these fisheries, and that will provide greater insight into how the landing obligation can be implemented in other fisheries. Candidate stocks for exemptions (like flatfish) can be treated carefully. There will be time to develop solutions for the potential choke species, which will include whiting and hake (where stocks are increasing in some areas). For cod, which may also become a choke species for some member states, the primary aim must be to continue to reduce fishing mortality and build up biomass. There is a need for additional time to resolve the management issues for cod and to make progress in developing a mixed fisheries plan that will deal with some of the outstanding issues with this species. The motivation for including cod in 2018 is to allow time to further roll out existing selectivity measures and FDF programmes, as well to pilot schemes which incentivise change. These will help ensure that when cod is covered by the obligation it is less likely to choke the fisheries and be better supported by industry participants.

3.8 In preparation for the wider application of the Landing Obligation in 2019 we actively need to continue to innovate. A planned approach is needed, in seeking solutions for a number of species (like for instance the dab), where continuing developments are needed to cope with the current high level of discarding.

3.9 Once the Landing Obligation has been implemented the changes that take place within the fisheries of the North Sea will need to be monitored closely and an adaptive approach adopted. There may be a need to change priorities and management decisions as significant new information comes to light.

**4 In Conclusion**

4.1 The North Sea Advisory Council has had extensive discussions on the various issues and has eventually concluded (by majority) that a *species approach* is the right way to implement the Landings Obligation.

4.2 To remain consistent with the Common Fisheries Policy objectives of achieving economic, social and employment benefits, and of contributing to the availability of food supplies, it will be important to phase species in a way that will allow the industry to adjust to the major changes that are proposed.

4.3 The NSAC has suggested a timeline for phasing in the landing obligation that is essentially pragmatic but also ambitious. Under this approach it is essential that complementary commitments be made by Member States to support improvements in selectivity, monitoring, and best practice incentives, before the obligation applies to each of the species to be subject to the obligation. This approach therefore aims to ensure that the Landing Obligation is implemented in a manner that is compatible with the spirit of the legislation, whilst reducing adverse impacts upon fishing businesses and increasing the ability to monitor, control and enforce the discard ban across the North Sea.

**5. Minority positions**

5.1 The member organisations within the North Sea Advisory Council that have registered minority positions with respect to the approach outlined above:

Rederscentrale (Belgium),

Deutscher-Fischerei-Verband (Germany),

Scottish Fishermen’s Federation/Scottish Fishermen’s Organisation

The position of the Scottish Fishermen’s Federation/Scottish Fishermen’s Organisation is presented below. Both Redercentrale (Belgium) and Deutscher-Fischerei-Verband (Germany) prefer not to yet exclude different options such as a *fisheries-based* approach or a *hybrid* approach.

**Phasing of the Landings Obligation**

**PROPOSAL FROM THE SCOTTISH INDUSTRY DISCARDS INITIATIVE(SIDI)**

1. **Industry Reality**

Fishing leaders have argued consistently for the need to take a pragmatic look at the introduction of the landing obligation, especially with regard to the phasing of species. We believe the issue of choke species, which have been identified through the various trials, can be tackled in a pragmatic and sensible way. Providing the necessary space in which to deliver both business and management solutions for the problems that lie ahead will be a critical factor in any successful implementation process.

1. **The way ahead – a phased approach**

A range of ideas exist with regard to how best to proceed; a discussion paper prepared for the North Sea advisory Council (NSAC) suggests a North Sea wide, species approach where *haddock, sole and Nephrops* is introduced to all gear types in year one (2016), whiting, saithe and Northern prawn are introduced in year two (2017) and cod, plaice and hake introduced in year three (2018) and other regulated species introduced in year four (2019).

Whilst we agree with a more relaxed and measured approach, we very much disagree that simplicity, in itself, is enough to solve the problems that lie ahead. The emphasis behind phasing is about creating ease of transition and defending against acute, unnecessary shocks while preparing for the long term.

If we fail to accept from the outset that each fishery and sub region has its own particular operational needs, and that what may fit in one area may not fit in another, then we are falling into the same trap as those that we have accused of delivering bad regulation.

For instance, a situation particular to Scotland is the fishery for haddock and whiting where the discarded element of the catch is mainly a small fish issue (fish below the Minimum Reference Conservation Size), this is a significantly different problem from that of cod and saithe where discarding is mainly the result of a mismatch between available opportunities aligned to abundance and species mix.

While highlighting the dangers of over simplification it is also important to understand the need to avoid over complexity; an approach that is easily understood is more likely to find favour with regional directors and the sector itself.

There is an obvious need to create a relatively calm environment within which to tackle some of the bigger, more complicated issues. We believe a phased approach will work and will do so in a way that delivers the aims of the landing obligation in a relatively simple way void of complicated red tape.

1. **What does that mean? – SIDI proposal**

Establishing a set of principles within which all the countries fit and operate has to be the core aim.

**Those principles are:**

1. Mortality does not increase within the fishery
2. Member States can manage in the most appropriate way for that fishery and/or species
3. To enable industry to adapt and innovate to promote economic wellbeing
4. The minimum number of species in place before 2019 are those defined in article 15 (1) (c) but are not restricted to those species

**The fisheries/species approach:**

1. From the 1st January 2016 to 1st January 2018 whitefish vessels operating the majority of the time North of 55o N[[1]](#footnote-2), would be required to land all catches of haddock and whiting.
2. From 1st January 2018 cod and saithe would be introduced.
3. Vessels operating the majority of the time South of 55oN may, for instance, choose to land all catches of haddock and saithe in year one and two, introducing whiting and cod in year three.
4. For the Nephrops fishery, Nephrops would be introduced in 2016 with bycatches of other species not covered until 1st January 2019 although there would seem to be no sense in blocking access for nephrops vessels that wish to land other species in a controlled way.
5. For the flatfish fisheries, sole would be introduced in 2016 with plaice to be introduced at a later date, possibly 2018.
6. For the Northern prawn fisheries, Northern prawn would be introduced in 2016 but bycatches of other species not covered until 1st January 2019.
7. Hake is a particularly problematic stock for all Member States so we propose not to include catches of hake in the landing obligation until 2019 at the latest.
8. **Complimentary measures**

There will be a requirement to begin thinking long and hard about how we reduce the level of cod mortality in the interim period, if the discard rate is higher than the figure set by ICES, which we believe it is, then any adjustment in TAC will fall short of covering all current catches. If we fail to reduce mortality between now and the start of 2018 then all we will have succeeded in doing is delaying the inevitable rather than using the time wisely to adapt and fit; the same very much goes for saithe.

The negatives of the Cod Recovery Plan (CRP) plan are well documented, less documented are some of the positives. Many of the spatial, temporal and technical initiatives now in place are a direct result of the pressures created by the cod plan. In Scotland we set in place real time and seasonal closures to protect cod, measures that would not necessarily have materialized without the stimulus of the CRP. While the success of these measures would be improved if adopted by the EU, the emphasis on avoiding dense aggregations is not only about improving the stock, although this remains hugely beneficial, but about reducing the spike in rate of capture and use of quota during the spawning period.

The sector may also wish to look at alternative initiatives such as separator trawls, which until now have remained untested in the Northern North Sea, and, while the capture of small cod is seen as a relatively low level issue there does need to be some further work.

With regard to the capture of haddock and whiting, the increase in mesh size in 2002 has been a major factor in rebuilding the stocks. That said, we believe that there is more that can be done to improve selectivity at times of heavy fishing where the selectivity characteristics of certain gears is greatly challenged. A move-on policy is currently being discussed in some fora and will be a useful tool in limiting the damage on strong year classes of haddock. In addition we need to harvest the thoughts of fishers about what further adjustments are possible.

1. **By-catch species**

Issues related to by-catch species are introduced from 1st January 2019 however, this complex issue needs to be tackled in the period between now and then and not left as a late day entry. A clear strategy on how we deal with these will be required sooner rather than later, particularly as a by-catch for one fleet may be a target for another. Some consideration needs to be given to pooling of species into an “others” category, similar to that used applied within the Norwegian zone of the North Sea.

1. A latitude used extensively in Council Regulation (EC) 850/98 to limit gear types and fisheries [↑](#footnote-ref-2)