

De minimis recommendation for small pelagic stocks in the Northeast Atlantic

1.1. Introduction and background

In April 2013 the Pelagic RAC held its first joint Working Group meeting to develop a discards plan regarding the implementation of the EU landing obligation for small pelagic stocks in its remit. At the Pelagic RAC's discard meeting in October 2013 an action plan was agreed upon clearly outlining the timeline to finalize the discards plan for the thirteen stocks in its remit. This was welcomed by the seven Member States and the Commission represented at that meeting (Pelagic RAC 2013). This action plan foresaw approval of the discards plans by the Pelagic RAC's Executive Committee in July 2014, a deadline which was later moved forward by two months after consulting with the Commission.

Recently, however, the Pelagic RAC received a letter from a regional Member State group developing a discard plan for the North Sea, the so-called Scheveningen Group, requesting to receive the Pelagic RAC's input on flexibility measures and de minimis rules no later than the end of February 2014. A few days later a similar request was received by another regional Member States group dealing with North Western Waters (NWW) setting the same deadline for input from the Pelagic RAC. However at the NWW Group meeting in Paris on the 19th February which the PRAC was requested to attend, the possibility of transmitting a partial recommendation was emphasized dealing only with the de minimis rule as soon as possible, and a complete recommendation by the end of March 2014. After consulting with the Scheveningen Group an invitation was sent to the Pelagic RAC chairman to participate in a meeting of the Scheveningen Group on 18 March 2014 to present input on flexibility measures and de minimis rules and provide an update on the state of the play of the ongoing Pelagic RAC work.

In light of these requests the co-chairs of the Discards Working Group considered that, as an interim measure and to try to have some input to Regional Groupings deliberations, it was necessary to fast track one element of the discards plans in advance of the 10th April meeting, namely the 5% de minimis rule. Therefore the approval of the Executive Committee is sought now rather than at the Pelagic RAC's April meeting on this one element outlined below. The complete Pelagic RAC recommendations on the thirteen discards plans on the EU landing obligation will be discussed at the next joint Working Group meeting on 10 April 2014.

1.2. Pelagic Fisheries – Overview

The modern EU, RSW (Refrigerated Sea Water) and pelagic freezer trawler fleet ranks among the best fishing fleets in the world. A modern, technologically advanced fleet of vessels supplies top quality pelagic fish from sustainable resources to a progressive, well-equipped processing sector which distributes pelagic fish to all corners of the globe. The species involved include herring, mackerel, horse mackerel and blue whiting.

The nature of pelagic fishing involves targeting large shoals of fish in the mid-water column. Fishing methods include single and pair trawling, purse seine and ring netting. Pelagic fishing vessels take all reasonable precautions to ensure that their fishing activity is only directed towards stocks of the species for which they intend to catch and for which they have the necessary quota entitlement. Trawl nets are made using large mesh in the front part of the net which enables non target species to escape.

As such, all skippers/masters, as a means of standard practice, use a range of measures on which to base their decision to engage fishing activity towards particular marks of fish when located, including:

- Known seasonal migratory routes and patterns of the intended capture species.
- The time of year the vessel is at sea.
- The geographical position of the vessel.
- The historical experience of the skipper/master of the vessel.
- The geographical track record of fishing activity for the vessel.
- Making use to the full extent, of the electronic fish finding equipment available to the vessel.
- Undertaking any necessary training/instruction in the correct use of, and/or methods of species identification when using electronic fish finding equipment.
- Real-time communications with other vessels fishing in the vicinity.
- Using any appropriate sampling techniques prior to engaging full fishing operations.

The operation to transfer fish caught in the net to the vessel is similar for all pelagic fleets, whereby the catch is pumped directly from the net into the ship. This procedure is totally different to the one undertaken by the demersal fleet where the catch is hauled directly on board the vessel and transferred to the deck where sorting is carried out. Pelagic vessels are fitted with a fish pump, which in the case of a trawl fishery, is attached to the end of the net and used to pump the catch directly into RSW tanks via a water separator. The catch is rapidly pumped from the net to the vessel at a rate of circa 12 tonnes per minute. **This is a key difference in catching pelagic species and the method of bringing the catch on board the vessel that should be noted as any discards that may arise will not be known until the sorting and grading is done at the factory ashore or at sea.** The operation for purse seine operations is slightly different, the pump is lowered directly into the hauled purse net and the catch pumped aboard.

1.3. Fish operation by pelagic fleet (RSW or freezer-trawlers) in pictures

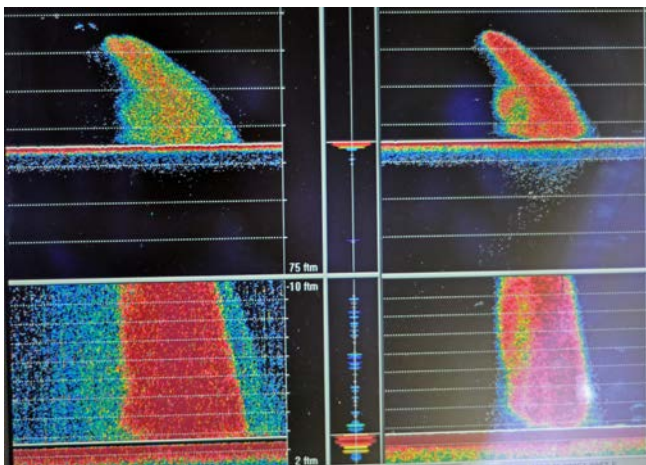


Figure 1. Spectrogram of a fish shoal



Figure 2. Hauling of the net



Figure 3. Net being attached to fish pump

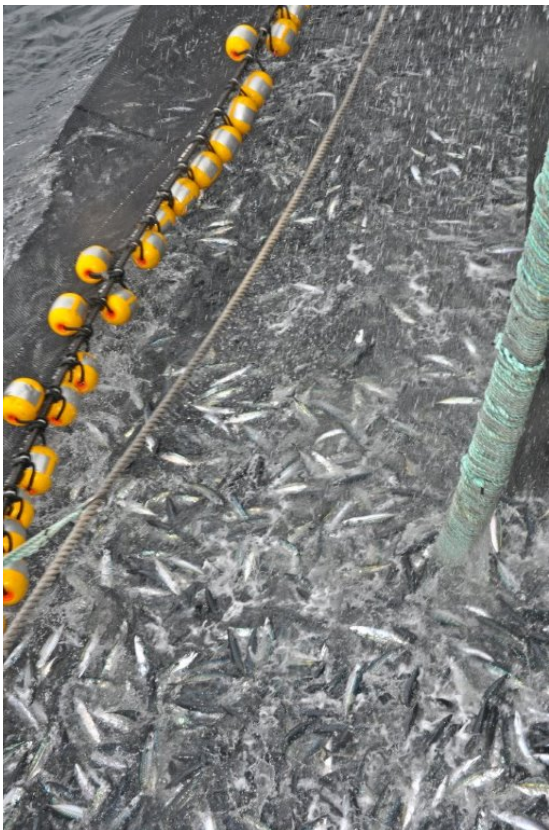


Figure 4. Catch being pumped from a purse seine



Figure 5. A catch being pumped through the 'separator' to the RSW tanks

1.4. Processing on board a freezer-trawler after pumping the fish in RSW (buffer) tanks – in pictures



Figure 6, 7: Sorting and grading by machines



Figure 8: Human check machine sorting and grading



Figure 9: Factory deck



Figure 10, 11, 12: Filling freezers and frozen blocks of whole frozen fish



Figure 13: Sealing blocks of whole frozen fish



Figure 14: packaging in cartons

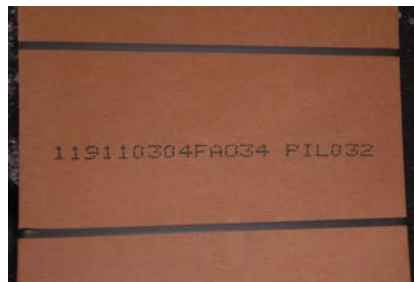


Figure 15, 16, 17: unique code (full tracibility), straps and storage on board (-23 ° C)

2. Pelagic discard measures in place

For pelagic fisheries many measures to reduce bycatch and discards have already been implemented. These vary between different stocks and can be categorized in regulatory measures, i.e. implemented into EU law and voluntary measures, i.e. initiatives by the industry to avoid unwanted catches.

2.1. Regulatory

The list below provides an overview of regulatory discard measures already in place on a stock-by-stock basis.

2.1.1. Blue whiting

- 10% inter annual quota flexibility

2.1.2. Boarfish

- Currently no regulatory EU measures in place

2.1.3. Atlanto-Scandian herring

- Derogation to land 10% of undersized fish
- Seasonal closure in ICES Zone IIa
- Moving-on provisions and prohibition on slipping
- Catch handling and discharge restrictions on pelagic vessels
- Restrictions on the use of automatic grading equipment
- Prohibition of discarding in Norwegian EEZ and Svalbard Protection Zone (Norwegian legislation)
- Interannual quota flexibility

2.1.4. Herring- Celtic Sea and South of Ireland

- Derogation to land 10% of undersized fish
- Seasonal closure- South coast of Ireland
- Prohibition of high grading
- Moving-on provisions and prohibition on slipping
- Catch handling and discharge restrictions on pelagic vessels
- Restrictions on the use of automatic grading equipment

2.1.5. Herring- Irish Sea

- Derogation to land 10% of undersized fish
- Seasonal closures – Isle of Man
- Prohibition of high-grading
- Moving-on provisions and prohibition on slipping
- Catch handling and discharge restrictions on pelagic vessels
- Restrictions on the use of automatic grading equipment

2.1.6. Herring- VIa South and VIIb,c

- Derogation to land 10% of undersized fish
- Prohibition of high-grading
- Moving-on provisions and prohibition on slipping
- Catch handling and discharge restrictions on pelagic vessels
- Restrictions on the use of automatic grading equipment

2.1.7. Herring- West of Scotland (VIa North)

- Derogation to land 10% of undersized fish
- (Seasonal) closures - Logan Bay & Firth of Clyde
- Prohibition of high-grading
- Moving-on provisions and prohibition on slipping
- Catch handling and discharge restrictions on pelagic vessels
- Restrictions on the use of automatic grading equipment
- Interannual quota flexibility

2.1.8. North Sea autumn spawning herring

- Derogation to land 10% of undersized fish
- Seasonal closures
- Seasonal closure for sprat to protect juvenile herring

- Prohibition of high-grading
- Moving-on provisions and prohibition on slipping
- Catch handling and discharge restrictions on pelagic vessels
- Restrictions on the use of automatic grading equipment
- Bycatch quotas for industrial fisheries

2.1.9. Western Baltic spring spawning herring

- Prohibition of high-grading
- Moving-on provisions and prohibition on slipping
- Catch handling and discharge restrictions on pelagic vessels
- Retention on board of undersized fish – Industrial fisheries
- Bycatch quotas for industrial fisheries
- Inter area quota flexibility
- By-catch quota

2.1.10. North Sea horse mackerel

- Derogation to land 10% of undersized fish
- Restrictions on the use of automatic grading equipment
- Prohibition of high-grading
- Moving-on provisions and prohibition on slipping
- Catch handling and discharge restrictions on pelagic vessels
- By-catch provisions (use of target quota to cover by-catch of certain species)

2.1.11. Southern horse mackerel

- Derogation to land 10% of undersized fish
- Restrictions on the use of automatic grading equipment
- Prohibition of high-grading
- Moving-on provisions and prohibition on slipping
- Catch handling and discharge restrictions on pelagic vessels
- Derogation for landing 5% of horse mackerel between 12 and 14 cm below minimum landing size in ICES zone IX and allowance to catch 5% of quota in VIIIc

2.1.12. Western horse mackerel

- Derogation to land 10% of undersized fish
- Restrictions on the use of automatic grading equipment
- Prohibition of high-grading
- Moving-on provisions and prohibition on slipping
- Catch handling and discharge restrictions on pelagic vessels
- Derogation for landing 5% of horse mackerel between 12 and 14 cm below minimum landing size in ICES zone VIIIc and allowance to catch 5% of quota in IX
- Inter-area quota flexibility
- By-catch provisions (use of target quota to cover by-catch of certain species)
- Interannual quota flexibility

2.2.13. Northeast Atlantic mackerel

- Derogation to land 10% of undersized fish
- Mackerel Box Closure – SW England
- Restrictions on the use of automatic grading equipment
- Prohibition of high-grading
- Moving-on provisions and prohibition on slipping
- Catch handling and discharge restrictions on pelagic vessels
- 10% interannual flexibility

2.2. Voluntary measures

- Mackerel – pre-sampling of shoal composition by jigging undertaken by some fleets
Several fleets are rigged with jigging equipment for use in sampling before engaging in full fishing operation. The fleet engages in this procedure before commencing fishing activity as a proactive measure to prevent unnecessary mortality on mackerel shoals by avoiding wherever possible the capture of juvenile/undersized fish.
 - The vessel will engage the use of jigging equipment to assist the master in identifying the composition of the target shoal before fishing activity commences.
 - Other vessels may have jig-sampled the target species in the current fishing zone. The skipper will take this information into consideration in deciding whether or not it is necessary to jig before making a decision.
 - The sample is taken in order to form average weight data on which to base the fishing decision. (The skipper/master may take additional samples if so desired).
 - Each sample taken will be of no less than 20kg.
 - Weight measurements will be used to ascertain the suitability of the size distribution of the shoal.
 - If results from this sample testing operation indicate an unsuitable catch composition for commercial use, the vessel will not engage in fishing activity against the sampled shoal and will move on.
 - Where results indicate there is a predominance of undersized or unsuitable fish from the sampling activity, the skipper should inform other vessels in the vicinity.
 - If the resulting catch from a jigged shoal is found to be of poor/unsuitable composition, the skipper/master will make every effort to investigate and modify procedures to improve the integrity of sampling information.
- Mackerel – Industry hailing scheme.
This is instigated when an EU skipper finds small or immature mackerel, a message is sent out to all vessels in the vicinity providing detailed information where the fish has been caught. All vessels carry a complete contact list for every vessel participating in the mackerel fishery.

3. Pelagic Discards Data

Discards in pelagic fisheries are known to occur. However, thanks to increases in selectivity they have been reduced continuously to relatively low overall levels. A recent analysis by STECF which compared ICES and STECF

discard data has resulted in the formation of three distinct categories (STECF-13-23). Category 1 include stocks for which ICES indicates that discarding is negligible and STECF estimates discards at less than 10%. The Category 1 stocks which are in the remit of the Pelagic RAC are estimated to have even less than 5% discards according to STECF (STECF 13-23). Category 2 contains stocks for which detailed data on catch is available from both ICES and STECF and Category 3 includes stocks for which either ICES or STECF estimate discards to be higher than 10%, but where the data is extremely variable and currently not presented in the ICES advice. North Sea herring, Western Baltic spring spawning herring and North Sea horse mackerel fall into Category 3. However, STECF has also concluded that enough data on these stocks are available to provide catch advice and that these stocks could in fact be Category 1 stocks. Western horse mackerel also falls into Category 3 and STECF concluded that more work may be required for this stock. All other stocks in the remit of the Pelagic RAC fall into Category 1 including Northeast Atlantic mackerel, the economically most valuable stock for the EU pelagic fleet.

At the recent ICES benchmark for Northeast Atlantic mackerel updated discard estimates for the years 2003-2011 were presented (Table 1). In all years except for 2006 and 2008 discards of this stock amounted to less than 5% of the total catch. In 2006 discards amounted to 5,5% and in 2008 to 5,8%. The discard plans for the thirteen stocks under development by the PRAC will include the relevant discards information available from ICES and STECF.

Year	Updated discards estimate (kt)	Updated WG catch (kt)	Year	Updated discards estimate (kt)	Updated WG catch (kt)
2003	19,427	679,287	2008	36,398	622,488
2004	19,962	660,491	2009	15,693	737,738
2005	25,383	549,109	2010	12,814	875,283
2006	26,593	481,179	2011	10,894	946,661
2007	15,444	586,206	2012	15,380 (not updated)	893,000 (check)

Table 1. ICES discard estimates and catch figures for Northeast Atlantic mackerel 2003-2011 as presented at the ICES benchmark in 2014.

Discard sampling programs of the Dutch pelagic freezer-trawler fleet in 2008-2010 have shown that discards of herring, horse mackerel and blue whiting are between 1% and 4% (Van Helmond & Van Overzee 2010; Van Overzee & Van Helmond 2011). These findings are in line with the latest ICES advice for blue whiting which concluded that discards of blue whiting are negligible and with the recent STECF stock categorisation which concluded that North Sea herring, Western Baltic spring spawning herring and North Sea horse mackerel could be included in Category 1 (ICES 2013; STECF-13-23)

4. De minimis provision in Article 15.5c 1380/2013

Article 15 of the new CFP regulation 1380/2013 sets out the provisions for the introduction of the landing obligation. The de minimus provisions the issue of relevance to this document are covered in article 15.5c as set out hereunder.

“(c) provisions for de minimis exemptions of up to 5 % of total annual catches of all species subject to the landing obligation referred to in paragraph 1. The de minimis exemption shall apply in the following cases:

(i) where scientific evidence indicates that increases in selectivity are very difficult to achieve; or

(ii) to avoid disproportionate costs of handling unwanted catches, for those fishing gears where unwanted catches per fishing gear do not represent more than a certain percentage, to be established in a plan, of total annual catch of that gear.”

The Pelagic RAC has considered these provisions and has decided to interpret it in the following fashion. The Pelagic RAC is fully aware that it is possible to interpret these articles in number of different ways and is not advocating that its interpretation should be used for other non-pelagic fisheries.

1. Fisheries means in context of the pelagic species the five pelagic species within the remit of the Pelagic RAC namely mackerel, horse mackerel, herring, blue whiting and boarfish.
2. Discards plans means the thirteen different stocks by management area associated with the five species within the remit of the Pelagic RAC.
3. Discards data means the data available from official sources i.e. ICES, STECF and peer-reviewed publications in scientific journals.
4. Calculation of discard rates will be based on the official discards data divided by landing data used by ICES over a number of years and will be applied to each of the thirteen plans.
5. De minimis means the de minimis exemptions of up to 5 % of discards from the landing obligation after the fourth year of application of the landing obligation (7% for the first two year of application and 6% the third and fourth year) of the total annual catches for each of the thirteen pelagic stocks subject to the landing obligation.
6. The de minimis exemption for each of the thirteen stocks shall apply in the following cases:
 - (i) where scientific evidence indicates that increases in selectivity are very difficult to achieve; or
 - (ii) to avoid disproportionate costs of handling unwanted catches, for those fishing gears where unwanted catches per fishing gear do not represent more than a certain percentage, to be established in a plan, of total annual catch of that gear.
7. De minimis will be applied to the factories ashore and at sea rather than during the fishing operation. It should be noted that the catching of pelagic species and the method of bringing the catch on board the vessel does not allow the discards if any to be identified at that stage of the fishing operation hence the requirement to do this during the sorting and grading at the factory ashore or at sea.

5. Need for de minimis in pelagic fisheries

5.1. Events driven discards

During pelagic fishing operations critical situations can occur which make it necessary to discard fish. Therefore these occasions require a de minimis exemption. Below is a non-exhaustive list of such situations. In circumstances where there is a risk to this safety of the vessel and/or the crew, safety has to take precedence over the discards provisions.

- In cases where a vessel owner finds there is more fish in the net than the boat can carry. After filling the vessel the skipper finds there is still fish remaining in the net, under normal circumstances a neighbouring vessel would pump aboard the fish left in the net. However, in certain circumstances there may be no vessels in the vicinity or the weather may be too bad to pump fish aboard a neighbouring boat. It may also be the case that a skipper may choose not to completely fill his vessel as the sea state makes it too dangerous for the vessel to sail in heavily laden. In the circumstances above a skipper will have no option but to discard part of the catch.
- A skipper may be faced with a critical malfunction of his deck machinery which results in a situation where it is impossible to pump the fish from the net to the vessel. Likewise circumstances might arise in which the catch cannot be brought on-board safely due to technical problems recovering the fishing equipment. This can be if larger objects, such as wrecks, are caught/entangled or salvage-lines have been broken or lost. In these situations there is no option but to discard that particular catch.
- Sometimes during the operation to take the catch on-board, the actual pump can choke with debris of some description or other. To clear the blockage, the pump needs to be detached from the net and cleared. In addition, the rubber hose pipe between the pump and the vessel will be totally jammed full of minced fish. This has also to be cleared which inevitably means discarding the fish in the hose pipe, although this doesn't amount to a huge quantity of fish it invariable means 20 tonnes will be discarded.
- A situation may arise where the vessel or the crew may be put in a life threatening situation by taking the catch on-board. This could be related to weather, a major engineering failure or a crew member trapped in either the machinery or fishing gear. No skipper should be put in the position that he has to choose between saving his vessel/crew and being prosecuted for discarding a catch of fish.
- A situation can occur in which the fish in the catch has been contaminated by dead/rotten fish, jellyfish, carcasses, oil, paint or other substances that can be hazardous to the crew or will make the catch unsuited for human consumption and reduction.
- In cases where there is one large or large quantity of protected species (e.g. sharks) in the catch, the entire catch might have to be slipped if survival chances of the protected species are to be maximized.
- Situations can occur in which the fish onboard has been putrefied, so that it is not suited for human consumption or reduction. This can be due to breakdown of cooling facilities or an unexpected long travel caused by technical problems or weather.
- Sometimes gear might burst which results in a loss of fish. This often happens underwater and when it does there is nothing that can be done to prevent the loss of fish.
- Meshed fish (fish that is trapped in the meshes of the nets and will be thrown back into the sea when cleaning the nets – small quantities)

5.2. Analysis of the 2 conditions related to the application of the de minimus

5.2.1. Condition 1: 'scientific evidence indicates increases in selectivity very difficult to achieve'

STECF has pointed out that this condition should more be seen in the light of economic limitations than of scientific evidence, i.e. where a point will be reached that the costs of increasing selectivity are becoming prohibitive in relation with the potential gains in higher selectivity.

Fisheries targeting small pelagics are by nature very selective fisheries. Still, the pelagic fishing industry has over the years invested substantial resources in search of increased selectivity in their fisheries. This was done in numerous projects where fishing companies closely collaborated with research institutes and technological companies supplying the industry. These endeavours concentrate on two key aspects in pelagic fisheries:

- Developing acoustic technology to improve the imaging of the situation on the fishing grounds in order to better decide when and what to target. Examples:
 - Twinson project Dutch freezer-trawler fleet (2000-2010) (Storbeck & De Theije 2006, interim report)
 - Sofic project Dutch freezer-trawler fleet (2010 - onwards)
 - Multi frequency echo sounder project (2013-2014)
 - Broadband multi frequency echo sounder project (2014 onwards)

- Devising gear innovations in the cod-end and in the rear net by which unwanted by-catch species are able to escape during the fisheries. Examples:
 - Irish cod-end project
 - Excluder project Dutch freezer-trawler fleet (2005-2008)
 - Development escape grids Dutch freezer-trawler fleet (2013-2014)
 - SISF technical measures to enhance selectivity in pelagic fisheries (Laurenson & MacDonald 2008)

These projects together with the existing legislative measures aimed at avoiding and reducing unwanted (by)catch have decreased discards levels significantly to over-all less than 5% of total catches in pelagic fisheries in the EU (STECF-13-23). We have come to the point that further steps in increasing selectivity are becoming economically prohibitive. Still, further investments in increased selectivity will continue, but these are based primarily at specific situations connected with the introduction of the landing obligation. An example is the necessity to avoid by-catching of boarfish in the pelagic fisheries for human consumption, such as the horse mackerel fisheries.

5.2.2. Condition 2: 'to avoid disproportionate costs of handling unwanted catches'

This condition is by definition an economic one. Not much research has yet been done on this topic. One example is the work done by the Dutch Economic Agricultural Research Institute (LEI) that has published in November 2013 a study titled 'Economic impact of the landing obligation in Dutch fisheries' (Buisman et al., 2013), in which the LEI concentrates on the impact of the landing obligation in the demersal flat fish fleet and the pelagic freezer-trawler fleet. The study is written in Dutch but the results for the pelagic freezer-trawler fleet can be summarized as follows. Based on (i) two assumed prices of €0.15 and €0.30 per kilogram of landed pelagic discards and (ii) the current discard levels in this fleet, the net loss runs into €1.5 million and €0.6 million

respectively for the Dutch flagged fleet. If the costs of CCTV and observers are included the net loss increases to €6.1 million and €5.2 million respectively. These costs do not include the costs of installing CCTV on board. These figures must be compared with the economic results for the Dutch flagged pelagic fleet. The same institute, LEI, is annually following the economic performance of the Dutch fleet based on the formal financial audit reports of the companies. On an annual basis LEI publishes their economic status report of the fleet 'Visserij in Cijfers' (Fisheries in Figures, Taal et al. 2014). The latest published report indicates that over the period 2003-2012 the Dutch flagged pelagic fleet suffered an annual average net loss of €8.1 million. Conclusion therefore must be that the economic impact of the landing obligation in relation to the economic performance constitutes 'disproportionate costs'.

6. Monitoring, Control and enforcement (MCE)

Over the entire existence of the Common Fisheries Policy doubts on MCE measures have weakened the effectiveness of the CFP. This has become all the more important as over the years the objectives of the CFP have become more ambitious. The current reform which includes the landing obligation has been hailed as the most ambitious fisheries policy reform ever. An effective MCE scheme in this light has therefore become a top priority in the implementation process of this reformed CFP. For the Pelagic RAC an effective MCE chapter is indeed an essential element of the thirteen discards plans under development by the PRAC and a vital part when one or more of the flexibility possibilities given in Article 15 of the new basic regulation 1380/2013 will be applied in a fishery.

The position of the Pelagic RAC in relation to MCE consists of the following key elements which will be elaborated further in the discards plans:

6.1. Verifiability as precondition

Whatever measures we include in a discard plan, including the application of one or more of the potential flexibility rules such as the de minimis rule, measures must be verifiable in such a way that authorities can have a high level of confidence in the effectiveness of the measures.

6.2. Burden of proof shift

Until now and in the 'classical' way a policy such as the CFP has been set out, it is up to the EU and Member States authorities to prove that a fisherman has infringed existing regulations. The more complicated a policy becomes – and there is little doubt that with the landing obligation the level of complexity will increase to new heights – the more it becomes apparent that the burden of proof should shift towards the subject of the policy, the fishermen. The Pelagic RAC therefore accepts that a certain shift of the burden of proof has to occur. To what level, in how far and under what conditions are questions that have to be looked into more in depth in collaboration between stakeholders, control authorities and policy makers. The Pelagic RAC underlines the need of this shift in the burden of proof.

6.3. Level-playing field

It is vital that a European policy is implemented in the same manner in all Member States and among all fleets. This is even more important for the MCE measures as more often than not fleets of different Member States are operating in the same waters, targeting the same stocks and (often) catering the same markets. For the Pelagic RAC a level playing field of MCE measures is a crucial precondition deserving constant attention by the authorities.

6.4. Instruments of control and enforcement

New instrument for MCE are constantly being developed. This is partly because the CFP is developing and partly because new technologies become available to be applied in the field of fisheries. The Pelagic RAC does not want to rule out any of the existing (e.g. observers) or new (e.g. CCTV) or even unknown (e.g. drones, genetics) instruments for MCE to be applied in the context of the landing obligation.

At this stage, however, the Pelagic RAC does not feel sufficiently comfortable to already select the definitive instrument for MCE and considers that article 15.13 of new CFP is an appropriate provision for the purpose of monitoring compliance with the landing obligation, i.e. “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. In doing so, Member States shall respect the principle of efficiency and proportionality. “ The Pelagic RAC is aware of on-going tests of various instruments and would like to see the results of these before possibly recommending on any of these instruments.

7. Recommendations

As already highlighted in the introduction the co-chairs of the Discards Working Group considered that, as an interim measure and to try to have some input to Regional Groupings deliberations, it was necessary to fast track one element of the discards plans in advance of the 10th April meeting, namely the de minimis rule. Therefore the approval of the Executive Committee is sought now rather than at the Pelagic RAC’s April meeting for the set of recommendations below on this one aspect of the landing obligation i.e. the de minimis provisions in article 15.5 (c) 1380/2013. The complete set of Pelagic RAC recommendations on the thirteen discard plans relating to the EU landing obligation will be discussed at the next joint Working Group meeting on 10 April 2014.

- 7.1. At all times the safety of the vessel and of the crew shall take precedence over the landing obligation provisions (force majeure).
- 7.2. The de minimis recommendations relate solely to the five pelagic species the Pelagic RAC has a remit for namely mackerel, horse mackerel, herring, blue whiting and boarfish.
- 7.3. The de minimis should apply separately to each of the thirteen pelagic stocks (seven herring stocks, three horse mackerel stocks, mackerel, blue whiting and boarfish) that the Pelagic RAC is developing discard plans for.
- 7.4. The calculation of the discards rate should be based on the official discards data (ICES and STECF) divided by landings data used by ICES over a number of years and should be applied to each of the thirteen plans. The percentages of de minimis rates as outlined in 1380/2013 should be compared with this rate to ascertain whether or not it is above or below the de minimis rate.
- 7.5. The discard rates should be continuously monitored, reviewed and updated on a yearly basis.
- 7.6. The de minimis should be applied after sorting and grading both ashore and at sea (see section 1.2.).
- 7.7. The de minimis should also apply to the non-exhaustive list of pelagic circumstances outlined in section 5.1.
- 7.8. In the first two years of application of de minimis a maximum 7% rate should apply, third and fourth year of application a 6% rate and thereafter a 5% rate should apply.
- 7.9. An effective system of control and enforcement should be established to verify that the de minimis rate is fully complied with (section 6.).

8. References

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