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Opinion 114: Plan for the implementation of the Landing Obligation

A wide range of possibilities for the implementation of the Landing Obligation (LO) is provided for, as set out in the CFP, from drastic application, with few exemptions and a determination to prevent certain catches carried to the extreme, with the strong socio-economic impacts this entails, to an almost fictitious application, in which case all exemptions would be granted automatically.

These extreme scenarios are to a large extent found in the positions expressed by the members of the SWW AC. The industry's aversion to the contents of Article 15 persists, at the same time as a feeling of incredulity, such do the phasing and arrangements provided for seem impossible to adhere to. However, in addition to the provisions contained in Article 15, the recitals of the CFP spell out the political agreement reached at the end of 2013 and the willingness to see a reduction in the levels of discards observed. Similarly, the selectivity targets set out in the New Framework for Technical Measures should be taken into account.

On the other hand, the lack of clear political leadership at EU level regarding detailed objectives for reducing discards, and on important points of interpretation, have prevented or greatly limited the carrying out of experiments and the management of change. Indeed, nobody can deny that, with the exception of specific programs (selectivity), it would now seem hazardous, to say the least, to get ready for a transition, without any real grasp either of the starting point or the supposed objective under the CFP. It has to be understood that the required changes that result, at national or at a more detailed management level, can only be organised on the basis of clear decisions at EU level.

The following elements attempt to create a middle way, in the guise of a proposal. They aim above all at making the LO operational by creating the conditions for experimentation, from a pragmatic point of view.

Assumptions:

- An open negotiation on the implementation of the LO will undoubtedly be less detrimental to all than decisions taken in the context of pre-litigation or litigation
- The CFP will only be modified if reliable elements are proposed for achieving the objectives of the CFP (MSY etc.)
- In the long term, it will be strategically advantageous to have taken the initiative in this process, even if this means imposing certain conditions.
- First and foremost discarding catches represents an either direct (absence of sale) or indirect (unpaid working time) economic loss. Putting ourselves in a situation that allows for the greatest possible commercialisation of catches is a significant step forward for all.





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Points of analysis:

- Without going back over the contents of Article 15 again, and in summary, the desire to see all catches taken into account in terms of application at European level has been poorly implemented. More than a very tight timeframe, it is doubtless the lack of clarification of CFP objectives on the issue of discards that has prejudiced the deployment of the LO and the required changes that result. As things stand, there has been little use of the available timeframes for large-scale experimentation. Moreover in the coming months, there seems to be little room for adaptive procedures.
- The aggregation of all catch data is a prerequisite for achieving widespread harvesting at MSY. Implementation of the LO must therefore be seen as tool that needs to be deployed at European level by 2020 at the latest. Therefore, the effective deployment of the LO is a strategic objective for stocks for which an analytical evaluation exists. This is less the case for others, for which, for other reasons, no diagnosis of their situation with regards the MSY reference point can be produced.
- Choke species have been one of the main obstacles to the deployment of the LO. Of course, challenges and solutions differ according to whether choking occurs at European, national, LO, or ship level. However, such choking phenomena can only be apprehended and resolved, including by means of assessment of quantities for available exchanges, where the LO is real and operational. In order to allow such an exercise to take place, assurances need to be given that there will be no LO-related closures of fisheries during these test phases.
- As things stand, current scientific knowledge does not allow the apprehension of reference biomass levels associated with an MSY operation. Just as with the precautionary approach, these can only be apprehended with more time. At the same time, in view of the general uncertainties associated with fisheries modelling, the use of fishing mortality ranges could, in the event that the necessary fisheries assessments are carried out, allow a fixed quota policy to be applied (until 2019? until 2020?) in order to authorise the management of fleets in accordance with the LO.
- For stocks for which no analytical assessment exists, a more practical management approach may be more useful. These stocks are often of lesser importance and will also benefit from advances in selectivity for analysed stocks.
- Lastly, it is absolutely necessary to provide financing mechanisms to ensure that crews are guaranteed remuneration for the remaining quantities of unwanted catches that need to be processed on board. Otherwise, and unless real-time monitoring of all vessels is carried out, the LO may not be fully deployed.
- The determination of EU institutions that previously discarded catches be taken into account and, if possible, discards prevented, can only be based on an effective and comprehensible application of Article 16.2 of the CFP. In addition to its complexity, legitimate doubts exist today as to its applicability during the procedure for setting TACs, for stocks for which there is shared jurisdiction (NEAFC etc.)





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- The elements requested by the STECF when analysing the content of the joint recommendations and thus drawing up future 'discard plans' are such that it will not be humanly and financially possible to substantiate all the requests sought. In this context, the granting of certain exemptions, or the detailing of possible flexibilities/tools will have to draw more extensively on common sense and a little political pragmatism.
- In addition to stabilising fishing opportunities, every effort needs to be made to ensure that more visibility is given to fishermen in this context. The confidence they place in institutions will also be one of the key elements for the implementation of the LO, and on this basis, the automatic renewal of all the mechanisms already approved should be seen as a necessity.

The following proposals should be seen as a global package, which it will be the co-legislators' job to examine before 1 January 2019.

They should be seen as corrections to the current body of legislation, authorising the inception of a management approach that is more geared to taking all catches into account, from a pragmatic and therefore operational point of view.

These elements guide a number of safeguards or conditions that are listed below:

- - Social Component: Having chosen to make certain new tasks mandatory without providing any added value in terms of management incentives, at the same time as restricting possibilities for profit, EU institutions must now take responsibility for this societal choice. Generally speaking, this will have to be accompanied by measures to accompany the loss of productivity and profitability in line with this new determination, which will modify and affect the organisation of work on board (less commercial working time, or overtime etc.). As in the case of the Norwegian example, it would therefore seem necessary to create intervention mechanisms or tools to ensure that crews are remunerated for unwanted relict catches, when they cannot be sold
- Refocusing: At least initially, application of the LO for species for which an analytical evaluation exists or for which one is in the process of being elaborated
- Stabilisation of the framework: adoption of fixed multiannual TACs (2018 - 2019 - 2020?), With the effective application of Art 16.2 and renewal of all exemptions granted until then
- Common sense: Obtaining certain exemptions on principle (survival for all fisheries using hooks and traps), application of the De Minimis exemption in a combined manner, fishery by fishery

More than the continued deployment of fisheries subject to the LO in 2018, the desire for which is only likely to contribute modestly to the preparation of the full LO in 2019, responses to or work on the elements in this document would now seem to be a priority.





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As regards the Joint Recommendations formulated by the Group of Member States in May 2017, the SWW AC:

- Considers that the primary goal of these Recommendations should be the continuation of all exemptions implemented since 2015, whether they concern benthic or pelagic fisheries.
- Desires a slight geographical extension for the survival exemption granted to ring-net fleets, for whom it would be appropriate for the same rules to apply throughout their fishing zone. It would therefore appear useful that the northern limit of this exemption should no longer be 48 ° North, but 48.3 ° N.
- Does not desire that new Landing Obligation requirements for fisheries, species or ships be introduced in 2018. The SWW AC therefore expresses its disagreement with any further deployment that may be desired by the Group of Member States, considering that priority should be given to political agreements on the points mentioned above in this opinion rather than to experimentation.

Minority opinion: In order to ensure the effectiveness and acceptability of the Landing Obligation, the Armadores de Pesca de Marín association recommends the identification of additional measures to mitigate the operational and logistical costs incurred by deploying the LO on board and at ports. However, BlueFish, ADAPI and the Armadores de Buques de Pesca de Marín association and IFSUA have expressed their disagreement regarding the implementation of insurance schemes which would allow compensation to be paid for work newly created as a result of the LO. For BlueFish and ADAPI, such a decision could reduce the (incentives to produce the) efforts sought in terms of selectivity. Both these organisations also consider that the problem of implementation should be looked at from the perspective of a change in the CFP, whereas the Armadores de buques de pesca de Marín association has expressed reservations concerning the real impact of such a device for crews. IFSUA considers that only vessels that have implemented effective measures to be more selective should be able to benefit from the mechanisms (provisions, incentives) to be implemented.

** Opinion validated by the Executive Committee, during the period of suspension of environmental NGOs.*

