



# Recovering fish stocks and fully implementing the Landing Obligation

## *Managing fishing mortality to meet CFP objectives*

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### Summary

The reformed Common Fisheries Policy (CFP) was agreed in 2013 and entered into force on 1<sup>st</sup> January 2014. Among its many innovations, the 2013 regulation introduced, for the first time, a legal requirement to achieve the maximum sustainable yield (MSY) exploitation rate, as well as an obligation to land all catches. Both are inextricably linked and complementary, and both should contribute to restoring fish stocks to healthy biomass levels, through the adjustment of fishing opportunities and the reduction of mortality caused through unwanted catches.

As the legally defined deadlines associated with achieving MSY exploitation rates and implementing the landing obligation (LO) quickly approach, efforts made by Advisory Councils (ACs) and Member States, with NGO input, have identified a limited number of residual problematic issues. It is now essential and urgent that these be addressed and that real changes in fisheries management and fishing practices take place, so that both legal requirements can be met.

### Key recommendations:

- Regardless of the stock in question, under no circumstances can illegal discarding be tolerated, nor can fishing mortality be allowed to increase beyond MSY exploitation rates.
- Member States, with support from the European Commission, must create and promote quota redistribution solutions, beyond traditional swaps, to avoid closing fisheries if quota is available elsewhere.
- Regardless of the stock in question, all potential mitigation measures must be applied to minimise unwanted catches, such as using the most selective gears and applying prescribed avoidance techniques. Exemptions should be used only as a measure of last resort.
- If a high risk of early fishery closures remains even after all possible measures have been applied, a bycatch reduction or elimination plan must be developed and implemented, if necessary with support from the European Maritime and Fisheries Fund (EMFF). Full documentation of catches must be used to demonstrate industry efforts to reduce unwanted catches, to assess the effectiveness of mitigation measures and identify new ones, as well as to inform scientific assessments.

- In these residual cases, trade-offs involving lower exploitation of some stocks might be unavoidable to ensure the sustainable exploitation of all stocks in a mixed fishery.
- While these residual cases require tailored monitoring and management measures, such action is preferable to alternative “solutions” that amount to no more than an exemption from the obligation to land all catches.
- Member States must invest in cost-effective at-sea monitoring and control systems to ensure transparency, contribute to a culture of compliance, and deliver environmental benefits stemming from the landing obligation.
- These recommendations must be implemented in 2018 and 2019, with a view to achieving total fishing mortality not exceeding  $F_{MSY}$  by 2020. This requires that any continued discarding (e.g. due to the granting of exemptions) be counted against the relevant Total Allowable Catches (TACs).

The achievement of MSY exploitation rates and the focus on eliminating discards, recognised through the landing obligation, were key elements of the latest reform of the CFP, which garnered significant public support as well as the agreement of the European Parliament, the Member States and the European Commission. Falling short of their full implementation would betray the spirit of that reform. As the full closure of fisheries in large parts of EU waters is not a desired outcome for any of the stakeholders, urgent action must be taken to address the few remaining challenges to implementation of the legal requirements.

## Context

The 2013 CFP<sup>1</sup> contains a series of objectives, enshrined in Article 2. Several of these objectives are worded in a general way, but some are very precise and have a specific timeframe attached to them. This position paper focuses on two such objectives:

- Article 2(2): Progressively restoring and maintaining populations of fish stocks above biomass levels capable of producing maximum sustainable yield, by achieving the MSY exploitation rate ( $F_{MSY}$ ) by 2015 where possible, and by 2020 at the latest for all stocks (the “MSY objective”).
- Article 2(5)(a): Gradually eliminating discards by avoiding and reducing, as far as possible, unwanted catches and by gradually ensuring that catches are landed. The main tool for achieving this is the landing obligation, set out in Article 15, which further specifies the species and timeframes within which the LO is to be gradually introduced, and sets 1<sup>st</sup> January 2019 as the ultimate deadline to extend the obligation to land all catches to all species.<sup>2</sup>

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<sup>1</sup> Regulation (EU) No 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> The LO applies to catches of species which are subject to catch limits (and, in the Mediterranean, also to catches of species which have a regulated Minimum Conservation Reference Size (MCRS); this document does not address the implementation of the LO in the Mediterranean.

## Hand in hand: the LO as a tool to meet the MSY objective

The wording of Article 2(5)(a) clearly states that the obligation to land all catches is a means to achieve a clear goal: the gradual elimination of discards, which is to be achieved, on the one hand, “by avoiding and reducing, as far as possible, unwanted catches”, and, on the other hand, “by gradually ensuring that catches are landed.” The aim was to eliminate the wasteful practice of returning unwanted catches to the sea and to reduce the impacts that this has on the marine ecosystem and on the viability of fishing activities.<sup>3</sup> The LO was therefore introduced as a tool to reduce (unwanted) fishing mortality, and thereby contribute to achieving the MSY objective. Both are thus inextricably linked and complementary.

Reducing unwanted fishing mortality is even more important in the case of vulnerable stocks. An ecosystem-based approach to fisheries management requires that, if needed, the overall mortality on the targeted species complex is reduced, in order to safeguard all stocks and allow them to recover to levels above those capable of producing MSY, as required by the CFP.

It is clear that the reduction and elimination of unwanted catches, the landing of all catches, and the adjustment of fishing opportunities to levels needed to safeguard vulnerable stocks present a series of challenges. However, the LO is a legal requirement introduced with the aim to improve fisheries management, fishing practices and ultimately the livelihood of fishing communities. This will entail changes at several levels: from negotiations among Member States on quota swaps to at-sea operations. In recognition of the complexity of these challenges, Article 15 of the CFP introduced a gradual implementation period for the LO, between 1<sup>st</sup> January 2014 and 31<sup>st</sup> December 2018.

## Progress to date in meeting the objectives

Since the adoption of the CFP, it has been clear that both the MSY objective and the LO are legal requirements that must be met within their legally defined deadlines. Both have been pursued incrementally, albeit very slowly<sup>4</sup>, since 2014. For instance, each year the Council of Ministers has made only modest progress towards setting fishing limits not exceeding scientific advice<sup>5</sup>; and discard plans have progressively introduced the LO in specific regions (e.g. the Baltic Sea), for specific stocks (e.g. pelagic stocks) or in given fisheries.<sup>6</sup>

The LO has posed a challenge to experts and stakeholders and has generated passionate debates. While much work remains to be done to meet this CFP requirement, over the past four years the ACs have dedicated much of their time to the implementation of the LO, with mixed results. Whereas the gradual introduction of the LO has granted the industry and managers sufficient time to adapt to the new legal

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<sup>3</sup> Regulation (EU) No 1380/2013, recital 26

<sup>4</sup> STECF, Monitoring the performance of the Common Fisheries Policy (STECF-17-04): “STECF notes that many stocks remain overfished and/or outside safe biological limits, and that progress achieved until 2015 seems too slow to ensure that all stocks will be rebuilt and managed according to  $F_{MSY}$  by 2020.”

<sup>5</sup> Poseidon Aquatic Resources Management Ltd., “[Taking Stock: Progress Towards Ending Overfishing in the European Union](#)” (2017).

<sup>6</sup> [https://ec.europa.eu/fisheries/cfp/fishing\\_rules/discards\\_en#Discard-plans](https://ec.europa.eu/fisheries/cfp/fishing_rules/discards_en#Discard-plans)

requirement, it has also enabled the postponement of the most difficult cases to the final stage of implementation. It is telling that, despite the need to fully implement the LO by 1<sup>st</sup> January 2019, it was only in October 2017 that the North Western Waters AC (NWWAC) and the NWW Member State group jointly completed a full analysis<sup>7</sup> of all the species exploited in the AC's advice area, comparing the total catches with the available TACs and national quotas, and identifying a few cases where fully implementing the LO would entail a high risk of early fishery closures (i.e. certain fisheries would "choke" due to lack of quota to match their likely catches). This analysis is referred to as "the Choke Mitigation Tool" (CMT). Similar analyses were completed for the North Sea<sup>8</sup> and the South Western Waters<sup>9</sup> only in February and March 2018, respectively.

The good news is that the efforts made by ACs and Member States to identify the real residual cases have paid off in many cases. The analyses show that the number of residual high choke risks is limited, reflecting efforts made in reducing fishing mortality and rebuilding stocks (e.g. North Sea cod, which would have been a limiting stock if it hadn't been recovered through difficult political decisions). Member States must now solve these last residual problems.

## **Making it work**

The CFP's sustainability objectives apply to all stocks. Currently, the provisions in the CFP 'toolbox' to address choke risks in mixed fisheries, including through the implementation of further avoidance, selectivity and quota management measures, are yet to be fully utilized.

It is now urgent to make up for lost time. Overall, the analyses mentioned above conclude that most choke problems can be resolved using a combination of increased avoidance, selectivity and improved quota management, combined with the exemptions provided for in Article 15 of the CFP. These measures must be implemented as a matter of urgency. Nevertheless, a few residual cases are likely to remain in some sea basins, and these cannot be entirely resolved through those measures.

When conducting their analysis of choke risks, the North Sea AC has developed a typology of choke risks, which has been largely adopted in policy discussions regarding the LO. This paper provides recommendations to address choke risks for some of these categories.

### *"Category 1" choke risks*

Category 1 chokes relate to stocks for which sufficient quota is available at member state level. The choke risk is due to the distribution of quota within the member state, such that a region or fleet segment does not have enough available quota to cover catches. This situation may be resolved by the member state itself. This document does not address Category 1 choke risks.

### *"Category 2" choke risks*

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<sup>7</sup> <http://www.nwwac.org/publications/north-western-waters-choke-species-analysis.2365.html>

<sup>8</sup> North Sea AC (in press), "Comments on the Implementation of the Landing Obligation in the North Sea Demersal Fisheries - Joint Recommendation for a Delegated Act for 2019"

<sup>9</sup> [http://cc-sud.eu/images/img-ccs/agenda/2018-2019/01-GT-Madrid-0418/AH\\_OD/CMT\\_AC\\_SUR-AZTI-EN.pdf](http://cc-sud.eu/images/img-ccs/agenda/2018-2019/01-GT-Madrid-0418/AH_OD/CMT_AC_SUR-AZTI-EN.pdf)

Category 2 chokes relate to stocks for which sufficient quota is available at EU level but insufficient quota exists at Member State level. The choke risk is due to the distribution of quota between Member States and may be resolved between Member States in a regional context. These chokes can be dealt with through swapping, but Member States' reluctance to swap has led certain sectors of the fishing industry to flag them as key concerns.

It is up to Member States, with support from the European Commission, to devise a system that facilitates the necessary quota redistribution. Even in instances where a Member State does not have "currency" to swap, it is not justified to increase fishing mortality or to continue illegal discarding if the overall TAC is sufficient. We urge Member States and the European Commission to devise such systems as a matter of urgency, to ensure that no Category 2 situations remain in 2019.

#### *"Category 3" choke risks*

Category 3 chokes relate to stocks for which insufficient quota exists at EU level. The choke risk is due to insufficient quota within the relevant sea basin to cover current catches or catches that cannot be otherwise reduced (e.g. by selectivity or avoidance). Some of these species have very low quota, whereas others have zero catch advice. Some of them have failed to recover despite several years of scientific advice indicating an alarming status of the stock concerned. Reduced TACs have failed to recover these stocks, in large part because catches and discarding have continued. Urgent action is needed.

In mixed fisheries, it is inevitable that different stocks will have divergent levels of abundance. In certain cases, this may mean that setting the TAC at the maximum advice level for one of the stocks in the mixed fishery might result in either exceeding the maximum advised TAC level for another stock (or stocks), or in choking the fishery, if changes in fishing behaviour or selectivity are insufficient to alter catch composition. In order to safeguard the most vulnerable stock(s) in such scenarios, and to avoid choking, the TACs for the most abundant stocks in the mixed fishery should be set at a level lower than the maximum advised in the single species advice for those stocks.

If the overall EU TAC is clearly insufficient to cover EU catches while activity continues in a mixed fishery, the following measures must be taken:

1. Apply all potential mitigation measures:
  - a. Member States must manage quota to reduce choking risks (through swaps with other Member States, and through allocation to their fleets);
  - b. All vessels engaging in the fishery must use the most selective gears and apply prescribed avoidance techniques (e.g. move-on rules, temporal and spatial closures) and information sharing requirements;
  - c. *De minimis* and high survival exemptions as provided for in Article 15 might be used as last resort, if applied in accordance with scientific advice.
2. If a problem still remains, the following measures should be considered before closing the fishery:
  - a. Use the available quota exclusively to cover unwanted catches of the choke species in mixed fisheries (i.e. cease targeted fisheries of the stock in question).

- b. Only allow continued mixed fisheries that have some likelihood of having bycatches of the stock in question if (and only if):
  - i. All vessels engaging in the fishery agree to full catch documentation (via electronic means and/or observers on board).
  - ii. Full documentation is used to demonstrate that (a) there is no increase in fishing mortality on the stock; (b) fishing mortality/unwanted catches are being progressively reduced; and (c) all catches are being landed apart from those with sanctioned catch and release protocols (i.e. *de minimis*, high survival exemptions and prohibited species).
- c. Develop and implement a bycatch reduction or elimination plan for the fishery in question, in which EMFF funding could be used not only to develop/implement new fishing gears and methods, but also to help fishers switch gears and/or adapt their activities to eliminate or minimise bycatch as far as possible in the medium term. EMFF funds allocated to this purpose have been insufficiently used so far.<sup>10</sup>
- d. Evaluate all these measures after a pre-determined time-period, and review them accordingly to ensure the requirements of the CFP are met.

#### *“Category 4” choke risks*

Category 4 chokes relate to stocks that are abundant and for which industry does not lack quota; but that are also of low economic value and of low interest to fishers. An obligation to land all catches of these species would force fishers to fill their holds with high quantities of low value catch, preventing them from catching and storing only higher value species.

All fish species form an integral part of the marine ecosystem, including species that are of low economic value or interest to fishers. This is recognised in Article 2(3) of the CFP, which requires the implementation of the ecosystem-based approach to fisheries management so as to ensure that negative impacts of fishing activities on the marine ecosystem are minimised.

In the case of North Sea dab and flounder (abundant stocks of low economic interest), an attempt was made by the European Commission and the Council to address the economic choke risk was by removing these species from the TAC management regime in 2017.<sup>11</sup> Substantial quantities of dab and flounder therefore continue to be discarded as they are no longer subject to catch limits and therefore not subject to the landing obligation. This runs counter not only to the ecosystem-based approach objective of the CFP, but also to the significant public concern about food waste that was at the core of much of the support for the introduction of the LO.

In line with the legislative intent behind the LO, unwanted catches of abundant stocks should be avoided and reduced as much as possible, and unavoidable catches should be landed. Removing the TAC (and thereby the obligation to land catches) makes no contribution to the minimization of waste, and

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<sup>10</sup> European Commission presentation to European Parliament hearing on the Landing Obligation, 24 April 2017 (available at [http://www.europarl.europa.eu/cmsdata/117542/Veronika%20Veits\\_DG%20Mare.pdf](http://www.europarl.europa.eu/cmsdata/117542/Veronika%20Veits_DG%20Mare.pdf))

<sup>11</sup> Council Regulation (EU) 2017/595 of 27 March 2017 amending Regulation (EU) 2017/127 as regards certain fishing opportunities

removes any incentive to avoid unnecessary impacts on marine life. Moreover, TACs are a clear way of regulating exploitation rates and removing them jeopardises the achievement of the MSY objective.

Collectively, the measures identified for category 2, 3 and 4 chokes are intended to reduce fishing mortality in line with the MSY objective. They are to be implemented in 2018 and 2019, with a view to achieving total fishing mortality not exceeding  $F_{MSY}$  by 2020. This requires that any continued discarding (e.g. due to the granting of exemptions) be counted against the relevant TAC.

## **Alternative solutions and associated risks**

As 1<sup>st</sup> January 2019 deadline approaches, and in the absence of substantial adjustments to fisheries management and fishing practices to avoid unwanted catches, several stakeholders have been advocating a plethora of so-called “solutions” to the challenges posed by the LO. These are, however, mere attempts to obtain exemptions from the obligation to land all catches or even change the regulation as a whole, as they entail no need for change in actual practices.

These proposed solutions fail to address the root causes of the problem, or simply mask overfishing or discarding rather than implementing the requirements of the CFP. Below we address the options being put forward and outline why they are not valid solutions to choke issues:

### **The deadline for full implementation of the LO must not be postponed**

The obligation to land all catches was agreed in 2013, and discussions leading to its adoption started several years earlier. The LO was phased in over a period of 5 years to allow industry and Member States to adapt. In addition, a significant amount of EMFF funds was dedicated to support LO implementation. Further postponing the full implementation of the LO will provide no additional incentive to change fisheries management or fishing practices. Furthermore, this option is likely to be unfeasible within the desired timeframe, as such a fundamental amendment to landing obligation timescales would have to be adopted by co-decision in less than a year.

### **The LO must apply to all stocks subject to catch limits or minimum sizes**

Some Member States have asked the Commission to seek legal advice on whether it would be possible to only apply the LO to the species specifically listed in Article 15 of the CFP. This option is not in line with the law, as Article 15(1) explicitly says that “all catches of species which are subject to catch limits and, in the Mediterranean, also catches of species which are subject to minimum sizes (...) caught during fishing activities in Union waters (...)” are to be subject to the LO. It would also go against the stated intentions of the co-legislators in terms of gradually eliminating discards by avoiding and reducing, as far as possible, unwanted catches and by gradually ensuring that all catches are landed.

### **TAC removal must be avoided**

Removing a TAC would remove a clear limit on fishing mortality. It changes the situation from one where the level of catches is more strictly regulated to one where there is potential for catches to be unlimited, whatever the status of the stock at a particular point in time. This would jeopardise the CFP’s requirement to limit exploitation rates in order to restore stocks above levels capable of producing MSY.

It could also create unintended consequences by incentivising fishing in a non-TAC fishery. Importantly, removal of TACs for non-target or less commercially valuable fish stocks (and of the associated obligation to land catches of these species) will neither solve the discard problem, nor reduce the waste in fisheries or foster the further improvements in selectivity intended by the introduction of the LO.

### **Bycatch provisions in footnotes in TAC & Quota Regulation should not lead to increases in fishing mortality**

For several years, certain TACs have included footnotes allowing for bycatches of a specified quantity (in percentage, i.e. 2% or 5%) of non-target species (e.g. whiting, mackerel, haddock and boarfish) to be caught in pursuit of the target TAC. As far as we can assess, the footnotes do not include a requirement to deduct catches from the dedicated TACs set for the non-target species. This potentially risks increasing fishing mortality on those non-target stocks above scientifically advised levels, whilst pursuing the target fisheries. It also risks worsening the status of those non-target stocks and undermining the requirement to achieve MSY exploitation rates. The Scientific, Economic and Technical Committee on Fisheries (STECF) highlighted these risks in their evaluation of the ‘bycatch allowance’ provisions for 2017<sup>12</sup> and in their previous evaluation of the potential impact of the interspecies flexibility provisions in the CFP (Article 15(8))<sup>13</sup>.

### **Stocks should not be added to the Prohibited Species list because they pose choke risks**

The annual TAC and Quota Regulation includes a list of “prohibited species” (species for which the deliberate catching, retention on board, transshipment or landing is prohibited). When the list was introduced its purpose was to implement requirements under international law (e.g. the Convention on the International Trade in Endangered Species of Wild Fauna and Flora – CITES) to prevent extinction or extirpation of endangered species. However, in recent times other species or specific stocks have been added (such as orange roughy) for which the rationale for their inclusion is less clear. Designating stocks with low or zero TAC advice as prohibited species will not protect them from overfishing, as bycatch and discarding of dead fish will continue, with little incentive for fishers to improve the selectivity of their fishing practices to reduce fishing mortality on the stock.

### **Changing the minimum conservation reference size to address choke risks jeopardises the objectives of the LO**

In order to protect fish stocks, the CFP stipulates that minimum conservation reference sizes (MCRS) should be established, and that restrictions or incentives should apply that aim to avoid capture of specimens below MCRS through fishing activity. Catches below MCRS cannot be sold for human consumption. MCRS can be changed through discard plans, and this has been done in some instances (e.g. the MCRS for Baltic cod was reduced from 38 cm to 35 cm). Reducing the MCRS provides no

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<sup>12</sup> “there is potential to significantly increase the mortality on non-targeted bycatch species to levels inconsistent with achieving  $F_{MSY}$  and to the extent that stock biomass could be reduced below safe biological limits” <https://stecf.jrc.ec.europa.eu/documents/43805/1780485/STECF+PLEN+17-02.pdf>

<sup>13</sup> “the provision offers a way of transferring quota from low value/high volume species to low volume/high value species, this potentially provides helpful economic benefits but carries the risk of elevated mortality on the non-target species” <https://stecf.jrc.ec.europa.eu/documents/43805/610582/STECF+13-23+-+Landing+obligation+in+EU+Fisheries+-+p1.pdf>

incentive to increase avoidance or selectivity, and is likely to lead to an increase in fishing mortality. It may in fact result in decreased size selectivity by incentivising the commercialisation of smaller specimens, which are particularly sought after in certain market segments.<sup>14</sup>

### **Grouping TACs is likely to increase fishing mortality for some stocks**

While the definition of TAC used in the TAC and Quota Regulations<sup>15</sup> refers to “the quantity of fish that can be caught from each stock”, several stocks are currently managed through grouped TACs (e.g. skates and rays in all areas; turbot and brill in the North Sea). This means that the overall catch limit in tonnes applies to all stocks in the grouped TAC, without species-specific allocations. Some stakeholders have argued that grouping additional TACs would mitigate choking risks, by pooling the TAC of limiting stocks with that of more abundant stocks. In a group of stocks with different abundance levels, grouping all the TACs in a single, overarching TAC is very likely to lead to fishing mortality well in excess of  $F_{MSY}$  for the least abundant stock(s) in the group TAC, and should therefore be avoided.

### **High survival exemptions should not be granted on a provisional basis**

The CFP allows for exemptions to the LO in cases where scientific evidence demonstrates “*high survival rates, taking into account the characteristics of the gear, of the fishing practices and of the ecosystem*”.<sup>16</sup> However, one “solution” being put forward to address choke issues is to provisionally grant high survival exemptions, with the condition that the necessary scientific evidence be gathered during a prescribed period. Allowing such an exemption in the absence of scientific evidence, particularly where existing studies have shown very mixed results (for example for plaice), risks a further increase in fishing mortality for these species.<sup>17</sup> This is particularly so given the apparent lack of recording of species discarded under high survival exemptions, despite the requirements set out in the Omnibus regulation<sup>18</sup>.

### **Combined *de minimis* exemptions can aggravate choke risks**

Similarly to grouping TACs, it has been suggested that grouping quantities of allowable discards under the *de minimis* provision in Article 15 of the CFP could be a tool to facilitate the implementation of the LO. However, in situations where a choke risk stems from a low TAC, the use of (combined) *de minimis* exemptions is unlikely to help, as the Commission deducts the *de minimis* quantities from its TAC proposals. STECF advice on the use of *de minimis* exemptions highlighted that the maximum *de minimis* quantity from each of the stock TACs included in the *de minimis* exemption should be deducted, and

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<sup>14</sup> Borges *et al.*, 2016, [Conflicts and trade-offs in implementing the CFP discard policy](#), DiscardLess Deliverable Report 7.3, 5 Mar 2018

<sup>15</sup> See for example Article 3(d) of [Council Regulation \(EU\) 2018/120 of 23 January 2018](#) fixing for 2018 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters, and amending Regulation (EU) 2017/127

<sup>16</sup> Regulation 1380/2013 Article 15(4)(b)

<sup>17</sup> Note that an exception to this could be in the case of skates and rays, where existing studies have shown survival of 60% and the exemption being put forward requires clear commitments to developing best practice to ensure greater survival.

<sup>18</sup> Regulation (EU) 2015/812 of the European Parliament and of the Council of 20 May 2015 amending Council Regulations (EC) No 850/98, (EC) No 2187/2005, (EC) No 1967/2006, (EC) No 1098/2007, (EC) No 254/2002, (EC) No 2347/2002 and (EC) No 1224/2009, and Regulations (EU) No 1379/2013 and (EU) No 1380/2013 of the European Parliament and of the Council, as regards the landing obligation, and repealing Council Regulation (EC) No 1434/98

concluded that “combining catches to calculate *de minimis* increases the volume of *de minimis* available. Provided this is taken into account in setting catch advice then this in itself is not a problem. However, MS should be aware it will mean the eventual TAC will be much lower”. STECF also cautioned that Member States “should be mindful of the dangers of using such a mechanism to allow the discarding of significant quantities of fish and effectively increasing catches well in excess of desired or intended levels”.<sup>19</sup>

## Monitoring the implementation of the Landing Obligation

Monitoring and control at sea are essential to ensure that the landing obligation is adequately implemented. However, Member States seem to not have increased at-sea monitoring and enforcement, which risks increasing uncertainty regarding catch reporting, as well as non-compliance.

The use of remote electronic monitoring (REM) systems has been assessed<sup>20</sup> as the most reliable and cost-effective at-sea monitoring system available for supporting the implementation of the landing obligation, while also bringing much-needed transparency, contributing to a culture of compliance, and to the delivery of the environmental benefits promised by the landing obligation.

## Conclusion

The LO was one of the flagship requirements introduced during the last reform of the CFP. It enjoyed enormous public support, and was agreed by the European Parliament, the Member States and the Commission as a means to address the negative environmental impacts of undesired and unnecessary fishing mortality. By reducing unwanted fishing mortality, it should also play a positive role in reaching the MSY objective.

Since its inclusion in the CFP regulation, the LO has faced significant resistance from large segments of the fishing industry and Member States. This resistance has hindered the necessary changes in fisheries management and in fishing practices that should result in reduced mortality and in the landing of all catches.

It is now urgent to address the few remaining challenges in advance of the 2019 deadline for the full implementation of the LO and the 2020 deadline for the MSY objective. These challenges will require effort and a change in *status quo*. Simply adopting additional exemptions to the LO will jeopardise the achievement of the MSY objective and of good environmental status, as required by the Marine Strategy Framework Directive. Crucially, it will betray the intentions behind the CFP reform.

A full closure of fisheries in large parts of EU waters is not a desired outcome for any of the stakeholders. However, to prevent this scenario, it is now imperative that industry and Member States commit to real change. This must start with full documentation and a clear plan of actionable measures to reduce unwanted catches. These commitments are a necessity if illegal fish products are to be

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<sup>19</sup> STECF 17-08 report

<sup>20</sup> WWF, "[Remote Electronic Monitoring in Fisheries Management](#)" (2015)

prevented from entering the EU's market, and if the expectations of EU citizens and consumers are to be met.

## Annex: Decision-support tree

