16 July 2012

Summary: Progress of CFP reform proposals with regards to discards

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Passage of CFP reform basic regulation proposals – co-decision process

From July 2011 through to the end of 2012 the CFP draft proposals will pass through legislative process (co-decision procedure within the EP and Council). There are three institutions involved in the European Union decision-making process: the Commission, the Council of the European Union and the European Parliament (EP) supported and advised by various expert committees and groups. In principle under the co-decision process:

- The Commission proposes new laws;
- The Parliament and Agriculture and Fisheries Council adopt them;
- The Commission and the Member States implement them;
- The Commission ensures that the laws are properly taken on board.

Timetable – Dates with commentary on key events:


There are a number of milestones (some of which provide opportunities to lobby):

- 19 March 2012 – Orientation debate on discards in Fisheries Committee.
- 19 and 20 March 2012 - Agriculture and Fisheries Council, Brussels

Fisheries ministers from the 27 EU Member States met in Brussels on 19 March to discuss the reform of the Common Fisheries Policy. An orientation debate is scheduled on the package of proposals put forward by the European Commission, looking in particular at the discard ban.

The background paper wanted to focus this on three questions:

- What should be the modalities of the implementation of a discard ban: should it be on a species-based or fisheries-based approach? How to ensure a clear and feasible time schedule for the introduction of the landing obligation? If the landing obligation would be fishery based, should it include all commercial species? How could fishing opportunities be adjusted under the landing obligation to ensure the relative stability of catches?
- How should minimum conservation reference sizes be set in the context of the landing obligation? How can we ensure that minimum conservation reference sizes are set at levels that ensure the highest possible degree of selectivity to avoid unwanted catches in the first place? How should we deal with the inevitable residual unwanted catches that cannot be avoided in spite of increased selectivity, in particular with residual unwanted catches of juveniles?
- How should the CMO and the EMFF contribute to the avoidance of unwanted catches through selectivity and to the implementation of the landing obligation?

**Lobbying activity**

**Proposed joint declaration to coincide with above**

Reported joint declaration on fishing discards by a group of EU Member States – led by France and Spain – to pass a 'declaration' stating:

- reiterate their view that the wasteful practice of discarding fish, that is tolerated and in some cases even promoted by the current structure of the management system, constitutes a considerable obstacle on the road to a sustainable fisheries policy;
- consider that a discard ban as proposed in the draft basic regulation of the future CFP is unrealistic and too prescriptive, and that a pragmatic approach is needed especially in the context of mixed fisheries, particularly in the Mediterranean;
- support instead the inclusion in the basic regulation of the ambitious objective of a significant reduction of discards.

http://cfp-reformwatch.eu/2012/03/discard-declaration-cancelled-but-council-adopts-conclusions-on-external-policy/
http://www.guardian.co.uk/environment/2012/mar/15/joint-declaration-discards

There were views that if this ‘declaration’ was passed this could derail CFP reform proposals and the proposal to ban discards would effectively be over. Richard Benyon said: "We do not support this declaration and will pressing the EU hard to end the wasteful practice of discarding fish."

- **26-27 April 2012** – Orientation debate on Regionalisation and Transferable Fishing Concessions in Agriculture and Fisheries Council.
- **2 May 2012** – Draft Concrete legislative proposal on the basic regulation, published to be reviewed by MEPs. Rapporteur Ulrike Rodust.

**2 May 2012 - Draft concrete legislative proposal - Key amendments re discards:**

- Amendment 7. Measures are needed to reduce the current high levels of unwanted catches and to eliminate discards. Unfortunately, previous legislation has often obliged fishermen to discard valuable resources.
- New amendment 8. The obligation to land all catches should be introduced on a fisheries-by-fisheries base. This would allow for the adoption of multiannual plans that include all necessary detailed provisions for the fishery concerned, before the obligation to land all catches comes into force in this fishery. Fishers should be allowed to continue discarding species for which the best available scientific advice indicates a high survival rate when released into the sea under defined conditions for a given fishery.
- New amendment 99. Member States shall conduct pilot projects aimed at improving selectivity in a fishery, by the end of 2014. The results of those pilot projects shall be reflected in the long-term management plan of each fishery in the form of additional incentives to use the most selective gears and fishing methods available. The Union shall provide financial support for the use of selective gears in order to reduce unwanted and unauthorized catches. Financial support measures shall give special consideration to fishermen who are affected by the obligation to land all catches and who are operating in a mixed fishery.
- Amendment 105. At the latest from 1 January 2016: demersal fisheries targeting whitefish/gadoid species, e.g. targeting cod, haddock, hake and saithe (changed from 1 January 2015).
10 May 2012 - Environment Committee adopts opinion (provisional version) on CFP reform aimed at maximum economic yield. The report was adopted by the committee with 50 votes against 0, with 8 MEPs abstaining. The original 542 amendments have been replaced by a list of 38 consolidated amendments. All 38 consolidated amendments were adopted.

10 May 2012 - Environment Committee opinion - Key amendments re discards:
- Setting a target of achieving above maximum sustainable yield in all fisheries by 2015 (no overfishing).
- Long term management plans to be agreed for all fisheries, based on best scientific evidence or the precautionary principle.
- Restrictions on the degree to which Fisheries Ministers can set quotas that ignore scientific evidence
- Requiring all fish caught to be landed and ending discards, to promote the use of more selective fishing gear
- Long-term goals to restore stocks to levels that can produce the maximum economic yield for fishermen.

14/15 May 2012 - Orientation debate on MSY in Agriculture and Fisheries Council.

14/15 May 2012 – MSY Orientation debate:
As Fisheries Ministers discussed how to achieve the goal of maximum sustainable yield (MSY), it became clear that almost all of them want to reach this goal later than 2015, which is the year proposed by the Commission.

21 May 2012 - The draft concrete legislative proposal (published 2 May 2012) were presented in the Fisheries Committee.

21 May 2012 – Fisheries Committee suggests new timetable.
Other Committee members may then draft amendments to the report. The Fisheries Committee may take into account the opinions of the Committees for Development, Budget, Environment and Regional Development. The deadline for amendments is the 18 June 2012, there will an exchange of views on the amendments on 16 September and a vote in the Fisheries Committee on 9 October 2012 (moved from 11 July 2012).


22 May 2012 – Defra briefing on legislative procedure.

22 May 2012 – Defra briefing on key aspects.
- Regionalisation – Defra is aiming to have a process which enables Member States and stakeholders to work together regionally, and to have a process which doesn’t refer disputes back to the Commission but provides a mechanism for the MS’s to solve it themselves. They want the MS, with the help of the advisory councils, to propose multi-annual plans, which would contain much less detail than say the cod recovery plan. Once the plan was agreed it would go into EU law. Then the detail would be decided by the same MS. The Commission could put that into effect quickly without the need for co-decision via the implementing acts. Defra seem reasonably hopeful that this plan is going to be supported.
- Discards – Whilst Defra is fully supportive of zero discards, there has to be a move towards practical solutions being employed (this is happening in negotiations). There is a recognition that incentivising reductions and getting improved technical solutions is the way forward. It is thought that the solution to working towards zero discarding lies in tackling the issue fishery by fishery in the multi-annual plans.
- Transferable Fishing Quotas – This is a very controversial proposal and there is diminishing support for mandatory TFQ’s (probably only Spain supports it). Defra can see the advantage in creating an asset for a business, but also recognises that the system wouldn’t suit all parts of the fleet, and so it is pushing for a non mandatory system with the decisions made at national government level.

- MSY – Defra is already committed to, and signed up to, international commitments for MSY. But they know that it needs to reflect robust science and that it may not be possible in all species at all times. They feel it needs to be delivered through the multi-annual plans. It was pointed out that the difficulty arises when you move from a political objective into a statutory requirement which may not allow enough flexibility. The words “where possible” are key, it has to be a scientifically and practically possible target, so there must not be a non-flexible statutory requirement. Again, there is little tie up with MSFD, as CFP talks in terms of FMSY, and MSFD in terms of BMSY.

- (30 May 2012 – Fisheries Committee public hearing on EMFF).
- (31 May 2012 – Fisheries Committee to vote on CMO Report. 500 amendments tabled).
- 12 June 2012 – General approach on Basic Regulation, CMO and partial general approach on EMFF to be discussed in Agriculture and Fisheries Council.

12 June Agriculture and Fisheries Council – General approach

This general approach constitutes a political agreement within the Council on the CFP reform pending the future first-reading position of the European Parliament. With regard to the basic regulation on the CFP, the compromise supported by a majority of delegations developed proposals for several outstanding issues. On maximum sustainable yield (MSY) the Council wants to achieve MSY exploitation rates “where possible” 2015 and 2020 for all stocks. On the discards ban, Council has agreed on having one date for the main species and a later date for bycatch species. For the North Sea, the discard ban is proposed to be gradually introduced between 2015 and 2018. Parts of the text on discards are still in [square brackets], and a special group in Council will deal with the details at a later stage.


Council press release highlights:
- Maximum sustainable yields (MSY): the compromise aims to achieve MSY by 2015 where possible (e.g when scientific advice on the stocks are available) and by 2020 at the latest. A consultation with third countries concerned will be initiated in case when the stocks are shared.
- Multiannual plans: the compromise establishes that member states should manage fisheries in more detail through quantifiable targets linked to biological parameters as well as safeguard and remedies. It applies the MSY to the significant stocks in multiannual plans while specific measures applies to other stocks with an approach taking into account interactions between stocks.
- Landing obligation and discards ban: a gradual approach of the policy is proposed but the aim is still the elimination of discards. Concerning the landing obligation in identified fisheries a specification through multiannual plans within a fixed timeframe is laid down.
- Regionalisation: this concept is supported by a vast majority of member states as it accepts that one size does not fit all. The compromise introduces also an alternative model for regionalisation where member states adopt national measures through regional cooperation.
- Advisory councils: the compromise foresee the creation of additional advisory councils namely one for the Black Sea and one for outermost regions of the EU.
- Transferable fishing concessions (TFCs) and capacity management: as requested by many delegations, the agreement stipulates that TFC systems should be voluntary.
Exemptions are made possible in the case of the implementation of an action plan and a specific report in accordance with the EMFF.


- **18 June 2012** – Deadline for amendments to Fisheries Committee on Basic Regulation.
- **20 June 2012** - Fisheries Committee adopted reports on reporting obligations and CMO (call for: date of catch on label to be voluntary; a legislative proposal by 1 January 2015 to introduce a new EU eco-labelling system for fisheries products). Also drafted opinions on capacity reduction and provisions for EU funds.
- **11 July 2012** - Fisheries Committee adopts overarching communication on CFP reform.
- **16 September 2012** – Exchange of views on the amendments in the Fisheries Committee.
- **9 October 2012** – Vote in Fisheries Committee. Once the report is adopted in the Fisheries Committee, it is placed on the agenda of a plenary session of the EP for comment and amendment.

**Next steps:**
- After this first reading it then goes back to the Council. Either the Council approves the EP position, and the legislation is adopted in EP wording; or the Council does not agree with the EP, in which case it adopts a “position at first reading”, stating its reasons.
- If the Council adopts a position at first reading, then the EP conducts a second reading. The process is similar to the first reading: committee stage followed by adoption in plenary. The EP can agree with the Council position at first reading, reject by a majority the Council’s position, or suggest amendments.
- After the second reading in the EP the Council can agree the amendments and the legislation is adopted. If the Council does not agree, then a Conciliation Committee is convened to negotiate an agreement. The Conciliation Committee is made up of members of the Council or their representatives and an equal number of representatives of the EP, as well as the Commissioner responsible. The Council and EP must then both adopt the compromise.
- This process could repeat up to three times. It is very likely that agreement will be reached after the third time (possibly the second, but more likely the third) but there is no guarantee this will be before the end of 2012.
- **1 Jan 2013** – proposed entry into force of reviewed CFP.
What the CFP reform proposal says re discards

European Commission proposal: Regulation of the European Parliament and of the Council on the common fisheries policy

A discard ban introduced gradually in three steps:

- From 1 January 2014 – small pelagic fisheries and fisheries for industrial purposes, [e.g. targeting mackerel, herring, horse mackerel, blue whiting, boarfish, anchovy, argentine, sardine, sardinella, capelin; sprat, sandeel, and Norway pout;]
- From 1 January 2015 most valuable demersal species (demersal fisheries targeting whitefish/gadoid species, cod, hake and sole) (Fisheries Committee proposal has amended this to 1 January 2016);
- At the latest from 1 January 2016 haddock, whiting, megrim, anglerfish, plaice, ling, saithe, pollack, lemon sole, turbot, brill, blue ling, black scabbard, roundnose grenadier, orange roughy, Greenland halibut, tusk, redfish and Mediterranean demersal stocks. (Fisheries Committee proposal has amended this to 1 January 2018);
- The discard ban would cover the listed species, regardless of whether they are managed with quota or effort.

Selectivity to play a key part:

- There needs to be concrete measures to avoid unwanted catches in the first place. These measures can be more selective gear, restricting access to juvenile aggregation areas, real time closures etc.

In the case of unintentional catches despite improved selectivity? Fish with known high survival rates should be identified and released alive back into the sea. All other fish caught would be landed and counted against the quotas. These catches would be handled as follows:

- Undersized fish. Minimum conservation reference sizes will be set on biological grounds. These will be the yardstick for developing the best gears to minimize catches of juveniles. The measures can then be adapted at regional level via regionalization to obtain the best results.
- Fish below this minimum size can only be sold for fish meal or pet food production. Fishermen can thus cover the landing costs, but without generating financial gain.
- Fish caught in excess of individual quota. Fish caught in excess of individual quotas can be marketed normally. Where vessel owners are about to run out of one or more of their quotas they need to buy or lease quotas from another vessel owner in the same MS. Where this is impossible quota overshoot rules apply as it is the responsibility of the fishermen to ensure that they have all quotas necessary to land their catches.
- Overshoot of national quotas has to be dealt with by the MS through by-catch reserves, borrowing or banking of quotas between years, or swapping quotas with other MS. If this is not sufficient the overshot amounts would be deducted from the following year’s quota.
- Under effort management systems all commercial species which are above the minimum size can be marketed and sold normally as long as the effort allocated is not exhausted.

In the UK:


Discards

- Defra remains mindful of the anger and impatience that the terrible waste of discards generates amongst the public and fishermen, and we will continue to press for ambitious
measures that progressively eliminate discards in our fisheries, as soon as possible. The aim is to reduce unwanted catches in the first instance, including, tailoring the approach to species that show high survival rates. Therefore, in the context of landings obligations we should take account of fishery specific factors, including available scientific evidence on the survivability of the species.

- The Committee is right to highlight the practical difficulties inherent in eliminating discards. We are well placed in the UK to understand these, and are already working with the industry in overcoming them. However we will continue to press for ambitious measures to progressively eliminate discards in our fisheries, as soon as possible. We consider that there must be an emphasis on eliminating unwanted catches in the first instance. The CFP should provide the incentives and regulatory framework to drive the necessary changes in fishing activity and behaviour on a fishery by fishery basis and in some cases this may include introducing a fully implemented and enforceable discard ban.

- Member States should be accountable and responsible for working towards achieving discard free fisheries and for fleet mortality levels. This means working with industry to introduce appropriate measures, including expansion of the ‘catch quota’ approach as well as improvements in gear selectivity.

- We agree that under the new CFP Fishing opportunities should be based on what is caught, rather than what is landed, and these opportunities must continue to respect relative stability. In order to do this, it is important that the setting of fishing opportunities takes into account, and incentivises, the submission of robust data on catches. This approach will need to be considered in negotiations as part of the wider context of the CFP.

- We are pushing for the implementation of a range of methods that ensure all catches can be successfully documented against quotas. It is important that the methods used to do this are effective, enforceable and affordable. The UK has had much success piloting CCTV monitoring systems used in our catch quota pilots in order to verify catches and enforce a landings obligation.

EFRA Report - EU proposals for reform of the Common Fisheries Policy. 24 February 2012. A report published by the House of Commons's Environment, Food and Rural Affairs Committee concludes that the European Commission’s proposal for an out-right ban beginning in 2014 of "commercial" fish discards - the controversial practice of fishermen being forced to throw overboard any fish not permitted within their quota allowance - is a "knee-jerk reaction" to the problem.

http://www.publications.parliament.uk/pa/cm201012/cmselect/cmmenvfru/1563/156302.htm

Key points from section 4 (discards):
- We strongly support the Commission's desire to minimise discarding rates. However, we are concerned that by deciding to implement a ban so swiftly and with so little scope for stakeholder engagement, the Commission risks creating a scheme that will be unworkable and will be flouted, or worse, will merely shift unwanted fish in the sea to unwanted fish on land. We suggest it might be advisable to delay the discard ban until 2020 to give time to do the groundwork for its successful implementation. This is not an excuse to ignore the discard problem—effective and proactive measures must be put in place in the mean time to incentivise more selective fishing.
• Defra should ensure that the future European Maritime and Fisheries Fund can support measures that provide additional economic incentives to fishers that adopt more selective gear, as well as covering the cost of investing in the new gear.
• Defra should support a rapid shift from counting the fish landed against quotas to counting the fish caught against quotas. This will address the problem of inaccurate reporting of fish mortality due to unrecorded discards in the period before the discard ban is implemented.

Industry views in the UK (letter from DAG to Commissioner Damanaki Jan 2012).
• The proposal does not put adequate emphasis on avoiding the capture of species that are discarded, in particular before the landing obligation comes into force.
• Article 15 (Obligation to land all catches) is prescriptive in that it defines time-frames and names commercial species. What Article 15 should contain is the high-level requirement for management plans to incorporate staged discard reductions on a fishery by fishery basis, or an eco-region basis as appropriate. It is important that the reductions are staged to ensure a gradual, adaptive process, and supported by a range of measure options.
• Long term management plans should provide a framework within which fishermen can, under the appropriate guidance and supervision of regional bodies, experiment with various technical measures (and deployment patterns) in order to reduce their discards and their impact on fish stocks and the marine ecosystem. Such flexibility will be necessary since fishermen will be trialling adaptations to lower their level of by-catch and discards.
• Incentives (and disincentives where necessary) must be built into all fisheries management plans. Fishermen need to be rewarded for fishing more selectively, for discarding less and for fishing with a lower overall environmental impact, whereas those who choose to fish “as usual” should not enjoy a relative advantage.
• Aspects of the proposed CMO Regulation may encourage discards. One example is the disparity between the minimum marketing size and the conservation reference sizes (Article 39(2) of the proposed CMO Regulation). The CMO Regulation has attracted substantial interest amongst Members and we anticipate a more detailed response specifically on its planned provisions.

Seafish position
Everyone in UK seafood understands and embraces the importance of finding a successful mechanism to eliminate discards. The measures that will be required are complex and must be developed in close collaboration with all concerned, with adequate time allowed to develop workable solutions that will be fully endorsed by everyone. Only in this way will we achieve a discards ban that is properly effective and supports a long term sustainable future for the UK seafood industry.
What UK industry is doing to address the discards issue
There are a number of positive steps being taken by the seafood industry to address the whole discards issue:

1. Gear selectivity
It is often possible to make fishing gear more selective so that bycatch and discards are reduced. Much discarding occurs because fishing gears are not selective enough. The UK has been at the forefront of initiatives to improve selectivity and reduce cod mortality. In the context of securing a satisfactory agreement on the operation of effort restrictions under the cod plan, and in order to improve cod stocks, further reduce discards and enable the UK fleets to take their full relative stability shares, the UK administrations are committed to work with their fishing industry to develop and introduce by 1 July 2012 additional selectivity measures reflecting the circumstances of different areas and different fisheries. As a result two new selectivity trials are now underway.

- **Irish Sea selectivity trials** - Seafish is managing a new project to trial four different highly selective TR2 gears operating on Irish Sea nephrops grounds. A number of selectivity devices have been tested by the Northern Ireland fleet in recent years and significant reductions have been achieved, however the focus this time is on cod. The industry has come up with some promising designs that will be trialled against standard gear and the Swedish Grid. Whilst the Swedish Grid is accepted by the European Commission as an effective discard reduction method, the aim is to find something just as effective but easier to use in practice, especially for smaller vessels.

- **Nephrops grid trials in Scotland** - Seafish will be running flume tank and sea trials on a new grid design aimed at reducing the numbers of discards in the Scottish trawl fishery for nephrops. The main aim of this project is to produce a grid that is similar in design to the Swedish grid, as efficient at reducing discards, and is suitable for fitting in the trawls used on Scottish vessels and easy to handle onboard. The intention is to model several different shapes and sizes of grids and combine this with several methods of fitting and positioning within the trawl to decide on two or three configurations to test at full scale.

- **Conservation Credits Scheme** - In Scottish waters a whole host of measure were introduced under the Conservation Credits Scheme including a “one-net rule” so that vessels carry only one regulated gear mesh size per trip. Special rules were introduced for twin-rig vessels and single trawl vessels. There have also been selectivity trials covering Nephrops, cod and whitefish mixed fisheries. [http://assets.wwf.org.uk/downloads/scottish_conservation_credits_scheme.pdf](http://assets.wwf.org.uk/downloads/scottish_conservation_credits_scheme.pdf)

- **Project 50%** - Funded by Defra and coordinated by Cefas, Project 50% used social scientists’ skills to understand the reasons behind the apparent resistance to adopting new gear modifications and to help guide a new approach. Devon beam trawler crews agreed to try to reduce their discards by an ambitious 50%. Working with local net-makers, the fishermen trialled their own new net designs alongside standard trawling configurations. Average discards reductions of 52% were recorded, and the most successful boat achieving a 69% reduction. **There are 11 fact sheets. See:** [http://www.cefas.co.uk/our-science/fisheries-information/marine-fisheries/fishing-gear-technology/project-50.aspx](http://www.cefas.co.uk/our-science/fisheries-information/marine-fisheries/fishing-gear-technology/project-50.aspx)

2. Regulatory controls
Fish may be discarded for legislative reasons with regulations dictating the amount of fish (Total Allowable Catch or quota), the proportion of species and the size of fish (minimum landing size) that can be landed. There are two major trials to address this.

- **Cod Catch Quota Scheme** - In 2010, Defra and Marine Scotland introduced a voluntary pilot Cod Catch Quota Scheme (CCQS), where participating vessels must retain on board and land all cod that is caught, regardless of size and marketability (the trials vary slightly). Those participating in the Catch Quota Scheme are now operating a fully documented fishery for cod. Twenty three vessels, six in England and 17 in Scotland, took part in a trial in 2010. In 2011 58 Scottish skippers applied to join the Cod Catch Quota Scheme in Scotland and 26 have been approved. Applications to Defra have not yet been announced for the North Sea Cod Catch Quota Scheme and a new Catch Quota Scheme for Channel sole. In 2010 the amount of additional quota set aside to run the scheme amounted to 5%, in 2011 it was increased to 12%; vessels are limited to 30% additional cod quota. The trials will continue in 2012.

http://www.scotland.gov.uk/Topics/marine/Sea-Fisheries/17681/CQMS082011

3. Managing fishing effort
These schemes depend upon vessels reporting in when they start to encounter particular fish at levels over a given threshold.

- **North Sea** - A Voluntary Real Time Closure (RTC) Scheme has been implemented throughout the cod recovery zone since early 2008. Initially this was to protect spawning cod but was later expanded to cover all cod. When a high abundance of cod is identified a limited area is closed for a fixed period of 21 days after which the area will automatically re-open. Estimated reduction of 10% in cod mortality during 2009


- **RTC** - In Scottish waters there are a maximum of nine RTCs in place at any one time. There are also seasonal closures. Localised RTCs provide necessary protection for local aggregations of fish.

http://www.scotland.gov.uk/Topics/marine/Sea-Fisheries/Regulation
http://www.scotland.gov.uk/Topics/marine/Sea-Fisheries/17681/closures

4. Marketing
The food service and retail sectors are actively working towards bringing under-utilised species to the market.

- **Government initiatives** – Defra, under its ‘Fishing for the market’ project, is working with industry to influence the market, remove barriers and create new incentives to improve sustainability for edible, under-utilised species.

http://www.seafish.org/media/393246/defra_fishingforthemarket_201010.pdf

For more information see:
http://www.seafish.org/fishermen/responsible-sourcing/protecting-fish-stocks/discards
http://www.seafish.org/media/Publications/SeafishGuidetoDiscards_201012.pdf

16 July 2012