

Pelagic landing obligation

Overview of the landing obligation

A key element of the reformed Common Fisheries Policy (CFP), which was effective 1 January 2014, is the progressive elimination of discards in EU fisheries through the introduction of a new landing obligation. The landing obligation is effectively a ban on discarding fish overboard.

The landing obligation will apply only to stocks subject to Total Allowable Catches (TACs), as well as Mediterranean stocks subject to Minimum Conservation Reference Size (formerly Minimum Landing Size (MLS)).

Although the landing obligation is not enforceable on non-EU countries fleets which are regulated by their own national laws, or by RFMOs, the EU will address this by developing specific derogations for non-EU vessels fishing in EU waters.

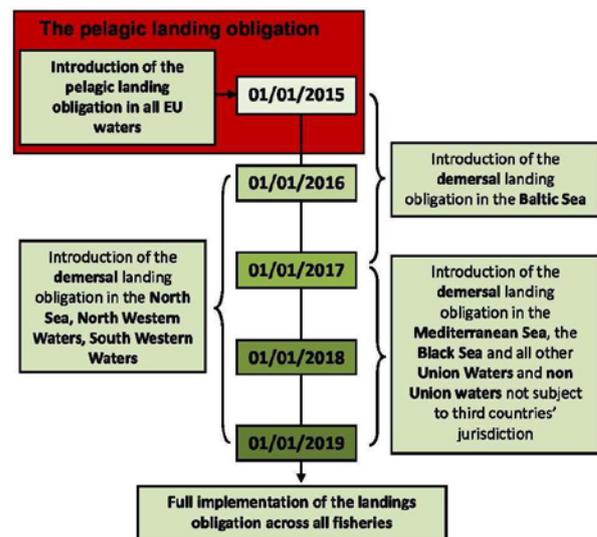
Under the landing obligation skippers will be obliged to land all commercial (quota) species they catch. The switch to a 'land-all' policy will inevitably require changes to the way quota is managed, and to the way some skippers operate. Quotas will now represent an entitlement to catch a set amount of a particular fish stock, rather than simply land a set amount, while all catches must be landed.

To help ensure that the landing obligation is workable, particularly in a mixed fishery context, a number of flexibilities are contained within the legislation. The landing obligation constitutes a new way of managing EU fisheries and making it work for every part of the fleet will require a great deal of effort by both industry and government.

When will it be introduced?

The landing obligation will be introduced in fisheries of interest to the UK fleet from 2015 onwards, and will be introduced for all fisheries covered by the CFP by 2019.

Firm dates have been set. The landing obligation is to be phased in fishery by fishery, starting with pelagic stocks on 1 January 2015.



This briefing note explains what is meant by the pelagic landing obligation, its legislative framework and the issues it is raising for the seafood industry.

See also

<http://www.seafish.org/responsible-sourcing/conserving-fish-stocks/discards/discards-under-cfp-reform>

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The pelagic landing obligation

From 1 January 2015 pelagic and industrial fisheries (and in the Baltic salmon and cod fisheries) fall under the landing obligation.

The fisheries affected are:

- Pelagic bottom and midwater trawl fisheries targeting herring, mackerel, horse mackerel, blue whiting, sprat, boarfish and argentine.
- Purse seine vessels targeting herring, mackerel, horse mackerel, blue whiting.
- Handliners targeting mackerel.

It will be illegal for these vessels to discard catches of all species subject to catch limits (a vessel targeting mackerel should also land accidental catches of demersal species, e.g. cod). It remains illegal to slip catches (the releasing of fish before the net is fully taken on board). High-grading (selectively harvesting fish so that only the best quality fish are brought ashore) is also no longer possible under a landing obligation.

Catches of prohibited species cannot be retained on board, landed or trans-shipped and must be returned to the sea. For a full list see Art 13 TAC & Quota Regulation 2015.

Pelagic fisheries in international waters are also subject to the landing obligation from 1 January 2015 with the exception of fisheries in non-EU waters where there is a legal obligation to discard in an international agreement (e.g. ICCAT rules relating to Bluefin tuna), and in third country waters there is an obligation to follow third country national rules.

For all other fisheries, there is no change in 2015.

Regional discard plans

The ultimate aim is that Member States' discards policy will be incorporated into comprehensive fisheries level Multi Annual Management Plans. Member States have co-operated at a regional level (e.g. North Sea, North West Waters) and agreed a common approach to discards, in the form of [pelagic discard plans](#) for each region. Agreement on discard rates and the criteria to be used for high survival exemptions etc. has been incorporated into these discard plans.

The European Commission asked the Scientific, Technical and Economic Committee for Fisheries (STECF) to look into issues surrounding the landing obligation. [STECF](#) set up an expert working group to look at the scientific and economic effects of the implementation of the landings obligation, and STECF has subsequently commented on the regional discard plans.

Does everything have to be landed?

The answer is no, not everything. Catches can still be returned to the sea after 1 January 2015 if they are covered by agreed exemptions (de minimis and high survivability) as defined in the regional discard plans. These catches are not counted against the quota, but they must be documented in the logbook. The specific exemptions are detailed in the regional discard plans covering the North Western Waters, the North Sea, the Baltic and the Mediterranean. There are no exemptions for pelagic fisheries for sprat in the Black Sea.

Outside permitted exemptions all catches of quota species will have to be landed and counted against quota. If a vessel's catch exceeds its quota holdings and no additional quota can be sourced, the catch must be landed and the vessel will be in an over-fish position.

What are the permitted exemptions?

High survivability: Exemption from the landing obligation has been permitted for species which scientific evidence demonstrates high survival rates. Research has shown that not all discards die when returned to the sea and that in some cases, the proportion of discarded fish that survive can be substantial.

The Delegated Regulations (which came into force on 1 January 2015) permit catches of mackerel and herring in the purse seine fisheries to be exempt from the landing obligation under the following conditions:

- The catch is released before 80% closure of the purse seine in fisheries for mackerel, and 90% closure of the purse seine in fisheries for herring. If the school consists of a mixture of both species before 80% closure of the purse seine. After these points, release of the catch is prohibited;
- In Areas VIa and VIb, the purse seine gear is fitted with visible buoys clearly marking the limits set out above;
- The surrounded school of fish is sampled before its release to estimate species composition, the fish size composition and the quantity.

De Minimis: The Regulation provides for a de minimis provision under which an agreed

volume of catch can be legally discarded. All quantities of fish released under these exemptions must be reported in the logbook.

The de minimis exemption is intended to provide some flexibility for fleets who can demonstrate that either 1) scientific evidence shows that selectivity cannot be improved or that 2) handling unwanted catches would involve disproportionate costs.

For the Scottish pelagic fleet there is a de minimis for albacore tuna caught in ICES Sea Areas VII and VIII by midwater pair trawlers.

Interspecies Flexibility: The Regulation allows Member States to convert a limited amount of quota of a target species into quota of another, for which catches are in excess of quota or no quota is held. The framework for how this provision will operate is still being decided, however it is likely (according to Marine Scotland) that:

- Pelagic species can only be converted into other pelagic species.
- Quota can only be converted into species that lie within safe biological limits. For the pelagic fisheries this includes: blue whiting (subareas I–IX, XII, and XIV), mackerel in the NEA and potentially herring (I, II, V, IVa & XIV and subarea IV);
- All conversions will be managed at a Member State level and conversions between species will be at a set rate.

Force Majeure: During fishing operations circumstances may occur in which the discarding of fish may be necessary. Force majeure represents a situation in which circumstances beyond the control of the

vessel and crew prevent compliance with the landing obligation. For instance, a vessel may find itself in a position where the pump has a catastrophic failure, meaning that the catch cannot be brought on board and must be released. Situations relating to force majeure must be fully documented and referred to the appropriate authority who will ascertain the legitimacy of the claim.

Management and control

Banking and borrowing: Some quota flexibility has been introduced to help match catch to available quota, to make the obligation to land all catches workable and to mitigate the effect of varying yearly catch compositions. Current banking and borrowing provisions will continue to operate under the landing obligation but will be extended to cover all stocks.

- Producer Organisations (PO) can bank up to 10% of their final end of year allocation and borrow or exceed their end of year allocation by 5%.
- Alternatively POs can borrow up to 10% of their initial allocation of the TAC and subsequently bank 10% of their initial allocation.
- For 2015 only POs are able to bank up to 25% of their end of year allocation for blue whiting and mackerel in all areas, herring in the North Sea and in Areas I and II (ASH).

Control: The pelagic discard ban will be enforced in the UK by the appropriate authorities. Catches caught in excess of quota will place a vessel in an over-fish position and evidence of illegal discarding will be treated as a breach of fisheries regulation.

Technical Measures

In order to make the landing obligation operational certain provisions within the current Technical Conservation Regulation (EC 850/98) contradict the landing obligation and oblige fishermen to discard. There are three key areas – Minimum Landing Sizes, catch composition rules and by catch provisions. As a result the Commission is revising its Technical Conservation Regulation (EC 850/98). It is the intention of the Commission that a new technical measures framework Regulation will be developed during 2015 to facilitate the full implementation of the landing obligation. In the meantime legislation is required to remove any legal and practical impediments to implementation on a transitional basis, while this new framework is being developed.

In the short-term an 'Omnibus' regulation is being developed, to make EU technical measures legally compliant with the discard ban coming into force 1 January 2015. This had not been finalised at the end of 2014.

According to the Commission the existing control rules will continue to apply. The absence of amendments to the technical measures does not stop the implementation of the landing obligation, and the landing obligation and CFP takes primacy over other technical legislation. Contradictory legislation will not be enforced. However there have been calls for more clarity in this area.

The EU did produce a [Q and A](#) in December 2014 which answers key questions on catch composition rules, by-catch provisions in closed areas, minimum sizes and control provisions.

Seafish work in this area

Seafish is working hard on a number of fronts to try to mitigate or reduce the impact of some of these problems.

Seafish has done a considerable amount of work over the years on gear selectivity (mostly for the demersal sector), and we are in the process of building an easily accessible database where all this information is available and hopefully informative for those vessels looking to improve their selectivity.

We completed an economic impact study to determine the likely and potential economic impacts of a discard ban on the Irish Sea *Nephrops* trawl fleet, and two North Sea fleet segments: mixed whitefish trawl and the *Nephrops* trawl in early 2014. The results from these cases studies were fed back to industry and government. A full scale UK-wide Economic Impact Assessment is now underway and is due to be completed by the end of March 2015.

Seafish commissioned a [study](#) to identify commercially available bulk uses or outlets for discards that may be landed, and then assess the feasibility of accessing these bulk outlets. Also just published is a new study to determine the possibility for using all (or part) of the discarded fish currently generated by the English fishing fleet, for [pot bait](#).

Finally, we facilitate a specialist [Discard Action Group](#) (DAG) which is working collaboratively with stakeholders to propose potential solutions and possible routes forward using these, and other, data. In particular DAG is working across the supply chain to facilitate discussion to help develop a pathway to a landings obligation that is practical and workable for the UK seafood industry.

Sources

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Disclaimer

This document has been prepared by Seafish for guidance and draws on notes produced by the EU Commission services, Marine Scotland and the sources above. It is however without prejudice to any interpretation of the Court of Justice and the General Court. This is for guidance only – please refer to the Delegated Regulations or the appropriate authorities for the legal position.

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