



OBSERVATIONS OF CACT-ARVI ON THE
CONCLUSIONS OF THE NGOs REPORT
“Recovering fish stocks and fully
implementing the Landing Obligation
(oceana.org)”

CACT-ARVI

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1. INTRODUCTION

The objective of the Common Fisheries Policy is to guarantee the sustainability of fishing from an environmental, economic and social point of view, as well as to offer EU citizens a source of healthy food and boost the fishing sector, ensuring a fair standard of living for their communities. To meet these objectives and ensure the sustainable exploitation of biological resources allowing the economic viability of fishing, the EU considers that it is necessary to reduce unwanted catches (making fishing more selective) to gradually eliminate the discards.

1.1 LANDING OBLIGATION IN THE REGULATION (UE) N° 1380/2013

To motivate fishing fleets to increase the selectivity of their gears, and thus reduce discards of unwanted catches, the European Union obliges them to land all fish caught subject to Total allowable catch (TAC): Regulation (EU) No. 1380 / 2013 on the Common Fisheries Policy (CFP) establishes in Article 15 the obligation to land all catches of regulated commercial species to count them against the fishing quota. This norm affects the species under TAC, species with minimum commercial size and species with Minimum conservation reference size (MCRS). In this way, the fleet must stop fishing when it reaches the quota, when it is unable to market the fish they don't have quota for or when their catch is below the minimum size for human consumption. The inclusion of this article in the EU CFP regulation responds to the growing concern of the public about discards, which represent a considerable waste of food.

There are exceptions to this landing obligation, which allow the discards without accounting against quota but which must also be documented in the catch record: species whose capture is prohibited cannot be retained on board but their capture must be recorded in the log books. High survival species, fish damaged by predators that pose a health risk and species that are caught in small quantities (*de minimis* exception) may be returned to the sea in those fishing grounds where the technique still does not allow high selectivity.

1.2 IMPACT OF LANDING OBLIGATION ON THE FISHING FLEET

The application of this regulation has a direct impact on the economic sustainability of the fishing fleet, increasing operating costs: vessels that do not have a quota for secondary species will have to stop fishing, losing the catching opportunity of those species they do have quota for. Likewise, in the case of the accidental capture of species of low commercial value, the fleet will have to assume a high cost of handling without economic return.

The increase in operating costs and reduction in revenues is compounded by the logistical difficulty of complying with the landing obligation due to the lack of suitable facilities in fishing ports to process the landed unwanted catch. The law first came into force in 2015 but was fully implemented only from January 2019 without instructions for the implementation of the operation in port, which does not depend on the fishermen but the port authority. Therefore, the fleet had difficulties to manage all the fish that was unloaded and couldn't go to the market. Nowadays, there is not a common protocol in the different ports for the management of the non-commercial landed fish.

The impact of the Landing Obligation on small-scale fleets is even greater. For example, in the case of the Galician fleet, 90% are classified as "minor arts" with passive fishing gears and vessels of less than 8.8 m, which operate in mixed fisheries with both quota and non-quota species. This fleet has limited access to quotas because of their catch history. Hence, the limitation for the operation of this fleet because of the Landing Obligation in mixed fisheries.

1.3 NGOs REPORT

In August 2018, a document came to light¹ in which several NGOs expressed their views on how fisheries in the EU should be managed with the new tools contained in the CFP, in particular the Maximum Sustainable Yield (MSY) and the Landing Obligation.

In this report, the NGOs recommend a policy of "zero tolerance" and immediate application when enforcing the MSY and the Landing Obligation, avoiding the exceptions set forth in the regulation and advocating to subject ships to constant vigilance. They also defend reducing the exploitation of some stocks below their MSY to eliminate bycatch, although they recognize that this may jeopardize the economic viability of the fisheries by choking, and suggest an effective redistribution of quotas as a solution.

¹ The Pew Charitable Trust; Seas at Risk; Oceana; The Fish Secretariat; New Economics Foundation; ClientEarth; WWF. Recovering fish stocks and fully implementing the Landing Obligation. *Oceana.org*. [[Online](#)] November 2018

2. OBSERVATIONS OF CACT-ARVI'S EXPERTS

This brief report aims to disseminate the opinion of scientists of the CACT-ARVI on the main Recommendations cited in the NGOs Report.

The claim that being able to achieve MSY is linked to the Landing Obligation and both are complementary is not entirely true. According to CACT-ARVI scientist Jean-Jacques Maguire "The MSY does not imply that there are no discards and discarding does not mean that the MSY could not be reached." Both are not related if fishing mortality remains low. The term "discard" implies waste only from the human perspective but from a marine ecosystem perspective, there is no such waste. For example, colonies of seabirds will suffer the elimination of discards. This opinion is shared by Sánchez-Lizaso in his report for PECH². Dr Garcia stressed however that the above may be correct unless a proper quota of preys is allocated to seabirds and their feeding areas are protected. The trophic chain issues are complex and generalizations may be dangerous.

2.1 ABOUT KEY RECOMMENDATIONS

One should neither be inflexible nor categorical when it is stated that under no circumstances can fishing mortality be allowed in the stocks if it goes above the MSY level and neither should a policy of "Zero tolerance" be advocated. The intention should be that EU decisions do not involve fishing above MSY on average. In effect, Serge Garcia agrees with Maguire that there is uncertainty in the long-term average value of the MSY as well as in its evolution year after year due to natural oscillations and uncertainties in the valuation of stocks and management of the fisheries. Even in management systems that are close to perfection and that have been well implemented, fisheries have been around 50% of the MSY³. In that situation, zero tolerance management rules intending to react to every little variation of annual catches relative to the theoretical MSY could lead to costly over-intensive management, mismanagement and chaos in fisheries operations and sustainability.

There seems to be a coincidence of criteria when the problem of "choke species" is addressed. Both NGOs and CACT scientists agree that to avoid the closure of fisheries, particularly in the case of multispecies catches, the European Commission, together with the Member States, should seek solutions that allow the

² Sánchez Lizaso, J. L. and I. Sola, E. Guijarro-García, F. González-Carrión, R. Franquesa J.M. Bellido. Research for PECH Committee Discard ban, Landing Obligation and MSY in the Western. [Online] 2018

³ How variable is recruitment for exploited marine fishes? Thorson, James T., Jensen, Olaf P. and Zipkin, Elise F. 7, 2014, Canadian Journal of Fisheries and Aquatic Sciences, Vol. 71, pp. 973-983.

redistribution of quotas that are available (not used)⁴ beyond the traditional swaps. Maguire considers this positive since this solution was successfully implemented in fisheries on the West Coast of the USA. Of course, such redistribution should not modify the historical rights of the fleets involved (guarantee relative stability).

NGOs and CACT scientists also agree on the recommendation to focus mitigation measures on reducing unwanted catches (selective fishing) and for exceptions to be the last resort. Garcia emphasizes that to develop plans for the reduction or elimination of unwanted catches, it is necessary to involve the sector, since they are the most qualified to find innovative and economic solutions if adequate economic incentives are offered. The documentation of the total catches of the target species is very important, Garcia continues, if you want to make a scientific assessment to manage fisheries in a sustainable way.

In any case, it would be necessary to re-evaluate the TAC count of discarded species due to exceptions, where it would be fairer to take into account the mortality of the fish caught (and discarded) than the quantity of fish caught. This would penalize the capture of those individuals who will not contribute to the recruitment for the next generation instead of arbitrary assuming that everything that is captured and returned dies.

Garcia agrees that fishing mortality should not exceed the target for any stock, even if this means that the TAC is not caught, while Maguire notes that it is often the opposite that occurs, some species are fished above the target fishing mortality to allow reaching the TACs for more commercially important species.

Garcia insists on the need to develop economic incentives to reduce bycatch (which should be the main objective of the legislation), especially if you want to implement on-site surveillance.

The NGGs report shows a misinterpretation of the regulation: It is argued that the reason for which the Landing Obligation was implemented is as a tool to reduce fish mortality assuming that fishers would find ways to avoid unwanted bycatch to reduce their Landing Obligation burden. However, forcing fishers to land the bycatches -if the fishing pattern does not change- does not affect mortality at all and the original reason for implementing that regulation was also to avoid wasting resources already captured. The fish caught accidentally die (if they are species with low survival when released) regardless of whether they are taken to land or not, Maguire adds.

⁴ **Fishing Vessels' Owners Co-operative of the port of Vigo.** *Update of the TAC and quota system in face of the ban on discards.* Vigo : s.n., 2017. [\[Online\]](#)

Likewise, the statement in the report about fisheries management being focused on allowing recovery above MSY is not correct. According to the CFP, the approach is to recover and maintain the stock at a biomass that can produce MSY and not above, Garcia indicates, however, that the 1995 UN Fish Stock Agreement provides that stocks should preferably be maintained at a level of biomass higher than the MSY level because (1) the MSY level is not exactly known and changes from year to year due to environmental variations; and (2) at the theoretical average MSY abundance level, the natural oscillations annual the natural oscillations of stocks at the MSY level are often sufficiently amplified to increase the risk of recruitment failure. This was adopted in the UNFSA as part of the Precautionary Approach.

2.2 ABOUT REPORT AFFIRMATIONS ON CHOKE RISK

The exchange of quotas (swaps) faces a political barrier imposed by some Member States that fly the flag of historical right over TACs through the principle of relative stability⁵.

The proposal of the NGOs to avoid choking in mixed fisheries where there is not enough TAC is to reduce the TAC of the most abundant species. According to Garcia, this measure has the same effect of choking.

In the case of choking by capture of fish for which there is a quota but that have a low market value, the problem must be solved from an industrial point of view, says Maguire. Garcia indicates that with the current “selective fishing” strategy, unless fishing mortalities are better adjusted to species productivity across the trophic chain, the consequence is a significant modification of the ecosystem structure, contravening the requirement of the ecosystem approach and sustainable use.

2.3 ABOUT ALTERNATIVE SOLUTIONS AND ASSOCIATED RISKS

Garcia agrees that it is necessary to subject all the stocks with TAC or minimum size to the Landing Obligation because the main issue is to have reliable data on total catch to properly assess the state of the stocks and obtain a more accurate calculation of the MSY and TACs for a sustainable management. In this way, sustainability may be demonstrated in case it is necessary to extend the implementation of the Landing Obligation over time.

About the recommendation of not including species that pose choke risks in the “Prohibited Species” list, Garcia indicates that it is not rational to suppress the TACs for such species to avoid reporting on bycatch. Accidental fishing of these species

⁵ Ulrich, Clara. Research for PECH Committee-Landing Obligation and Choke Species in Multispecies and Mixed Fisheries-the North sea. European Parliament. [\[Online\]](#) 2018.

may be inevitable, and their inclusion in the lists of prohibited species will only encourage illegal discarding, hence the need to incentivize proper recording and documentation of discarded catches of these species. The compulsory landing of these species should be implemented in the regulation for their recount, without allowing their commercialization, as is already the case with species subject to minimum size. However, Garcia is skeptical of the fate of fish landed that cannot be marketed and is destined to aquaculture or fishmeal.

Accurate data acquisition on the survival of bycatch species after being fished and returned to the sea is key for both fleets and ecosystems. In some cases, such as sharks, the Landing Obligation can be counterproductive and damage the stock, which would be less affected if they were allowed to be returned to the sea when accidentally caught⁶.

About grouping several species in the same stock to manage it under a single TAC (as it happens in the management of some stocks), Garcia agrees with the NGO's fact sheet and is clear: "It has been shown that grouping is very dangerous because it causes the depletion of the weakest species", but points out that this weakness is due to a lower resilience of the species and it is not about abundance as stated in the report of the NGOs.

3. CONCLUSIONS

The NGO report contains inaccuracies / misinterpretations, the most important being its affirmation that to reach the MSY the Landing Obligation is necessary, while the inclusion of the perspective from the social, economic and political context, which influences the implementation of mitigating measures, is missing.

Member States are reluctant to agree to TAC swaps because they fear that this would undermine the principle of relative stability. This is a political problem that has to be solved by the EU, to guarantee a quota exchange system that respects historical rights.

More scientific data is needed to calculate MSY accurately and efficiently manage fisheries. The Landing Obligation presents an opportunity for this, although the social and economic sustainability of the measure should be taken into account when implementing it.

⁶ Kingma, Irene. MSC Landing Obligation Seminar. *msc.org*. [\[Online\]](#) December 6, 2018. [Cited: March 15, 2019.]

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