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**COMMUNICATION FROM THE COMMISSION TO THE COUNCIL AND THE
EUROPEAN PARLIAMENT**

A policy to reduce unwanted by-catches and eliminate discards in European fisheries

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1. THE COMMUNITY'S COMMITMENT TO REDUCE DISCARDS

Discarding - the dumping overboard of dead, unwanted fish caught as by-catch - is a serious problem in European fisheries and one which, in the view of the Commission, must be addressed as a high priority. The objective of this Communication is to initiate a policy which will reduce unwanted by-catches and progressively eliminate discards in European fisheries.

A new discard policy will reduce unwanted by-catches by encouraging behaviour and technologies which avoid unwanted by-catches. The instruments are a progressive introduction of a discard ban – where all finfish and crustaceans caught will have to be landed – and supplementary measures such as encouragement to improve the selectivity of fishing gear, requirements to change fishing ground and real time closures.

The basic implementation principle is to regulate what is caught in the first place rather than to regulate landings. The policy will be that management will be based on requirements for specific outcomes – maximum acceptable impact – to be met rather than regulations of specific technical solutions. Such results-based management will, wherever possible, leave it to the industry to identify technical solutions which are economically and practically feasible and produce the required results. This is an important change in approach in the implementation of the Common Fisheries Policy.

The need to reduce discards in European fisheries was identified by the Commission as an important objective for the future of the Common Fisheries Policy in its Communication on this subject adopted in 2002¹. Subsequently, the Council adopted conclusions on 3 April 2003 inviting the Commission to explore different ways to resolve this problem and, in particular, to promote the implementation of pilot projects to reduce discards in cooperation with the fishing industry. However, although a few projects have materialised and demonstrated good results, most fisheries remain unaffected and the impact on overall by-catches is negligible.

This Communication presents issues for discussion and outlines the policy approach to reduce unwanted by-catch and progressively eliminate discards. Further background information can be found in a Commission Staff Working Paper relevant to this Communication².

¹ COM(2002) 656. Other Communications which refer to the discard issue from an environmental perspective are COM(2002) 186 and COM(2004) 438.

² Technical Background to the Commission's Communication "A policy to reduce unwanted by-catch and eliminate discards in European fisheries" - Commission Staff Working Paper SEC(2007) 380.

2. THE EFFECTS, CAUSES AND EXTENT OF DISCARDING

The FAO defines discards as “that proportion of the total organic material of animal origin in the catch, which is thrown away, or dumped at sea for whatever reason. It does not include plant material and post harvest waste such as offal. The discards may be dead or alive”³. Discards may consist of species which are commercially exploited but which, due to market considerations, quota restrictions or minimum landing sizes, are not taken ashore. Discards may, according to this definition, also be any other organism which is caught incidentally such as non-target finfish, crustaceans, molluscs, sea mammals and seabirds.

The capture of unwanted by-catches and their subsequent discarding has several negative consequences. Unwanted by-catches are a waste of societal resources. The capture of juvenile individuals of target species results in lower catch opportunities for those species in the future and a reduction in the spawning biomass for the future since the juveniles caught will not contribute in future spawning seasons. The discard of mature individuals of target species represents a waste and immediately reduces the spawning biomass of that stock. The capture and discard of fish, crustacean, sea bird or sea mammal species which are not targeted by fisheries, is an unnecessary negative impact on the marine ecosystem as it affects the functioning of the ecosystem and its biodiversity negatively without providing any benefits to society. Certain marine organisms including some species of sharks and rays are very sensitive to fishing and may as a result be reduced to very low levels even when they are only caught as unwanted by-catch. In such cases the incidental killing of even a few individuals may be critical from a biodiversity perspective. Returning unwanted by-catches back into the sea does not reduce the problem because most species of fish and crustaceans will be dead or have low survival in the sea after having been caught and then discarded.

Catches of marine organisms are discarded because of economic considerations and/or due to some existing regulations.

There are strong economic incentives in many fisheries to discard fish to maximise the value of the landing, so called 'high-grading', in particular when different sizes or qualities of fish command different market prices or when species with very different market value are caught together. Furthermore, the value of some organisms may be low or non-existent because they do not have a market. But even if there is a market, to handle and use storage space onboard to store all marketable organisms caught, when priority could have been given to high-value organisms is costly, and could result in considerable economic loss.

Some regulatory instruments which are currently used lead inevitably to discards. The reliance on TAC's as the main management instrument in mixed fisheries leads to discards when above-quota quantities of some species are taken while there is still quota left over for others. The use of minimum landing sizes also leads to discards, especially in mixed fisheries where species of different adult size are caught together.

³ FAO Fisheries Technical Paper 339 (1994); FAO Fisheries Report 547 (1996); FAO Fisheries Technical Paper 470 (2005).

Data on discards in European fisheries have been collected systematically under the Data Collection Regulation since 2002. The Scientific, Technical and Economic Committee for Fisheries (STECF) has provided a preliminary overview⁴ of discard rates based on data from 2003-2005. Discard rates are in the range of 20-60% of the catch weight for various typical fisheries exploiting demersal stocks. Cod fisheries in the Baltic were estimated to have low discards. In the North Sea, Beam trawls were estimated to discard 40 to 60% of the catch and demersal trawls around 40%. In the areas west of the British Isles, bottom trawling gear discard in the range of 20-40%. In the more southerly Atlantic Community waters, trammel and gill nets discard less than 20% while bottom trawling gears discard in the range of 30 to 60%. The data available do not cover all fisheries and species and some data are not representative. STECF has therefore not been in a position to estimate the overall absolute amount of discards in European fisheries. Estimates based on earlier studies⁵ indicate discards in the order of 500 000 to 880 000 tonnes in the North Sea in the 1990's, of which beam trawlers targeting sole, Nephrops trawlers and in some years, trawlers targeting whitefish, are responsible for the largest amount.

3. MEASURES TO PROGRESSIVELY INTRODUCE A DISCARD BAN AND TO REDUCE UNWANTED BY-CATCHES

A policy to reduce unwanted by-catches through a discard ban on commercial species has inter alia been introduced in some fisheries in Norway, Iceland, Canada and New Zealand. The experiences from these cases largely relate to fisheries which are able to target one species at a time and the complications arising in fisheries which catch a mixture of species are thus not encountered. In the Community there are some fisheries - such as many pelagic fisheries - which are able to target single species and where international experiences may be applied. There are however, many demersal fisheries in the Community which catch several species simultaneously and where these experiences cannot be directly applied.

The reduction of unwanted by-catches and progressive elimination of discards in European fisheries will therefore require a combination of several instruments.

A new discard policy aims to remove the practice of discarding. This will be achieved in EU waters on a fishery by fishery basis through tailored plans that could include discard bans and other supplementary measures to reduce by-catch. At the same time, the Community will promote initiatives for elimination of discards in Regional Fisheries Management Organisations.

Discard bans would apply to all finfish and crustaceans. Exceptions may be made where high long-term survival of specific species discarded from specific fisheries has been clearly demonstrated.

Existing management measures which presently encourage discarding in mixed fisheries must be reviewed and their use revised in order to reduce or remove such encouragement. The use of TACs in mixed fisheries without supplementary

⁴ Discarding by EU fleet. Report of the Scientific, Technical and Economic Committee for Fisheries - Commission Staff Working Paper http://ec.europa.eu/fisheries/legislation/reports_en.htm.

⁵ As summarised in FAO Fisheries Technical Paper 470 (2005).

measures to control effort will encourage continued catch of species, for which a vessel has exhausted its quota, as long as there are species left for which it has a quota. TACs must therefore be combined with measures to keep effort within limits which will stop the fisheries when there are only quotas on a few species left for which to fish. In addition, in mixed fisheries there may be a need to develop mechanisms for some flexibility and transfer of quotas.

Minimum landing sizes presently require vessels to discard undersized fish. If a requirement to land all fish is introduced, juvenile fish should be protected against targeted fisheries by making the marketing rather than the landing of such fish illegal by introducing minimum marketing sizes for human consumption instead.

Other existing CFP instruments and supplementary measures may be used to reduce unwanted by-catches and eliminate discards. Such instruments include encouragement to develop and use selective gears, real-time area closures, an obligation to switch fishing grounds, quota flexibility, fees on unwanted by-catches and expropriation of unwanted by-catches.

The most effective measure to motivate efforts by the industry to reduce unwanted by-catches is a ban on discards. A discard ban puts a cost on taking unwanted by-catches and will thus motivate development of technologies and practices which catch fewer unwanted fish. The combination of a discard ban with supplementary measures such as real-time closures and obligation to change fishing ground will combine strong motivations to avoid by-catches with some guidance on how to avoid by-catches.

Instead of introducing an extended set of technical regulations, an approach based on maximum acceptable impacts of fisheries operations will be used. The negative impact of fisheries to be reduced as a result of this policy is the unnecessary killing of marine organisms by fishing. Standards for maximum acceptable by-catch of non-marketable, juvenile or above-quota organisms will thus be defined on a fishery-by-fishery basis. These standards will initially be based on a reduction relative to the present situation and will be progressively reduced further in order to encourage technological developments and adaptations of fishing practices which will avoid such by-catches.

The main thrust of this initiative is thus to progressively eliminate discards and significantly reduce unwanted by-catches through management which specifies outcomes rather than means. Such an approach will be an important change in European fisheries management. In this approach extensive micromanagement specifications of fishing gear and fishing practices are replaced by requirements for specific results (maximum acceptable by-catch) and the industry is then left free to choose those solutions which are most compatible with the practical and economic realities of the fisheries. The approach will thus rely extensively on initiative from the industry to identify technical solutions and resolve other implementation issues. A requirement to land all fish will mean that occasionally fish above the quota or below minimum market size will be landed. It is necessary to consider whether these landed by-catches should be counted against quotas and whether the quota system should be modified to include by-catches. The disposal of these by-catches needs to be considered – whether they will be sold through normal market systems, for human consumption (if above minimum market size), for reduction to fish meal and oil or

otherwise. It has to be decided if and how a part of the proceeds of such sales could be dedicated to cover the new expenses brought in by the implementation of no-discards measures, either those incurred by public authorities or by fishermen themselves.

4. MONITORING AND CONTROL

Given the strong economic incentives for discarding it must be expected that when a by-catch reduction policy including a discard ban is imposed, discarding may still take place under circumstances where enforcement is weak or the legal consequences do not match the immediate economic benefits from discarding. For the Commission enforcement is thus a primary concern for implementation. The Commission will propose by-catch related management measures for which monitoring systems can be implemented in practice and which are cost-efficient. Discarding is difficult to observe as it happens and is difficult to document once it has taken place. It may therefore be argued that it will never be possible to enforce a discard ban fully and ensure elimination of all illegal discards. A positive result will nevertheless be achieved if a sufficiently large proportion of fishermen have changed the way they operate (using more selective gears, moving away from areas where by-catches are too high) because they adhere to the discard ban and/or because the enforcement regime has put enough pressure on wrong doers.

Observer schemes will play a major role in enforcement. They can not by themselves however be a universal solution as such schemes are costly, especially when a large number of small or medium size vessels are involved. As confirmed by the experience gained in countries which have implemented discard bans, observer schemes must be part of an overall enforcement regime which must include at least:

- a careful monitoring of the landings of individual vessels combined with a systematic analysis of detailed catch and landings figures which are compared with data from observers on board when it is not possible to have such observers on board all fishing vessels,
- electronic log book schemes with almost real time reporting of the catch composition, especially when real time closure of some areas are considered,
- monitoring and control of the fishing gears,
- stakeholders' involvement and cooperation.

Catches which must be landed although they cannot be sold by a fishing vessel (e.g. fish below marketable size, catches in excess of an allowed quota) must also be carefully monitored, in order to make sure that they do not disturb existing legal markets and that they do not bring profits which are not allowed to the fishing vessels.

The monitoring and analysis of by-catches in order to implement real time closures will require that data from all fleets are compiled and analysed on an ongoing basis and that a mechanism is established whereby a Community body can communicate with the relevant Member State about the need to implement closures.

If some flexibility in the use of quota instruments is introduced, mechanisms must be put in place which ensure that such flexibility is employed in a similar manner across the Community.

The achievement of the objectives of this policy needs to be monitored. The main objective is to reduce unwanted mortality on marine organisms. It is therefore important that scientific programmes are put in place to monitor the evolution of the mortality of the corresponding populations.

5. SOCIETAL IMPACTS OF A POLICY TO REDUCE UNWANTED BY-CATCH AND INCENTIVES FOR CHANGE

The economic and social impacts of the new policy will be highly variable dependent on the specific structure and economic situation of each fishery and the dependent coastal communities. Economic and social impact assessments will therefore be made on the level of regulations for specific fisheries.

On a very general level, the progressive implementation of a policy to eliminate discards could result in net short-term cost increases and losses in income. Handling and storing by-catch of lower value has a cost and the income from the overall landing will be lower. The use of closed areas and requirements to move to other fishing grounds may imply longer distances to the fishing grounds and thus increased cruise time and fuel costs. The compulsory use of selective gears could similarly reduce short term profitability. Further impacts are to be expected further down the marketing and distribution chain, resulting from the landing and handling of fish that was so far discarded.

In the longer term there will be economic benefits as a reduction of by-catches of juvenile fish and fish above quota will result in larger and healthier stocks and thus increased fishing opportunities. Furthermore, additional markets could be created for products derived from catches which have been discarded in the past.

Enforcement should be supplemented with encouragements to avoid unwanted by-catches and discarding.

A possible encouragement is to introduce a preferential status such as preferential access to fisheries on the basis of track records of low by-catches.

It could be considered whether the development of changes in technology and practices which are required may be supported by the EFF. Assistance may also be given to develop alternatives for the use of previously discarded fish, in particular unavoidable by-catches of species of low or no commercial value. Assistance could be considered for the development of advanced fishing tactics on the basis of information systems to inform fleets about areas with high risk of unacceptable by-catch.

6. THE WAY FORWARD

Based on this document, the implementation principles for a policy to progressively eliminate discards and reduce unwanted by-catches in European fisheries will be discussed with Member States and stakeholders in 2007. A sequence and plan for implementation for specific fisheries will be identified. According to this plan, regulations will then be developed and proposed from 2008.

The progressive production of regulations to cover all community fisheries will be a long term project.