



## Advice

### Study supporting the evaluation of the Landing Obligation

Brussels, 18 September 2024

#### 1. Background

The European Commission launched an evaluation of the landing obligation towards reaching the objectives of the Common Fisheries Policy (CFP), particularly Article 2 (5) (a) of the CFP Regulation, which states that “[the CFP shall] gradually eliminate discards, on a case-by-case basis, taking into account the best available scientific advice, by avoiding and reducing, as far as possible, unwanted catches, and by gradually ensuring that catches are landed”.

As part of the evaluation, the Commission commissioned an external study, which will form the foundation for the evaluation on whether the Landing Obligation intervention continues to be justified, whether lessons can be learned for improvement, and whether EU actions should be continued or changed. The results and findings will help the Commission draw up an evaluation in a Staff Working Document.

The contract follows the five mandatory evaluation criteria foreseen in the Better Regulation Guidelines: effectiveness, efficiency, relevance, coherence, and EU added value. Two additional aspects have been added: complementarity, and sustainability. From 8 May to 30 June 2024, the external consultants launched a survey to stakeholders<sup>1</sup>.

#### 2. Previous advice

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<sup>1</sup> [https://deloitte.nl.eu.qualtrics.com/jfe/form/SV\\_6rP0t9n51RQrm6i](https://deloitte.nl.eu.qualtrics.com/jfe/form/SV_6rP0t9n51RQrm6i)

As the Commission services publish an annual report on the implementation of the landing obligation, the Market Advisory Council (MAC) provided advice on the matter in 2019<sup>2</sup>, 2020<sup>3</sup>, 2021<sup>4</sup>, and 2022<sup>5</sup> covering the previous implementation years. When advising the Commission, the MAC focused on the market perspective of the landing obligation, particularly available uses and market outlets, effect on prices and presence in the markets, socioeconomic impacts, infrastructure and cooperation, and control, inspection and enforcement.

According to the advice adopted in 2023, the effects of undersize fish on the market are negligible. In practice, no real market has been developed for catches below the Minimum Conservation Reference Size. No effect on the landing obligation on market prices for fishery products was reported. Fishery operators report the occurrence of regular control, inspection and enforcement activities by public authorities in relation to primary production activities.

### **3. Current state-of-play of the landing of all catches and the handling of unwanted catches**

A full implementation of the landing obligation would likely have a very significant impact on fisheries operators, but the existing exemptions significantly limited the potential impacts, particularly of the so-called “choke species” that could affect mixed fisheries. In some countries, exemptions were developed to allow for the provision of fishing quotas and “mini quotas”.

The landing of unwanted catches seems to be quite low. In addition, the lack of a definition of “direct human consumption” limited the possibility to develop a real market. Therefore, following the introduction of the landing obligation, in the context of its applicable provisions, operations and the market remained stable.

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<sup>2</sup> <https://marketac.eu/2019-annual-report-on-the-implementation-of-the-landing-obligation/>

<sup>3</sup> <https://marketac.eu/2020-implementation-of-landing-obligation/>

<sup>4</sup> <https://marketac.eu/annual-report-on-the-implementation-in-2021-of-the-landing-obligation/>

<sup>5</sup> <https://marketac.eu/2022-implementation-of-landing-obligation/>

#### **4. Operational challenges in the implementation of the landing obligation**

##### **4.1. Insufficient port infrastructure to handle additional landings of unwanted catches**

In the context of the ongoing reduction in the uses for port infrastructure, for example due to decommissioning schemes for fishing vessels, the issue with port infrastructure is not specifically about space in the port infrastructure. Nevertheless, it should be highlighted that the landing obligation was established without a prior assessment of the implementation requirements, including on the type of infrastructure needed.

##### **4.2. Difficulties with handling, storage, processing of unwanted catches at port**

In several ports, fishing vessels carried out *ad hoc* initiatives on the landing of all catches, which demonstrated the inherent complexity due to the lack of preparation for the processing of the products due to health, regulatory, and logistical issues.

In terms of health aspects, there are issues with damaged catches as well as with small pelagic species, such as mackerel and horse mackerel, which degrade very quickly once brought back on board. On regulatory aspects, there are issues related to the separation of the catches under the Minimum Conservation Reference Sizes, for example on the possibility of storage. As for logistical issues, there are questions around the remuneration for handlings, because of the very low value of these products as well as lack of processing capacity in the ports, which, in practice, leads to the trucking of the unwanted catches across the countryside, demonstrating that it is a negative business case. An added complexity is the fact that the unwanted catches consist of “category 3” products, meaning products not fit for human consumption, which need to be separated by the auctions from the products fit for human consumption.

##### **4.3. Lack of national funding to adapt port infrastructure**

In several countries, no national financing has been developed. For the countries where national and EU funding exists, the main obstacle remains in undertaking costs / investments to adapt port infrastructure for products that are expected, according to the policy's aims, to be reduced / disappear in the medium to long-term.

#### **4.4. Inexistence of economic outlet for unwanted catches brought to land**

In theory, there are different uses and market outlets available for catches below the Minimum Conservation Reference Size, such as fish meal, fish oil, pet food, food additives, pharmaceuticals, and cosmetic. At the same time, the policy's aim for these catches to be reduced / disappear in the medium to long-term acts as a deterrent to the development of a market and to finding motivated investors.

### **5. Challenges related to control and enforcement**

#### **5.1. Fish below Minimum Conservation Reference Size still being landed and marketed for purposes of direct human consumption**

Thanks to the existing control mechanisms implemented for commercial operations, the development of a parallel market for fish below the Minimum Conservation Reference Size for human consumption would be highly unlikely to develop.

#### **5.2. Additional control and monitoring tools across the Member States**

In the recent years, operators have noticed an increase in the control activities of Member States, including through the integration of the control of the landing obligation provisions into the various fisheries control tools, in accordance with the national and EU control plans (i.e., control at sea, on landing, on sale, *a posteriori* cross-control of reporting obligations).

### **5.3. Increase in the port infrastructure to facilitate landings for the non-human consumption market**

In the case landings were to take place, port infrastructure was not developed to facilitate these. To combat food waste, the provision of catches brought to land for non-commercial human consumption, for example through donations to charity centres and residences and humanitarian aid, should be facilitated.

### **6. Generation of a market outlet for unwanted catches restricted to purposes other than direct human consumption**

As the aim of policy is not to create a new market for unwanted catches, the development of viable market outlets for these products is quite challenging. In practice, there are very limited market outlets. As an example, in Spain and in Croatia, the only viable outlet available is the production of animal feed, such as feed for the aquaculture production of tuna.

### **7. Additional initiatives implemented by the Member States associated with control and enforcement to prevent unwanted catches from reaching the consumption market**

In the case of Spain and Croatia, operators have not noticed the introduction of additional initiatives specifically for the landing obligation. Control and surveillance measures for the fisheries sector and the rest of the value chain were already before the latest reform of the Common Fisheries Policy.

In the case of France, in 2019, a declaration of catches under Minimum Conservation Reference Size was integrated into the reporting obligations at sea and on landing. The software of the electronic logbooks as well as the paper logbooks and fishing sheets were updated, allowing skippers to specify what falls under the catch size under the Minimum Conservation Reference Size. Training sessions were also carried out for fishing skippers during this period.

No specific additional initiatives to monitor landings at fish markets / auctions were noticed.

## **8. Recommendations**

In the context of the ongoing evaluation of the landing obligation, the MAC believes that the European Commission and the selected external consultant should take into account previous advice, especially on the 2022 implementation, and the present advice, including on:

- a) The impact of the lack of a definition of “direct human consumption” as well as the policy’s aim to reduce / eliminate unwanted catches in the medium to long-term on the development of market outlets for unwanted catches;
- b) The need for further resources and assessments on the implementation requirements of the landing obligation, including on the burden for fishing operators, infrastructure needs, lack of easily available funding, and challenges in the generation of market outlets, in order to be able to properly implement the landing obligation;
- c) The difficulties with handling, storage, and processing of unwanted catches at port, specifically on the health, regulatory, and logistical aspects, as well as the lack of national funding to adapt port infrastructure, plus the lack of processing infrastructure;
- d) At the same time, the policy’s aim for these catches to be reduced / disappear in the medium to long-term acts as a deterrent to the development of a market and to finding motivated investors;
- e) The relevance of allowing donations of unwanted catches, for example to charity centres and residences and as humanitarian aid, as an outlet for unwanted catches, while also fighting food waste and providing food sovereignty;
- f) The integration of the control of the landing obligations provisions under existing control, monitoring, and enforcement tools and efforts across the Member States, plus the additional initiatives implemented by some Member States.