



Department
for Environment
Food & Rural Affairs

www.gov.uk/defra

Consultation on the implementation of the pelagic landing obligation in England

Summary of responses

July 2014



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Introduction

The Common Fisheries Policy (CFP) is the European Union's instrument for the management of fisheries and aquaculture. EU Member States and the European Parliament agreed an historic deal to reform the CFP in December 2013. The new CFP basic regulation, which can be accessed here ([Reformed CFP Regulation](#)), entered into force on 1 January 2014.

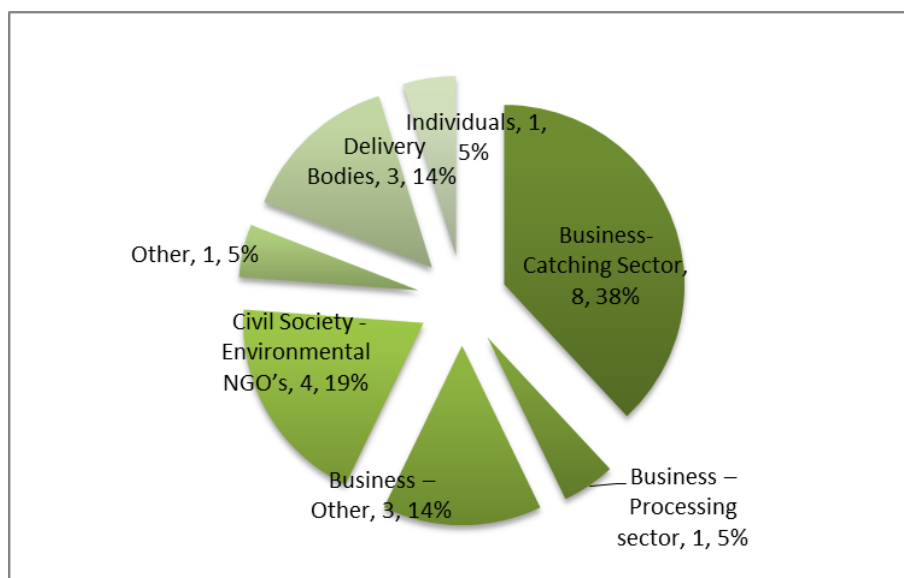
The new regulation makes fundamental changes to the way that Europe's fisheries are managed, with the aim of managing fish stocks sustainably to ensure a prosperous fishing industry and a healthy marine environment. One of the most significant changes relates to the phased introduction of a landing obligation, which prohibits the discarding of fish, (also known as a discard ban) that starts on 1 January 2015 for pelagic fisheries.

The Government consulted on the changes needed to the way fisheries are managed in England to ensure the landing obligation is workable. This document outlines the summary of responses and the Government response to the consultation on proposals on the implementation of the pelagic landing obligation in England.

Overview of responses

A total of 21 responses were received from a range of sectors including the fishing industry, environmental NGOs, the processing sector and delivery bodies. This is in addition to views gathered at a series of engagement activities that took place across England during the consultation period. Figure 1 provides an outline of respondents by sector.

Figure 1: Analysis of respondents to the consultation by stakeholder segment.



The majority of respondents broadly agreed the proposed measures to implement the requirements outlined in the Common Fisheries Policy (CFP) basic regulation 1380/2013 in England. Some respondents took the opportunity to comment on the challenges and opportunities the landing obligation as a whole will bring, providing examples to illustrate specific issues for individual fisheries.

The main areas of concern raised by respondents to the consultation were the allocation of any uplift in pelagic species quota, carrying and storing fish not for direct human consumption and the use of exemptions. A range of options were suggested by respondents on the method by which to allocate quota uplift. No one option was favoured above the proposed method of Fixed Quota Allocation (FQA) units. Comments were received on the impact of carrying fish below Minimum Conservation Reference Sizes (MCRS) which cannot be used for direct human consumption. Concerns raised were primarily in relation to the sorting and stowage of this fish at sea. We also received some further suggestions on how exemptions for de minimis and survivability could be used for sections of the pelagic fleet that may face particular challenges under the landing obligation. Finally some respondents highlighted the opportunities for incentivising more selective fishing as part of the landing obligations implementation.

Summary of responses to consultation questions

Q.1 Do you agree that the level of discarding in the English pelagic industry is relatively low, and the impact of the pelagic landing obligation should therefore be minimal. If not, please provide details and any supporting evidence.

1. 17 responses were received to this question, 7 from the catching sector and their representatives, 4 from environmental NGOs, 3 from other businesses, 2 from delivery bodies and 1 from other types of organisation.
2. The majority of respondents (14 responses) from across the sectors considered the level of discarding in pelagic fisheries to be relatively low based on the available data. One catching sector respondent and a further business respondent both highlighted that the data in this area is limited; suggesting that there may be variation in the level of discarding across the fleet.

Q.2 Do you agree that any additional quota, made available through an uplift in EU agreed TAC, should be allocated through Fixed Quota Allocation units? If not, please explain why you disagree and suggest alternative methods with any supporting evidence.

3. 16 responses were received to this question, 8 from the catching sector and their representatives, 4 from environmental NGOs, 3 from other businesses and 1 from a delivery body.
4. The consultation responses reflected the range of views seen at the stakeholder meetings around the country. It was noted that many of the responses put allocation of any quota uplift in the context of quota allocation more generally.
5. 6 respondents from the catching sector, other businesses and environmental NGOs supported the proposal to use FQA units as the basis for the allocation of any quota uplift. A limited number of catching sector responses recognised that the low level of discarding in this fleet would mean the level of uplift is likely to be low.
6. The remaining respondents considered that other methods of allocation could be used and in the case of one NGO, that other methods could be used in combination to help achieve wider fisheries management objectives. Two catching sector responses indicating the difficulties with data availability to inform the allocation of quota uplift through any method.
7. The level of discarding as a basis for uplift allocation was suggested by two respondents ensuring quota reached those on who the landing obligation would have the greatest impact. Two further catching sector respondents suggesting that it should be allocated to those that have been landing the affected species and are currently active in the industry.
8. Environmental NGO respondents felt that Article 17 of the CFP, outlining the use of economic, environmental and/or social criteria to allocate quota including uplift, should form the basis of allocations. They argued this could be used to incentivise improvements in selectivity and changes in behaviour that support sustainable fishing. A business representative and a catching sector response suggesting uplift could be used to support the inshore fleet. One respondent had concerns over the potential impact of any quota uplift on fishing mortality.
9. An issue was raised by a small number of respondents in relation to the non-quota target fishery for sardines which has a quota species by-catch. They provided a suggested solution for their fishery utilising a pooled system of by-catch quotas.

Q.3 Do you think you will need to utilise any of the additional quota flexibilities available under the new CFP basic regulation? If so, please provide details and any supporting evidence.

10. 15 responses were received to this question. Of these 7 were from the catching sector and their representatives, 4 from environmental NGOs, 2 from other businesses and 2 from delivery bodies.
11. Seven responses from the catching sector and other businesses supported use of quota flexibilities in implementing the pelagic landing obligation. Some of the environmental NGOs and delivery bodies saw value in using flexibilities when needed, but wanted to ensure that this was subject to strict conditions to minimise any detrimental impacts on stocks. This was linked to achieving goals on Maximum Sustainable Yield (MSY).
12. Two responses from delivery bodies raised concerns over the need for use of flexibilities and the potential impact of their use. The potential for one sector to negatively impact another through the use of flexibilities was highlighted by a single catching sector respondent.
13. A catching sector respondent supported the Pelagic Regional Advisory Council's recommendation not to utilise interspecies flexibilities in the first two years of the pelagic landing obligation.¹ The respondent commented that this measure is intended for choke species which would be less applicable in pelagic fisheries. They raised concerns that its use may have unintended consequences.
14. Two respondents (a delivery body and a business respondent) concerns with the flexibilities themselves and their impacts. This primarily related to the potential to negatively impact sustainability of stocks, if fishing pressure is transferred from one year to another. One of the respondents suggested that this worked against quotas that are based on annual scientific advice.

Q.4 Do you agree that the quota management flexibilities should be managed at management body (Producer Organisations and the Marine Management Organisation) level? If not, please provide details and any supporting evidence.

15. 16 responses considered the level at which quota management flexibilities should be managed. Of these 8 were from the catching sector or their representatives, 3 from environmental NGOs, 3 from other businesses and 2 from delivery bodies.

¹ Pelagic Regional Advisory Council, *Recommendations on implementing the EU landing obligation in pelagic fisheries* (2014). Available at www.pelagic-rac.org/media/pdf/20140429%20PRAC%20land%20obl%20recom.pdf, accessed on 20 June 2014.

16. The majority of respondents supported using the existing Producer Organisation (PO) and Marine Management Organisation (MMO) framework for managing quota flexibilities. Two respondents (a delivery body and a business respondent) had concerns with flexibilities themselves as discussed above..
17. An environmental NGO highlighted that while the approach was appropriate for quota flexibilities, allocation of uplift should be done at MMO, or Inshore Fisheries Conservation Authority level. One environmental NGO also sought even more flexibility for the under 10 metre fleet managed in the MMO pool than that proposed, suggesting more extensive options to allow them to manage their quota in local groups or Producer Organisations as has been trialled in the South East .

Q.5 Do you agree that the proposed changes to the quota management systems will help English fishermen operate under the pelagic landing obligation? If not, please provide details or and suggest other changes to quota management that would be beneficial.

18. 15 responses considered whether the changes in quota management would assist the pelagic fleet in operating under a landing obligation. Of these 6 were from the catching sector and their representatives, 4 from environmental NGOs, 3 from other businesses and 2 from delivery bodies.
19. The majority of respondents (11 responses) from across the sectors considered that the proposals would assist the fleet in operating under the pelagic landing obligation. A single respondent disagreed on the basis that a number of challenges remain for the industry in applying the obligation to vessels. Three responses, from across the sectors, highlighted the potential scarcity of quota which would have implications for operators in leasing quota. An environmental NGO response outlined a preference for selective fishing to be further incentivised through quota management.

Q.6 Do you think you will need to utilise a survivability or de minimis exemption available under the new CFP basic regulation? If so, please provide details and any supporting evidence.

20. 17 responses were received to this question. 7 from the catching sector and their representatives, 4 from environmental NGOs, 3 from other businesses, 2 from delivery bodies and 1 from other organisations.
21. Respondents from across the sectors supported use of these exemptions where appropriately justified. In contrast a single business respondent disagreed with the use of exemptions in principle. An environmental NGO emphasised that the policy should incentivise the fishing industry to operate more selectively.
22. Five organisations representing environmental NGOs and delivery bodies were not aware of any evidence to support specific exemptions. A minority of industry and business respondents felt there was the potential to argue for broad exemptions. This reflected the Pelagic Regional Advisory Council recommendation to consider use of de

minimis generically on the basis of the costs of transporting fish and the general difficulties in improving selectivity in this sector.²

23. The majority of industry respondents were focussed on highlighting problem areas for specific fisheries. Six industry and business respondents suggesting that survivability exemptions may be appropriate to address particular issues in the ring netting and purse seining sectors, emphasising the need to confirm anecdotal evidence with scientific assessments. Two industry respondents suggested hand-line mackerel may be a candidate for a survivability exemption but offered no scientific evidence to support this view.

Q.7 Do you agree that the proposed monitoring and enforcement regime, including a mix of Remote Electronic Monitoring systems, at-sea observers, land based sampling, and self-reporting is a proportionate and risk based approach to enforce the pelagic landing obligation in England? If not, please provide details and any supporting evidence.

24. 15 responses were received to this question, 6 from the catching sector and their representatives, 4 from environmental NGOs, 2 from other businesses, 2 from delivery bodies and 1 from other organisations.
25. Six respondents from across the sectors supported the proposed approach to enforcing the landing obligation. Two business operators disagreed while others provided detailed comments but not a definitive view on the question. A catching sector respondent emphasised the need for a level playing field with other operators in shared fisheries.
26. Environmental NGO respondents were broadly supportive of the proposed approach. They put increased emphasis on the accountability of vessels under the landing obligation and the opportunities for scientific data collection. A limited number of environmental NGOs suggested stronger enforcement measures would be appropriate for the lower risk vessels to ensure compliance. Two environmental NGOs also highlighted the importance of sanctions for non-compliance being dissuasive in order to incentivise compliant practices and to maintain a level playing field.
27. Several responses from both the catching sector and delivery bodies highlighted the challenges for enforcement with the small scale fleet. One catching sector respondent suggested that small scale vessels be exempt from additional monitoring on the basis of the practical challenges and implications for small vessels. A delivery body respondent and some environmental NGOs highlighted that the effectiveness of any reference fleet was untested in the English fleet.

² Pelagic Regional Advisory Council, *Recommendations on implementing the EU landing obligation in pelagic fisheries* (2014). Available at www.pelagic-rac.org/media/pdf/20140429%20PRAC%20land%20obl%20recom.pdf, accessed on 20 June 2014.

Q.8 Do you expect to incur new costs from the new monitoring and enforcement regime? If so, please provide details on expected costs and any supporting evidence.

28. 16 responses were received to this question, 7 from the catching sector and their representatives, 4 from environmental NGOs, 3 from other businesses and 2 from delivery bodies.
29. One environmental NGO respondent provided links to published literature on the costs of enforcement strategies. Respondents from the catching and environmental NGO sectors, 5 in total, suggested that there would not be additional costs. A further two respondents indicated that the costs were unknown at this stage.
30. Five responses from the catching sector and other businesses commented on additional costs related to carrying observers on board and the purchase of technology. Four responses suggesting that payment for these should fall to regulatory authorities though one respondent disagreed, preferring costs did not fall to the taxpayer. One business respondent highlighted the potential for the costs of upkeep of equipment falling to operators in the longer term. A further catching sector respondent suggested that on some vessels observers could impact on fishing operations due to the limited amount of space on board.

Q.9 Do you agree that our proposals are a proportionate response to the requirements on quota species below Minimum Conservation Reference Size? If not, please provide details and any supporting evidence.

31. 16 responses were received to this question, 7 from the catching sector and their representatives, 4 from environmental NGOs, 3 from other businesses and 2 from delivery bodies.
32. Six respondents from across the sectors agreed that the approach proposed was proportionate.
33. The practical implications of bringing under size fish on board vessels and landing them, as required under the CFP basic regulation, were raised, in particular for small vessels. Two catching sector respondents had concerns about the available space for stowing additional low value catch from economic and safety perspectives.
34. Two responses highlighted technical rules preventing the use of onboard fish grading and processing machines, suggested these could be amended to assist in the sorting and processing of fish at sea. The potential to incentivise the catching of small fish was flagged by an environmental NGO respondent contradicting catching sector views that bringing ashore undersize fish would have cost impacts.
35. The sorting of fish at sea required under the technical regulations was a concern for five respondents from across the sectors. These respondents sought flexibility for particular sectors of the pelagic fleet to sort on land.

36. The issue of infrastructure for processing below MCRS fish was highlighted in the engagement activity around the country. This issue was also reflected in catching sector responses. Some suggested that this should not be left to ports to take forward alone. A business respondent highlighted that the level of this material would change over time as fishing becomes more selective. This reflected environmental NGO views that improvements in selectivity should be the focus of vessel activity in minimising this issue.

Q.10 Do you think that there are any issues relating to the implementation of the pelagic landing obligation in England that we have not identified and should be aware of? If so, please provide details and any supporting evidence.

37. 15 responses provided further comments on the implementation of the pelagic landing obligation in England. 6 from the catching sector and their representatives, 1 from environmental NGOs, 3 from other businesses, 3 from delivery bodies, 1 from the processing sector and 1 from other organisations.

38. In addition to providing views on the proposals for the implementation of the pelagic landing obligation, respondents commented on potential impacts for other sectors of the industry. These have been noted and will be used to inform the work that is underway on the implementation of the demersal landing obligation.

39. A delivery body and a processing sector respondent suggested the need to consider recreational anglers as well as market implications from changes in the availability of different species throughout the year.

40. Three fishing industry respondents echoed the Pelagic Regional Advisory Council recommendations for potential exemptions from enforcement action under 'force majeure' when the safety of the vessel or crew force the catch to be discarded.³

41. A delivery body highlighted the need to consider the interaction of the CFP's provisions with legislation managing freshwater migratory fisheries. Two environmental NGOs also highlighted the opportunities of utilising the data collected as part of enforcement strategies to support stock assessments.

³ Pelagic Regional Advisory Council, *Recommendations on implementing the EU landing obligation in pelagic fisheries* (2014). Available at www.pelagic-rac.org/media/pdf/20140429%20PRAC%20land%20obl%20recom.pdf, accessed on 20 June 2014.

Q.11 Do you have any comments or evidence on the costs and benefits presented in the associated Impact Assessment. This includes, but not limited to, any costs or benefits associated with:

- **hosting an observer onboard;**
- **familiarisation with the new monitoring and enforcement regime;**
and
- **accessing non- human consumption markets for fish below MCRS.**

If so, please provide details and any supporting evidence.

42. There were two responses to this question providing additional data. One highlighted the potential impact of the MCRS provisions and the costs of bringing this fish ashore as required under the CFP basic regulation. This suggested that they would break even in terms of cost but it did not consider the opportunity cost lost from the space not being available for storing higher value catch.
43. The second response highlighted the need to consider the familiarisation costs for the new provisions. It suggested a pragmatic approach to enforcement while the catching sector and enforcement officers become familiar with the new requirements.
44. These respondents also highlighted making changes to comply with the landing obligation would not be without costs to businesses. With the storage required on board for previously discarded fish reducing the opportunity to land higher value catch. However, these costs appeared to primarily relate to the EU legal requirement not to discard rather than the proposals to assist in its implementation which was the scope of this consultation.

Response

45. The Government welcomes the views of respondents on the challenges and opportunities presented in the implementation of the pelagic landing obligation in England. We particularly welcome the constructive approach taken, identifying problems in specific fisheries and potential solutions within the provisions of the Regulation.
46. A number of comments received were in relation to the impacts of the pelagic landing obligation itself and not the proposals for implementation and assisting the industry with adapting to the new regulatory requirement. While the Government notes the concerns raised, they are not addressed directly in our proposed way forward unless they relate to the areas where the European Regulation provides for flexibility in its implementation.

47. Since issuing our consultation, the Commission have provided clarification on their interpretation of the Regulation's provisions. For fisheries targeting a non-quota species but which have pelagic quota species by-catch, it has been recognised that these are not subject to the landing obligation in 2015. Timing of the introduction of the landing obligation for the quota catch in these fisheries will need to be considered as part of discussions on the phasing of the demersal landing obligation.

48. Each section of the consultation is now considered in turn.

Quota management

49. We note the suggestions made for alternative methods when allocating any uplift of pelagic quota. We have considered these in the context of the wider debate on quota allocation to the English fleet. As required under Article 17 of the CFP a core set of principles(environmental, social and economic) are at the heart of all quota allocation decisions in the UK and English Quota Management Rules. On this basis we intend to continue to use FQAs as the primary basis for the allocation of any quota uplift. However, given the views provided, we will continue to work with the industry to identify if there are any specific problems at a fishery level where additional quota may be needed to support the implementation of the pelagic landing obligation.

50. Respondents broadly agreed that quota flexibilities available in the Regulation should be utilised to provide flexibility in implementing the landing obligation, with agreement to the suggested role for MMO and Producer Organisations being seen as appropriate. A limited number of respondents raised concerns over the impact of these measures on stocks and we recognise that the impact of measures will need to be monitored in order to inform annual decisions on quotas. The pelagic RAC has suggested that interspecies flexibility should not be used in the initial years of the landing obligation. This issue was also highlighted by respondents to the consultation. Though not a subject for inclusion in the regionally agreed discard plans, this is to be discussed at a regional level in order to seek a shared approach between Member States who fish in the same seas, following which we will outline our approach to the use of quota flexibilities.

Exemptions

51. The starting point for implementing the landing obligations is to ensure that there remains an incentive to choose to fish selectively. We note the proposed uses of the exemptions available under the regulation to address fishery specific problems, for example to assist ring net and purse seine fisheries. At regional level there has been consideration of survivability in purse seine fisheries in the North East Atlantic. We support use of exemptions, which are in line with the principles of the CFP and where there is a case for their use that can be validated by the Scientific, Technical and Economic Committee for Fisheries (STECF). It remains possible during the time of the discard plan's operation, to add exemptions on a case by case basis where Member

States can agree and where STECF considers there is justification. We will consider further the suggestions made for consideration at this level. Where exemptions are agreed at a regional level these will be made available for operators in England, where applicable.

52. We recognise the concerns raised on situations when a vessel operator has to choose between the safety of the vessel and crew, and compliance with the landing obligation. In any such case of force majeure the safety of the vessel and crew have to take precedence and the skipper should immediately contact the enforcement authorities to explain what has happened.

Monitoring and enforcement

53. The proportional approach to enforcement was broadly accepted by respondents. We continue to prefer the risk based approach outlined in the consultation, where Remote Electronic Monitoring is used for the vessels with the largest levels of catch. We note concerns in relation to the untested nature of the approach for the small scale fleet, but emphasise the need to take an approach proportionate to the risk. Discussions are expected at a regional level to consider enforcement of the landing obligations and the level of coordination between Member States that would be appropriate to support the level playing field. We will update our policy in light of the result of those discussions.

Catch Management

54. A number of respondents highlighted particular problems with requirements to land under size fish. To clarify, this is a requirement of the regulation that came into force on the 1st January 2014 and will apply as the landing obligation is introduced. We appreciate the information provided on the potential impacts of these provisions, in particular the challenges in sorting fish at sea. However, we note the requirement to sort fish at sea comes from existing regulations not the implementation of the landing obligation
55. Negotiations on the Technical Conservation and Control Regulations (Omnibus) which aims to remove measures inconsistent with the landing obligation are ongoing. There has been discussion here of minimising burdens to industry through limited exemptions for separate stowage of undersize fish and setting 50kg thresholds before requiring recording of catches. Where these are available in the final Regulation we will implement as necessary as part of a pragmatic approach to the introduction of the landing obligation.
56. Undersize fish, which cannot be sold for human consumption, being brought ashore under the landing obligation will be a change for fishermen. Responses to the consultation confirmed that the level of discarding in the pelagic sector is low. We recognise the amount of fish involved at a local level will vary depending on the changes in fishing behaviour, use of flexibilities and exemptions and local

circumstances. A one size fits all approach is not appropriate. We intend, therefore to continue with the approach outlined in the consultation, with the Government expecting to issue guidance to ports providing information on the regulations for each non-human consumption market. We are continuing to highlight the opportunities for managing this fish at a local level and encouraging use of funding through the European Maritime and Fisheries Fund, where available.

Way forward

57. The pelagic landing obligation comes into force on the 1st January 2015. The final policy position will be refined over the coming months in light of the comments made in response to the consultation.
58. Discussions are ongoing at regional level to finalise Discard Plans. There is also the intention to discuss implementation issues where a common approach would assist industry in maintaining a level playing field for operators. The outcome of those discussions will inform the final policy on the implementation of the pelagic landing obligation in England.
59. In view of the information received at consultation we expect to proceed with limited changes to reflect the challenges for specific fisheries that were raised and the level playing field with other Member States. We will continue to take a flexible approach to allow the policy to adapt to emerging issues.

Annex A: List of respondents

Angling-School CIC

Aquamind

ClientEarth

Cornish Sardine Management Association

Eastern Inshore Fisheries and Conservation Authority

Ecofish Consult

Environment Agency

Environmental Defense Fund

Food and Drink Federation

Individual respondent

Marine Conservation Society

National Federation of Fishermen's Organisations

New Under Ten Fishermen's Association

North Atlantic Fishing Company Ltd

Ocean Fish (Vistgate) Ltd

Pelagic Regional Advisory Council

Seafish

South Western Fish Producer's Organisation

The Pew Charitable Trusts