

The Common Fisheries Policy: Quotas and the “Discard Ban”

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Introduction

On 1 January 2014, the EU introduced a reformed Common Fisheries Policy (CFP)¹. One of the key aspects of the reforms announced was the introduction of a Landing Obligation, which is more commonly known as the Discard Ban. This reform will be gradually introduced on a fishery-by-fishery basis until 2019. The ban is intended to reduce incidences of fish being returned to the sea, often dead or dying, as a result of the quota system.

Total Allowable Catches & Quotas

Under the CFP, catch limits are set annually by species for most stocks, or every two years for deep-sea stocks, based on scientific evidence from a number of advisory bodies and approved by the EU Council of Ministers.

These limits are known as Total Allowable Catches (TACs), and are shared between EU Member States. Over 130 different stocks are currently subject to TACs. A different percentage of each stock, known as a quota, is assigned to each coastal Member State. Countries can then exchange quotas with each other. When a quota of any particular fish is reached in a Member State’s territorial waters, then that State has to close the fishery. Member States are responsible for distributing and policing their own

¹ European Union, *The Common Fisheries Policy* [accessed 20 May 2014]

quotas, but under the reformed CFP should attempt to give preference to small scale, artisanal and coastal fleets. There are also provisions included in the reformed CFP to provide quota incentives to fleets which do less environmental damage.

The quota system is a form of output control and applies to all Member States, except those fishing in the Mediterranean. States utilising those waters are mostly subject to input controls, which compromises of measures such as rules on access to waters, fishing effort controls and equipment restrictions.

- The way in which the quota system operated prior to the reforms was often criticised for the perverse incentives it created to return unwanted catch to the sea. As fishing equipment can be non-selective, several fish species can be caught when only one was targeted. Given the quota restrictions placed on fishers, this led to less valuable fish (known as ‘by-catch’) being discarded and returned to the sea. Survival rate is low for some such discards, and the practice has been criticised for being wasteful. In order to reduce such incidences, the reformed CFP introduced landing obligations, or as it is more commonly known, a Discard Ban.

The Discard Ban

Article 15 of the CFP requires that any fish subject to catch limits is retained on board the fishing vessel and counted against quotas except where specific derogations apply. The landing obligation is being introduced gradually on a fishery-by-fishery basis:

- **January 2015:** Small pelagic fisheries (e.g. mackerel, herring, sardine), Large pelagic fisheries (e.g. tuna, swordfish, marlin), Fisheries for industry (e.g. sandeel, Norwegian pout), Baltic salmon fisheries.
- **January 2015 – January 2017:** All other quota species in Baltic waters.



- **January 2016:** Norway lobster, sole, plaice and hake fisheries (North Sea, North Western and South Western waters) Cod, haddock, whiting, saithe (North Sea and North Western waters) and Northern prawn (North Sea).
- **January 2017 – January 2019:** All other quota species in Mediterranean, Black Sea and other EU waters not covered by January 2015 restrictions.
- **January 2019:** All other quota species in North Sea/North Western/South Western waters.

The obligations under the Discard Ban will be set out in multiannual plans for entire fisheries, on either a single- or multi-stock basis. These plans set goals for either fishing mortality or target stock size. In this way it is hoped that fisheries can be more effectively managed on a long-term basis. Where a multiannual plan isn't a place for a fishery a discard plan will be developed.

In addition, there is a minimum conservation size for species subject to the Discard Ban, in order to protect juveniles. Catches of species below the minimum size will have to be retained on-board, and will count against the quota. However, they can only be used for purposes other than direct human consumption. Examples include, pet food, fish meal and cosmetics.

These other forms of consumption are less profitable for the fisherman, and by forcing on-board retention, the restriction is aimed at incentivising investment in more selective fishing gear.

Exemptions to the Discard Ban

The Discard Ban is not universal and has some allowable exemptions:

- Species where fishing is prohibited completely (e.g. basking shark). These species should be immediately returned to the sea.
- Species which are allowed to be fished and have no quota (e.g. bass). There is no ruling on discards for these species.
- Species for which scientific evidence demonstrates high survival rates (taking into account the characteristics of the fishing equipment, practices and the ecosystem).
- Catches falling under 'de minimus' exemptions. These exemptions allow for a small percentage of catch to continue to be discarded where specific circumstances apply. Member States then apply the exemptions where scientific evidence shows selective fishing within that particular fishery is very difficult, or if avoidance of by-catch creates a disproportionate economic impact.
- 'De minimus' exemptions can be up to 5 per cent of all species included in the Discard Ban. This percentage will increase by 2 percentage points in the first two years of the Discard Ban, and one percentage point in the second two years.



Relevance in Wales

Devolved Responsibility

The **UK Fisheries Concordat 2012** provides the Welsh Government with responsibility for the implementation and enforcement of the CFP within Welsh territorial waters. Welsh territorial waters extend out to the maritime border with Ireland.

Fishing Quotas in Wales

The UK fishing quota is currently divided between three separate groups²:

- **The Sector:** This consists of 23 separate Producer Organisations (POs), which currently control over 90% of the quota in England and Wales. One of these POs operates in Wales, and is administered by the Marine Management Organisation.
- **The Non-Sector:** This consists of vessels over 10 metres in length that do not belong to a PO.
- **The Under Tens:** This consists of inshore fishery fleets under 10 metres in length.

The UK quota is divided between these groups and then shared out between the UK fisheries administrations according to set criteria. Fisheries administrations are then responsible for the amounts of quota provided to them by the UK Government.³

The Sector is responsible for managing quotas as the POs see fit, Non-Sector vessels agree monthly catch limits per vessel and Under Tens are usually set a group limit for all vessels⁴.

² Marine Management Organisation, *Fisheries Quota Guidance Management*, March 2013 [accessed 20 May 2014]

³ *ibid*

⁴ *ibid*

The Welsh fishing fleet in 2012 numbered 479 vessels, of which 440 were Under Tens⁵. This effectively means, given the range limitations of such vessels, that the majority of fishing in Wales is small-scale and coastal. However, despite the size of the fleet some Welsh boats still fish for quota species. Details of how this money will be shared within the UK have not yet been announced.

The Welsh Government published a Marine and Fisheries Strategic Action Plan⁶ in November 2013 which identified three key fisheries in Wales:

- **Cockle fisheries:** Historically some of the most valuable fisheries in Wales. This is not a quota stock.
- **Crustacean fisheries:** These are the mainstay of the Welsh fishing fleet i.e. pot fishing for crab and lobster. These are not generally subject to TACs but can be subject to minimum landing size under UK law.
- **Bass fisheries:** These are important for the South & West Welsh fishing fleets and are not currently a quota stock and therefore have no limitations under the Discard Ban. However, the International Council for Exploration of the Sea (an advisory body to the EU on quotas) has recently recommended a significant decrease in the level of bass catch across Europe⁷.

Policing the Discard Ban

Member States are required to maintain detailed and accurate documentation of all fishing trips and ensure effective monitoring of compliance, using measures such as independent monitors and CCTV on boats.

⁵ Marine Management Organisation, *UK Sea Fisheries Statistics 2012* [accessed 20 May 2014]

⁶ Welsh Government, *Marine and Fisheries Strategic Action Plan*, November 2013 [accessed 20 May 2014]

⁷ International Council for Exploration of the Seas, *ICES Advice for 2013 for European seabass in the North East Atlantic*, September 2012 [accessed 21 May 2014]

Enforcement of quotas, and therefore the Discard Ban, in Welsh fishery zones will be based out of Milford Haven, and conducted by Welsh Government Enforcement Officers in partnership with the Royal Navy Fishery Protection Fleet. They have the power to conduct inspections of boats either at land or sea, as well as fish markets. Suspensions of licences or criminal prosecutions can be sought.

The actions the Welsh Government will take to implement the discard ban in Welsh territorial waters are set out the *Marine and Fisheries Strategic Action Plan*⁸. The relevant commitment is set out in Objective 2 (Ref 2.4) of the Action Plan⁹.

In a recent update on progress to deliver the Strategic Action Plan the Minister for Natural Resources and Food reported that:

Officials are working with the fishing industry in Wales to establish a programme of monitoring to collect data on discards within the fisheries affected. Science officers will be working aboard fishing vessels this Summer to collect that data and inform the evidence put forward to the EU Commission.

The Welsh Government also plans to create regional groups in 2014 to provide 'effective industry input on licensing and quota management'. In addition, the Welsh Government is working with DEFRA on the development of a regulation to transpose the requirements of the reformed CFP into UK law. A consultation on the proposed implementing regulation is expected shortly.

⁸ Welsh Government, *Marine and Fisheries Strategic Action Plan*, November 2013 [accessed 20 May 2014]

⁹ *ibid*

Funding

The European Maritime & Fisheries Fund (EMFF) is the new financial instrument that will support implementation of and aid fishermen in the transition to the reformed CFP. The fund is scheduled to run from 2014 – 2020 and is one of five European Structural & Investment Funds. Each country is assigned a percentage of EMFF based on the size of its fishing industry, and draws up a strategic plan for how it will spend funds received. This plan is subject to Commission approval before funds are released.

DEFRA recently finished consulting on how the EMFF will be allocated and implemented in the UK¹⁰. While the final allocation of funds to each Member State has not been finalised by the Commission, DEFRA is working on the assumption that the UK will receive €138m for the core budget, €24 million for the enforcement budget and € 30 million for the data collection budget.

Specifically with regard to the Discard Ban, the DEFRA plan includes a proposal for the allocation of EMFF funds to adaptation the fisheries sector and its fleet. An example of an activity that might be funded is the purchasing new, more size-selective gear for fishing boats in order to work towards discard-free practices.

The EMFF requires Member States to allocate percentages of the overall budget to five separate 'Union Priorities' (UPs). The first of these, UP1, is aimed at prioritising sustainable fisheries – which includes the Discard Ban.

The Welsh Government proposes to allocate 22.7 per cent of any share of EMFF it receives to UP1. Scotland are allocating 28.2 per cent, Northern Ireland 40 per cent and England 55.5 per cent.

¹⁰ Department for Environment & Rural Affairs, *Consultation on the European Maritime and Fisheries Fund*, March 2014 [accessed 22 May 2014]



Further information

For further information on the Discard Ban, please contact **Nia Seaton** (Nia.Seaton@Wales.gov.uk), Research Service.

See also:

EU website on the **Discard Ban**

Research Service EU Policy Update on the **Common Fisheries Policy**

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