

23<sup>rd</sup> May 2014

## The Baltic Sea Advisory Council's comments to the Commission's Proposal for an Omnibus Regulation (COM (2013) 889 final)

### Background/Introduction

1. New technical rules and a new control regulation will have to be written to bring current rules for the fishery in line with a landings based fishery. This will take time and it will not be possible to implement it by 1<sup>st</sup> January 2015 when the first of the landing obligations enters into force.
2. So the existing legislation has to be amended to remove or amend references to current rules which actually oblige fishermen to throw fish back into the sea, or which are in contradiction with the new landing obligation. This is the aim of the Commission's Omnibus Regulation.
3. In the proposed regulation, as far as the Baltic is concerned, there are proposed changes to the relevant regulations: the technical measures (2187/2005), the Baltic cod plan (1098/2007), as well as the control regulation (1224/2009).
4. The BSAC also refers to the recently approved advice from the NSRAC on this proposal and endorses the contents of that in the cases where similar problems occur in the Baltic. We attach their advice to this response.<sup>1</sup> One environmental organization does not endorse all the statements made in the NSRAC paper.<sup>2</sup>

### General remarks

5. The BSAC is also fully behind the practical implementation of a landing obligation which is workable and does not add extra burdens to the daily work of the fishermen. We appreciate that this will take time – it is a learning curve – and we will inevitably encounter provisions which are inconsistent with current rules. For that reason we call for a pragmatic approach.

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<sup>1</sup> <http://www.nsrac.org/category/advice/approved/> Advice number 6

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6. The BSAC had a first brief look at this proposal at its WG on 25<sup>th</sup> February 2014 and had a presentation of it by a Commission official.
7. The BSAC appreciates that this legislation has to be adopted in order fill the gap whilst all the other legislation has to be put forward and so as to be in conformity with the landings obligation. So we see this as a temporary measure.
8. However, there are some complexities in this proposal, in particular with respect to the control measures, which risk adding to the costs of the fishery and introducing a real overload in terms of regulations. In particular, the provisions in the control section go beyond what is necessary to make existing regulations confirm with the landing obligation.
9. We would also underline the need to unify the different terms used in the provisions so as to avoid confusion. In places there are some differences and inconsistencies in the wording and it is important that the same terminology and definitions are used all the way through the text. We refer here to the answers provided by the NSRAC in their paper.
10. The discard ban is to be introduced according to fisheries targeting certain species. The Omnibus Regulation has adopted a species approach rather than a fisheries approach.

## **The Technical measures in Chapter 1**

### **Article 2 in the Omnibus Proposal Amendments to Regulation (EC) No 2187/2005 (Baltic Technical measures)**

11. We appreciate the efforts made by the Commission in the Chapter on technical measures to remove the obstacles to introducing a discard ban. We would have preferred to see the existing rules on catch composition removed, and we support a minimalistic approach to technical measures. The BSAC would also like to see a more visionary approach to fisheries management than today's micromanagement. In Articles 3 and 4 we would therefore prefer amendments that strive for simplification rather than the present level of regulations. The landing obligation opens for a simplified management system where fishermen could be given more room for manoeuvre under the obligation to set quotas and targets.

Under a landing obligation, where all relevant fish is landed and counted against the quota, the fisheries need flexibility to adjust catch composition to available quotas. A simplification of Articles 3 and 4 can partly provide this, while compliance can be focused on the catch.

12. In its working group on 31<sup>st</sup> March and 1<sup>st</sup> April 2014, the BSAC discussed the rules that hinder the implementation of a discard ban and is in the process of developing a working document which will contain the elements of a practical discards ban for the Baltic.

#### **Article 4 in the Omnibus Proposal Amendments to Regulation (EC) No 1098/2007 (The Baltic cod plan)**

13. We have no specific comments to the proposed changes to the Cod Plan that are not already covered by comments to the technical questions.

14. There is an urgent need to make changes to the cod management plan, in particular the provisions on effort management. These provisions will only become redundant once the landing obligation comes into force.

15. Further to removing the effort regulation, there is a need to look in more detail at the other relevant measures in the Cod Plan when it comes up for revision.

#### **The control measures in Chapter 2**

##### **Article 7 in the Omnibus Proposal**

16. The general comments from the BSAC are that these proposed measures in the Omnibus Regulation go beyond the temporary measures needed to fill the gap. There is the fear that these provisions will lead to more bureaucracy and paperwork for the fishermen, as well as costs. One environmental organisation thinks that the proposed adjustments to the Control Regulation are appropriate, though recognises the extra effort required aboard fishing vessels.<sup>3</sup>

17. The Omnibus proposal does not limit itself to removing obstacles. This is particularly the case for the provisions on control. There is a range of new measures proposed and we do not find this to be in the spirit of an omnibus regulation, the aim of which should

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be to remove obstacles to current rules. What we see here is an adding on to rules and this also goes against the ambition of simplification of rules.

18. We have the following comments to specific articles in the Chapter on control measures.

### **Article 14 Completion and submission of the fishing logbook**

19. Article 14, Completion and submission of the fishing logbook, contains the proposal to remove the 50 kilo de minimis limit of logbook entries so that in future, ALL quantities of each species will have to be registered.

20. The BSAC wants to maintain the 50 kilos limit on the registration of discards, whereas the environmental NGOs would prefer it to be removed, so that in effect all catches are recorded.

21. Also in Article 14 is the proposal that the permitted margin of tolerance of fish retained onboard must be 10% for all species. However, if there are quantities below 50 kilos, this margin of tolerance is to be 20%.

22. In a landing obligation scenario where all catches are weighed on landing, there is no rationale in having provisions on logbook tolerance. This applies in particular to vessels with tanks or containers on board.

23. We would like to ask why the volume of 50 kilos has been proposed. This would seem to be an arbitrary choice. Nor does it solve the current problems that fishermen experience with the first 50 kilos set for the margin of tolerance.

24. Fishermen who will have to start recording absolutely everything – including the fish which would otherwise have been discarded - should have a margin of tolerance of 20% for all catches. In other words, setting a margin of tolerance of 10% for catches above 50 kilos will create problems for the fishermen.

### **Provisions for remote sensing in the new Article 25a Remote electronic monitoring**

25. We understand the intentions of this Article, but we find it redundant in the context of an Omnibus Regulation. It would be more appropriate to deal with this in more detail when the Control Regulation comes up for revision.

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## **New Article 49a Separate stowage of catches below the minimum conservation reference sizes**

26. The BSAC highlights that the provision imposing separate stowage of undersized fish will be difficult to handle, especially in the small scale fishery sector.

27. The reasons for this are that fishermen will face problems (lack of space on board) due to the obligation to store undersized fish in separate containers. Although vessels below 12 metres are exempt from the requirement of having such containers onboard, there will be serious problems for the many vessels above 12 metres. In practical terms, it will mean that the vessels will have to have on board more boxes for each fishing trip. Safety is an important consideration here. It will also have implications for hygiene.

28. A solution needs to be found whereby it is acceptable for the fishermen to keep the fish under MCRS onboard in separate boxes, but not to have to stow it in separate compartments or storage rooms.

## **Article 73a Control observers for the monitoring of the landing obligation**

29. Environmental representatives comment that in order to validate other parts of the control system, such as CCTVs and log books, specific measures are needed not only to control landings, but also the fishing operations at sea, including slipping.

## **Article 90 Sanctions for serious infringements**

### **Article 92 Point system for serious infringements**

30. The BSAC sees the proposal to include violations of the landing obligation in the existing penalty points system as disproportionate at a time when a landing obligation is being introduced and there will be a need for adjustments. For that reason, it is premature to start introducing new penalties. The existing control regulation is sufficient to sanction those who do not observe the rules. However, if the existing Control Regulation is not sufficient to restrain infringements which may occur under the landing obligation, the BSAC is ready to discuss the introduction of new measures.

One environmental organisation supports the inclusion of discarding of species under the landing obligation among the serious infringements, and in the existing penalty system.<sup>4</sup>

### **Article 119a Exercise of the delegation**

31. The BSAC welcomes the introduction of this provision because it facilitates adjustments to new needs in a more rapid and less bureaucratic way.

### **Chapter 3 Final provisions**

#### **Article 8 Repeals**

32. The BSAC welcomes the proposed repeal of Article 14234/98 as it goes a long way towards helping to simplify the rules.

#### **Final comments**

33. The introduction of a landing obligation is a big mind shift, as well as a change in the way of working at sea. Rather than having an increasing number of detailed rules, a strong incentive is needed for fishermen to change their behaviour and fishing patterns in order to avoid catching the small fish or unwanted fish.

34. We hope very much that our comments will be taken into consideration. We hope in particular, there will be a review and analysis of the impacts so as to assess the costs and benefits of the new arrangements for the industry.

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