

Joint Recommendation of the BALTFISH High Level Group

Implementation of the Landing obligation for the Baltic Sea as of 1st of January 2018

1. Background

Regulation 1380/2013 (EU) of 11 December 2013 on the Common Fisheries Policy, CFP, lays down provisions for the implementation of the landing obligation. In accordance with Article 15 (6) and Article 18 of this Regulation, the Commission adopted the Delegated Regulation (EU) 1396/2014 for establishing a discard plan in the Baltic Sea based on the BALTFISH Joint Recommendation submitted to the Commission on 27 May 2014.

Regulation 1380/2013 (EU) stipulates that provisions for the implementation of the landing obligation should be based on a management plan. However, at the time the Delegated Regulation was adopted, there was no management plan for the fisheries in the Baltic Sea in force. Therefore, in accordance with Article 15(6) of Regulation (EU) 1380/2013 the landing obligation was implemented through the Delegated Regulation (EU) 1396/2014. ~~Regulation (EU) 1380/2013 rules a maximum duration of these discard plans of three years. After this period the landing obligation shall be based on a management plan for the fisheries in question. Consequently, the future provisions of the landing obligation for fisheries in the Baltic Sea have to be based on Regulation (EU) 2016/1139, the Multiannual Management Plan (MAP) for Baltic Sea stocks.~~

According to the current discard plan for the Baltic Sea cod, herring, sprat, salmon and plaice are subject to the landing obligation. Exemptions thereof are provided for certain fisheries of cod and salmon based on high survivability. *De minimis* exemptions do not apply. Furthermore, the Minimum Conservation Reference Size (MCRS) for cod is set at 35 cm.

The provisions of the current discard plan have proved to be effective and appropriate, amendments have not been requested so far.

With regard to the legal basis for a future discard plan Article 7 of Regulation (EU) 2016/1139 establishing a multiannual plan for the stocks of cod, herring and sprat in the Baltic Sea has to be taken into account. However, the scope of this multiannual plan does not include Salmon.

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1.1 BALTFISH High Level Group (HLG)

Against this background the BALTFISH High Level Group concurred that the provisions of the current discard plan should be maintained in the future Delegated Regulation on the landing obligation for the Baltic Sea.

Given that Salmon does not fall under the scope of the multiannual plan for the Baltic Sea a separate discard plan for this fishery should be established based on article 15 (6) Regulation (EU) 1380/2013 for the period 2018-2020 and hence be valid for three years.

~~However, salmon does not fall under the scope of the MAP. Hence, provisions for exemptions from the landing obligation for this stock can currently only be based on Art. 15 (7) Regulation (EU) 1380/2013 which provides solely for *de minimis* exemptions.~~

~~Nonetheless, the HLG decided to incorporate the current exemptions for cod and salmon in this Joint Recommendation anticipating that the Multiannual Management Plan (MAP) for the North Sea extending the scope to all stocks in EU waters as regards the details of the implementation of the landing obligation will be in force prior to 1 January 2018.~~

~~In parallel to this the HLG will submit an alternative Joint Recommendation which shall apply if the North Sea MAP will not enter into force until the end of 2017.~~

1.2 Consultation with relevant Advisory Councils

The BALTFISH High Level Group had an exchange of view with the Baltic Sea Advisory Council (BSAC) on the envisaged Joint Recommendation and the appropriate way forward on 26 April 2017 and considered its final advice adopted on ... May 2017 in preparation of this document.

2. Elements to be contained in the new Delegated Regulation

Article 7 of the Regulation (EU) 2016/1139 (then Multiannual Management Plan) lists the provisions linked to the landing obligation as follows:

1. Exemptions from the application of the landing obligation for species for which scientific evidence demonstrates high survival rates, taking into account the characteristics of the gear, of the fishing practices and of the ecosystem, to facilitate the implementation of the landing obligation;
2. De minimis exemptions to facilitate the implementation of the landing obligation; such de minimis exemptions shall be provided for cases referred to, and shall be in accordance with the conditions set out, in point (c) of Article 15(5) of Regulation (EU) No 1380/2013.
3. Specific provisions on documentation of catches, in particular for the purpose of monitoring the implementation of the landing obligation; and

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4. The fixing of minimum conservation reference sizes, to ensure the protection of juveniles of marine organisms.

In accordance with these provisions and those of Article 15 (5) and (6) of Regulation (EU) 1380/2013, the HLG recommends the following:

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2.1 Survivability exemptions

By way of derogation from article 15(1) of Regulation (EU) No 1380/2013, the landing obligation shall not apply to cod, salmon and **plaice** caught with trap-nets, creels/pots, fyke-nets and pound nets. All such cod and salmon may be released back into the sea.

2.2 De minimis exemptions

The joint recommendation of 27 May 2014 deals with the *de minimis* options. At that stage, BALTFISH recommended not to apply the *de minimis* rules in the Baltic Sea and instead recommended that fish damaged by predators should not count against the quota. This provision is now reflected in Article 15 (4) (d) of Regulation (EU) 1380/2013. **However, as selectivity in fisheries conducted with static gear cannot be further improved, the HLG recommends a *de minimis* exemption of [5 %] for these fisheries.**

2.3 Documentation

The current control rules in place are contained in Regulation (EU) 1224/2009 and the implementing Regulation (EU) 2013/395 on control in the Baltic Sea.

2.4 Minimum Conservation Reference Sizes

The minimum conservation reference size for cod in the Baltic Sea shall be 35 cm.

2. Scientific Evidence for exemptions

Scientific evidence for justifying exemptions for both salmon and cod was provided in the Joint Recommendation of 27 May 2014 on the outline of a Discard Plan for the Baltic Sea in annex 2 and 3 respectively. The scientific evidence is still valid ~~for both stocks~~.