

# Adapting EU fisheries legislation to the landing obligation

## SUMMARY

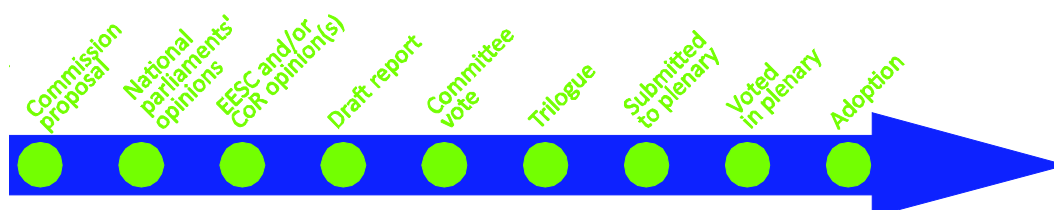
The landing obligation, designed to end the practice of 'discarding' fish, is a central component of the reformed Common Fisheries Policy adopted in December 2013. In order to review the specific measures in current legislation which conflict with the landing obligation, the Commission has put forward an 'omnibus proposal' which provides a package of amendments to eight existing regulations.

The changes proposed in the omnibus regulation concern fisheries technical measures and control rules. On technical measures, the proposal removes the existing provisions which forbid landing of fish of a certain size or species, and requires that these catches are landed and counted against quotas. The proposal would also modify the current control system with respect to the application of the landing obligation.

On 28 April 2015, the Parliament adopted the legislative resolution on the omnibus proposal in first reading by 573 votes to 96, with 21 abstentions. The Council approved the legislative act on 11 May 2015.

**Proposal for a Regulation of the European Parliament and of the Council amending Council Regulations (EC) No 850/98, (EC) No 2187/2005, (EC) No 1967/2006, (EC) No 1098/2007, No 254/2002, (EC) No 2347/2002 and (EC) No 1224/2009 and repealing (EC) No 1434/98 as regards the landing obligation**

<i>Committee responsible:</i>	Fisheries (PECH)	COM(2013) 889 of 17.12.2013
<i>Rapporteur:</i>	Alain Cadec (EPP, France)	<i>procedure ref.:</i> 2013/0436(COD)
<i>Procedure completed:</i>	Regulation (EU) 2015/812 of 20 May 2015; <a href="#">OJ L 133 of 29.5.2015, p. 1</a>	Ordinary legislative procedure



This briefing updates an earlier edition, of 23 April 2015 – [PE 554.209](#).

<p><b>In this briefing:</b></p> <ul style="list-style-type: none"> <li>• Introduction</li> <li>• Existing situation</li> <li>• The changes the proposal would bring</li> <li>• Preparation of the proposal</li> </ul>	<ul style="list-style-type: none"> <li>• Advisory committees</li> <li>• Parliamentary advice</li> <li>• Legislative process</li> <li>• References</li> </ul>
---	--

## Introduction

The landing obligation is a key component of the reformed Common Fisheries Policy (CFP), adopted by the European Parliament in December 2013. This obligation, provided for in Article 15 of the CFP Basic Regulation [1380/2013](#), is designed to end the practice of [discarding](#), i.e. of throwing fish back into the sea, most often dead, because they are too small, not of the targeted species or the fisherman has no quota for them.

The landing obligation is already in force since 1 January 2015 for pelagic fisheries, fisheries for industrial purposes and some specific fisheries in the Baltic Sea. It will progressively apply to all EU fisheries by 2019.

## Existing situation

The new landing obligation conflicts with certain provisions within current legislation, which lead fishermen to discard fish which they are not allowed to keep on board.

In order to remove the immediate legal and practical impediments to the landing obligation, on 17 December 2013 the Commission put forward an all-in-one 'omnibus regulation', which provides a package of amendments to the eight existing regulations affected by this problem. The Commission considers this proposal to be a temporary solution, while a new framework for technical measures is developed as part of the reformed CFP, with a view to facilitating full implementation of the landing obligation.

## The changes the proposal would bring

The changes proposed by the omnibus regulation ([COM\(2013\) 889](#)) are structured around two main issues: fisheries technical measures and control rules.

On **technical measures**, the proposal amends three major regulations on technical measures (general measures for the protection of juveniles, technical measures in the Baltic Sea, and the Mediterranean Regulation), as well as three regulations on management of specific stocks (Baltic cod, Irish Sea cod and deep-sea stocks), which also contain technical measures:

- *Council Regulation (EC) No [850/98](#) for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms;*
- *Council Regulation (EC) No [2187/2005](#) for the conservation of fishery resources through technical measures in the Baltic Sea, the Belts and the Sound;*
- *Council Regulation (EC) No [1967/2006](#) concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea;*
- *Council Regulation (EC) No [1098/2007](#) establishing a multiannual plan for the cod stocks in the Baltic Sea and the fisheries exploiting those stocks;*
- *Council Regulation (EC) No [254/2002](#) establishing measures to be applicable in 2002 for the recovery of the stocks of cod in the Irish Sea (ICES division VIIa);*
- *Council Regulation (EC) No [2347/2002](#) establishing specific access requirements and associated conditions applicable to fishing for deep-sea stocks.*

In all these regulations, the proposal replaces the provisions which forbid keeping on board and landing of fish below a certain size, termed 'Minimum Landing Size', and introduces a 'Minimum Conservation Reference Size' (MCRS), below which fish must be landed and counted against quotas, but not used for human consumption.

Other provisions concern the catch composition rules, which set limits for the various species making up the catch, with those components of the catch that are outside the given percentages having to be discarded. The proposal requires that all unintended catches of species subject to the landing obligation over the permitted catch composition limits must be landed and counted against quotas.

In a similar way, the proposal addresses multiple provisions which provide bycatch limits, and require fishermen to land fish caught in excess of these limits in specific areas, at specific times and for specific gear types.

In addition, one regulation no longer relevant under the landing obligation is repealed: *Council Regulation (EC) No [1434/98](#) specifying conditions under which herring may be landed for industrial purposes other than direct human consumption.*

As regards the **control rules**, the proposal contains a series of modifications to *Council Regulation (EC) [1224/2009](#) establishing a Community control system for ensuring compliance with the rules of the common fisheries policy.* The modifications mainly refer to:

- fishing authorisations for fisheries concerned by the landing obligation;
- recording of data on all catches;
- the margin of tolerance in estimates recorded in logbooks and transshipment declarations for catches below 50 kg;
- rules for utilisation of remote electronic monitoring of the landing obligation at sea;
- separate stowage of catches and control of marketing of catches below minimum conservation reference sizes;
- conditions for the use of control observers for the monitoring of the landing obligation;
- definition of the violation of the landing obligation as a serious infringement, to which a penalty point system would apply.

### Preparation of the proposal

The impacts of introducing a landing obligation were assessed in 2011 under the [impact assessment](#) supporting the reform of the CFP, which identified high levels of discards as an important driver of the lack of environmental sustainability of the CFP. The accompanying [impact assessment of discard-reducing policies](#) comprised a review of discard rates across EU fisheries and a series of case studies reporting on discard reduction policies in a number of EU and non-EU fisheries (in Iceland, Norway, Scotland and Denmark). A classification of levels of discarding in EU fisheries was developed and specific studies of discarding in Mediterranean fisheries were undertaken. The analytical part of this assessed the impacts of a range of anti-discard policy options in EU.

According to the Commission proposal, a further impact assessment for the omnibus regulation would not have added to the information already available. Consequently, no impact assessment has been carried out specifically for this proposal.

### Advisory committees

The European Economic and Social Committee (EESC) was consulted and its Section for Agriculture, Rural Development and the Environment provided an opinion on 1 April 2014 (Rapporteur Gabriel Sarró Iparraguirre). The EESC adopted its [opinion](#) on 29 April 2014.

The EESC opinion considers that the Commission's proposal is 'unnecessarily complicated and will generate an undue and disproportionate amount of additional work for fishing operators'. As a result, it advocates opting for more pragmatic rules that give fishing operators time to adapt during a transitional period, without facing heavy penalties. The EESC regrets that a prior impact assessment was not carried out in order to study the repercussions of the landing obligation for each fleet. According to the opinion, any decision related to fisheries technical measures should be taken following direct contact with ports and should be specific to concrete cases and timely.

The EESC opinion also provides a series of comments on technical measures, in particular with regard to certain definitions, the amendment to catch composition rules and the recording of catches below 50 kg. As regards the proposed control rules, it highlights several issues, such as the compulsory fishing authorisations, which it considers excessive, and the separate stowage of undersized fish, which is judged as impracticable. Additional comments regard penalties, wider margins of tolerance for small catches and remote electronic monitoring.

### Parliamentary advice

A series of studies in relation to the implementation of the landing obligation has been provided by the EP's Policy Department B (though not specifically for the omnibus proposal).

Three studies were presented during the hearing 'Implementing the discard ban', organised by the Committee on Fisheries on 7 April 2014:

- ['Characteristics of multispecific fisheries in the EU'](#)

The application of the discard ban is particularly challenging in the case of fisheries taking more than one species. This study provided an analysis of the landing obligation in the case of multispecies/mixed fisheries, based on four case studies considered relevant for EU waters (the North Sea, the Celtic Sea, Iberian waters and the Mediterranean). In addition, the study reviewed the current technical measures designed to reduce discards through improvement of selectivity and discussed the survival rate of the species affected by discarding.

- ['Best practice in the use of rights-based management to reduce discards in mixed fisheries'](#)

This study addressed the state of discards in fisheries managed by rights-based systems, by analysing the cases of five countries which apply complete or partial discard bans: Iceland, Namibia, New Zealand, Norway and the USA. The study showed that fisheries in these countries have comparatively low discard rates. Based on the review of the methods applied and on identified best practice, the study argued that reduction of discards can be achieved through technical measures for better selectivity, combined with strict control and heavy penalties for discarding.

- ['The obligation to land all catches - consequences for the Mediterranean'](#)

The landing obligation concerns all species which are subject to catch limits. However, in the Mediterranean, where no catch limits are applied with the exception of bluefin tuna, all catches of species which are subject to minimum sizes fall under the landing obligation. As catches of undersized/juvenile fish are not counted against the quotas, there is a risk of catches of juveniles becoming commercially attractive. This study provided an overview of the current level of discards in the EU Mediterranean fisheries and presented the mitigation measures applied to date. It also attempted to assess the consequences of the landing obligation in the Mediterranean, including the potential increase of juvenile catches.

In addition, in March 2015 Policy Department B provided the study [Small-scale fisheries and the zero-discard target](#), which analysed the effect of the landing obligation on Europe's small-scale fisheries and the specific concerns of this sector over its application.

A new study is currently being prepared by Policy Department B, on 'The landing obligation and its implications on the control of fisheries'.

### Legislative process

The debate on the omnibus regulation proposal was initiated at the beginning of 2014, with the attribution of the report to Gabriel Mato Adrover (EPP, Spain), in his capacity of Committee Chair (22 January 2014), and the presentation of the proposal by the Commission (11 February 2014). A committee [hearing](#) on 'Implementing the discard ban' took place on 7 April 2014.

Parliamentary work on the procedure was resumed in the new legislature and the new Chair Alain Cadec (EPP, France), who has taken over as rapporteur, presented his draft report on 16 October 2014. On 3 December 2014 the Committee on Fisheries adopted the amended report with a large majority (20 votes in favour, 4 against and 1 abstention), as well as a formal mandate to open negotiations with the Council.

The report considered that the omnibus regulation should be limited to implementation of the landing obligation for fisheries concerned in 2015. Also, it introduced a delay of two years before the application of a system of penalty points for infringements to the landing obligation. The requirement to stow undersized fish separately by species was removed, as well as the application of fishing authorisations to all fisheries subject to a landing obligation. The requirement to record catches in the fishing logbook was limited to catches above 50 kg. The report also proposed that producer organisations assume greater responsibility for preventing the emergence of a parallel market in undersized fish, as part of the drawing-up of production and marketing plans.

On 26 January 2015, prior to the second inter-institutional negotiating meeting, the Latvian Presidency of the Council discussed the views of Member States, with a view to facilitating agreement. As reported in more detail in the [press](#), a major difference from the position of the Parliament concerned the fisheries to which the proposal would apply, with the Council intending to maintain the initial timetable and thus include all fisheries concerned by the landing obligation until 2019. According to the same source, the proposal from the EP side that the Member States report every year on the implementation of the landing obligation, was judged as additional bureaucracy by the Dutch, Swedish, Danish, Spanish, Portuguese, British, Italian, French, Irish, Maltese and Belgian ministers. The press also mentioned that the suggestion of the EP negotiating

team that Member States be responsible for the outlets and storage of undersized fish landed was criticised by Spain, Ireland and Belgium in particular.

Nevertheless, a provisional political agreement between the Parliament and the Council was reached on 29 January 2015, with the [compromise text](#) approved by Coreper on 20 February 2015 and by the Committee on Fisheries on 9 March 2015. The text provides that the Commission will draft an annual report on the implementation of the landing obligation, based on information supplied by Member States, the Advisory Councils and other relevant sources, by amending the CFP Basic Regulation [1380/2013](#). The agreement also includes other changes to the initial Commission proposal, in particular with regard to the control rules, e.g. a delay of two years was introduced before sanctions for failing to comply with the landing obligation take effect, the requirement to stow undersized fish separately by species was removed, as well as the application of fishing authorisations to fisheries under the landing obligation, and the obligation to record the catches in the fishing logbook was limited to catches of a species exceeding 50 kg. Moreover, the compromise text amends the Common Market Regulation [1379/2013](#), to introduce a mechanism aimed at preventing the development of a parallel market for undersized fish. Member States should take measures for the storage of the landed catches of undersized fish subject to the landing obligation and other related issues. The requirements on remote electronic monitoring were removed.

The Parliament held a [debate](#) on the proposal in plenary on 27 April 2015 and on the next day adopted the [legislative resolution](#) at first reading by 573 votes to 96, with 21 abstentions. On 11 May 2015 the Council [approved](#) the legislative act with all Member States in favour. Following the signature of the act on 20 May 2015, the omnibus Regulation (2015/812) was published in the [Official Journal](#), entering into force on 1 June.

## References

European Parliament, Legislative Observatory (OEIL), Procedure file [2013/0436\(COD\)](#) Common Fisheries Policy (CFP): landing obligation

European Parliament, Committee on Fisheries, 2014, Committee [hearing](#) 'Implementing the discard ban', working document of 8.7.2014

European Parliament, Library, 2013, [Discarding fish under the Common Fisheries Policy](#), Library briefing by Weissenberger J.

Agence Europe, 2015, [Extra bureaucracy with end of discards concerns Council](#), Bulletin 27.01.2015

## Disclaimer and Copyright

The content of this document is the sole responsibility of the author and any opinions expressed therein do not necessarily represent the official position of the European Parliament. It is addressed to the Members and staff of the EP for their parliamentary work. Reproduction and translation for non-commercial purposes are authorised, provided the source is acknowledged and the European Parliament is given prior notice and sent a copy.

© European Union, 2015.

[eprs@ep.europa.eu](mailto:eprs@ep.europa.eu)

<http://www.eprs.ep.parl.union.eu> (intranet)

<http://www.europarl.europa.eu/thinktank> (internet)

<http://epthinktank.eu> (blog)