



NSRAC

**NSRAC
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Lowri Evans
Director General – DG Mare
European Commission
B-1049
Brussels
Belgium

This letter has also been sent to;

The Irish Presidency of the Council of the European Union
The European Parliament Committee on Fisheries
Member States – Fisheries Directors

Dear Ms Evans,

Discard ban in the Skagerrak - Proposal for a Regulation of the European Parliament and of the Council on certain technical and control measures in the Skagerrak and amending Regulation (EC) No 850/98 and Regulation (EC) No 1342/2008

On July 4 2012 the EU-Commission and Norway signed an agreement to introduce a discard ban in the Skagerrak. In late August 2012, in order to implement the agreement, the Commission tabled the above mentioned proposal to be adopted by the Council and the Parliament.

The Parliament finished its reading of the proposal by adopting its report on 16th April 2013. The Council continues to discuss the proposal at working group level. It is, however, expected that trilogies will be organized with the aim to have the proposal adopted in the near future.

In parallel with the Skagerrak proposal, the Council and the Parliament are engaged in trilogues regarding the reform of the common fisheries policy (CFP). Given this timeline the North Sea RAC (NSRAC) and the Pelagic RAC are very worried that any political agreement for the Skagerrak will differ significantly from what will be the future EU fishery policy in other waters. We therefore urge the Commission, The Parliament and the Council to make sure that the text agreed for Skagerrak will be consistent with the content of the reform of the common fisheries policy.

Level playing field - Consistency with the reform of the Common Fisheries Policy

The fishing industries in **Denmark, Sweden, Germany, the Netherlands, Belgium, UK and France** all have fishing entitlements in the Skagerrak. For the industry a level playing field is essential – therefore consistency in the approach to the discard ban in the expected new framework regulation and the Skagerrak model must be ensured.

In the texts discussed in the trilogues following the general approach from the Council and the report from the Parliament there are a number of provisions intended to ensure that a discard ban in practice can be implemented. These are;

- exemption for catches falling under provisions for *de minimis*.
- exemption that makes it possible to deduct catches caught in excess of quotas of the stocks in question, or catches of species in respect of which the Member State has no quota from the quota of the target species provided that they do not exceed 10 % of the quota of the target species.
- exemptions from the discard ban for species that have a high survival rate.

Such provisions must of course also apply in the Skagerrak – there must be level playing fields for all fishermen. As it stands, the proposal for the Skagerrak lacks these types of provisions that will make it possible to handle challenges such as "choke species". As an example the EU TAC/quotas for ling - if not raised considerably – will quickly be exhausted when a discard ban is implemented and thereby stop all fisheries in the Skagerrak although ling is only an unavoidable by-catch.

The question of documentation of all fishing trips

Another example of the lack of consistency and lack of a level playing field is the expected text on documentation of all fishing trips.

Where the text on full documentation in the new framework regulation is expected to state broadly that Member States shall ensure detailed and accurate documentation of all fishing trips, the Skagerrak proposal goes much further. It follows from the Commission proposal that;

Member States shall operate a Remote Electronic Monitoring (REM) system for monitoring of fishing activities and operating in the Skagerrak and fishing vessels of 12 meters' length overall or more shall have installed on board a fully functioning REM system that consists of a sufficient number of closed circuit TV (CCTV) cameras on board, GPS and sensors to be allowed to leave port.

The question of documentation is an EU issue only – the requirements are not applied to Norwegian fishermen, whether they are fishing in Norwegian or EU waters. This is not acceptable. There must be a level playing field for all. Furthermore, any requirements for documentation of fishing trips in the Skagerrak must be equal to what applies in other EU waters.

The NSRAC and the Pelagic RAC urge that the Skagerrak text on implementing the discard ban and the obligations of documentation are brought in line with the relevant text in the forthcoming new framework regulation.

Increasing TAC levels

The EU and Norway has in the Agreed Record of 4th July 2012 recognised that the new set up for Skagerrak is such a fundamental change in the management system that it justifies increased TAC levels. EU and Norway have also agreed that the increases should be guided by scientific advice from ICES. The fishing industries have often in the past been promised that the increase in TAC levels should reflect the discard levels of the relevant species. However, the Commission proposal does not give any answer that explains how it's going to deliver the promised TAC increase.

The TAC increase is a fundamental precondition for the introduction of the discard ban in the Skagerrak – whether the TAC increase is based on advice from ICES or others. However, the scientific world cannot give any numbers reflecting the “true” discard levels. The method and level for the TAC increase is a political responsibility. Today there is enough data to agree on principles, methodology, and not least the level of TAC increases.

EU and Norway agreed in January 2013 that the TAC increase should be negotiated during the consultations on fishing opportunities in 2014, which takes place in late November and early December 2013. This is simply too late. It creates large financial uncertainty associated with the introduction of the discard ban and this approach is simply incomprehensible to fishermen. By postponing the decision to take place in the annual consultations the question of the TAC increase will become a bargaining chip in the already very complex negotiations.

The fishing industries cannot wait to the end of the year for this clarification just before the discard ban is introduced. Fishermen by now should already have the information they require, allowing them to choose if they want to fish in Skagerrak in the future.

As long as there is uncertainty about the TAC increases, the representatives from the fishing industry in the EU cannot recommend the introduction of a discard ban in the Skagerrak.

The NSRAC and the Pelagic RAC therefore very strongly urge the Commission to find a solution on the question of TAC increases as soon as possible - and at the planned EU and Norway meeting in September 2013 at latest.

Introduction of "positive emergency procedure"

The Commission's proposal for a new framework regulation included an emergency procedure in the case of a serious threat to marine biological resources (Article 13).

However, with the introduction of a discard ban and the new management model for the Skagerrak it is necessary to have a similar *positive* emergency procedure to take care of the situation - when a very positive state of play or development for a stock is not reflected in the stock assessment at the time of TAC and quota fixation. We are well aware that TAC and quotas can always be changed, however the experience is that this procedure takes too much time.

Fishing capacity is declining and fishing mortality is falling and the species are generally at a stage of positive development. However, the development in Skagerrak is only reflected partly in the stock assessments given that many species the Skagerrak are part of the North Sea assessment. Therefore, if TACs for single species are fixed at a too low level compared with the actual fishing opportunities, a single species arbitrary can close the mixed fisheries in the Skagerrak.

Most of the demersal fisheries in the Skagerrak are taken from a *mixed fishery or mixed nephrops fishery*. A very positive stock population trend for one or more species can

relatively quickly cause exhaustion of the quota with the danger of closing down all the mixed fishery / mixed nephrops fishing and prevent valuable quotas being fished.

*The NSRAC and the Pelagic RAC urge that a **positive** emergency procedure is introduced in the Skagerrak text.*

Minimum conservation reference sizes

The Commission has proposed that the existing minimum landing size for commercial stocks in the Skagerrak in the future should be regarded as minimum conservation reference sizes (MCRS). These sizes should then be the trigger whether the catch of species included in the discard ban can be used for human consumption or not.

The fishing representatives in the NSRAC and Pelagic RAC can in no way support the introduction of the MCRS to restrict the use of the catches being landed. Norway does not in practice have such a restriction. Again, there must be level playing field. Fishermen should be free to sell their catch of fish to the buyer that will give them the highest possible income. A minimum reference size does not protect juveniles – but protection of juveniles will follow from the fact that the biggest fish will earn the highest price.

If for whatever reason there is no will to change the proposal, the NSRAC and the Pelagic RAC deems it essential that the MCRS is revised as soon as possible. The present sizes do not make sense in respect of whether a fish should be used for consumption or not.

Furthermore, it should also be made possible to conduct larger pilot schemes in the Skagerrak, where there are no restrictions on what may be used for human consumption. From such projects it should be evaluated whether there truly is a danger of creating markets for juvenile/undersized fish as feared in Brussels.

Entry into force

The introduction of the discard ban and the new management model in the Skagerrak will be a very big challenge for the fishermen in the Skagerrak. The fishermen must have appropriate time to adapt to the new set of regulations and make necessary purchases and possible vessel adaptations. In addition, the problems that fishermen have experienced with the implementation of harmonized technical rules in the Skagerrak illustrates that implementation is not an easy task.

The NSRAC and the Pelagic RAC must stress, that fishermen should have at least half a year to adapt to the new regulation. If the discard ban should come into force on 1 January 2014, it is a reasonable demand that the regulatory framework for the new regulation must be in place by summer 2013. It is not acceptable if the rules will only be resolved in the very last minute.

We recognise that there are a number of issues listed within this letter; all are of extreme importance as we move forward. We look forward to your response regarding the matters raised and are happy to discuss these in further detail.

Yours sincerely,

A handwritten signature in black ink that reads "Niels Wichmann". The signature is written in a cursive style with a long, sweeping tail on the final letter.

Niels Wichmann
Chairman, North Sea RAC