

**AGREED RECORD OF FISHERIES CONSULTATIONS BETWEEN
THE EUROPEAN UNION AND NORWAY
ON MEASURES FOR THE IMPLEMENTATION OF A
DISCARD BAN AND CONTROL MEASURES IN THE SKAGERRAK AREA**

4 JULY 2012

1. A European Union Delegation, headed by Mr John SPENCER, and a Norwegian Delegation, headed by Ms Ann Kristin WESTBERG, met in Copenhagen on 25 and 26 April 2012, and in Brussels on 22 to 24 May 2012 to consult on the implementation of a discard ban and control measures in the Skagerrak area. These meetings were complemented by exchanges of correspondence between the Delegations on the remaining outstanding issues over recent weeks.
2. For the purpose of this Agreed Record, the Skagerrak is defined as the area bounded on the west by a straight line running through the Hanstholm lighthouse and the Lindesnes lighthouse, and on the south by a straight line running through the Skagen lighthouse and the Tistlarna lighthouse.
3. The Delegations emphasised that the measures outlined in this agreement only apply to the Skagerrak, and that the measures will be without prejudice to any future arrangements in other areas.
4. The Norwegian Delegation recalled the Joint Ministerial Declaration of 23 November 2011 by the Ministers responsible for fisheries in Denmark, Norway and Sweden, namely, Mette Gjerskov, Lisbeth Berg-Hansen and Eskil Erlandsson, regarding the introduction of a ban on discards of fish in the Skagerrak, with effect from at the latest 1 January 2013, and underlined that this was an important step towards more sustainable fisheries in this area.
5. The Delegations recalled that, in line with the Agreed Record of Conclusions of Fisheries Consultations between Norway and the European Union on the regulation of fisheries in Skagerrak and Kattegat for 2012 of 2 December 2011, a Working Group was set up to give recommendations on appropriate control and enforcement measures and to develop a procedure for implementing a discard ban in the Skagerrak.
6. The Heads of Delegations agreed to recommend to their respective authorities the arrangements for the implementation of a discard ban and control measures in Skagerrak as outlined in this Agreed Record, including the Annexes.
7. The Delegations noted that the Report of this Working Group dated 30 March 2012 had made recommendations on control and enforcement measures and on certain measures for the implementation of a discard ban in the Skagerrak. The Delegations considered the recommendations in the report and agreed to the measures set out in Annex I and II.

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8. The Delegations agreed that the discard ban should be implemented species by species. However, species or specific fisheries could be exempted from the discard ban at a later stage based on the experience gained during the implementation of the discard ban and/or based on scientific evidence of the survivability of discarded fish.
9. Furthermore, the Delegations recalled that they agreed to introduce harmonised technical measures to be applied in the Skagerrak, cf. the Agreed Record of Conclusions of Fisheries Consultations between Norway and the European Union on the regulation of fisheries in Skagerrak and Kattegat for 2012. The Delegations agreed that these measures should enter into force no later than 1 January 2013.
10. The Delegations recognised that a discard ban will constitute a radical departure from current fishing practices for the EU fleets, which will require considerable adjustment for the fishermen concerned. The successful implementation should lead to a significant improvement in the stocks, but needs to be flexible and adaptable.
11. The Delegations agreed on the importance of an effective monitoring and control of the discard ban. To this end, it was agreed that effective control measures should be introduced or existing control measures should be reinforced by the Parties, to ensure equally effective compliance by the vessels of both Parties.
12. The Delegations agreed that they would establish separate discard monitoring programmes or systems to estimate continued discard levels in the Skagerrak, in order to strengthen the enforcement of the discard ban; refine supporting measures or introduce additional measures, and improve the quality of the data available for scientific assessments of stocks.
13. The Delegations recognised that there are differences in their respective control systems, and agreed that harmonising them would not be feasible. However, there is a need to reinforce cooperation and contact between the control services, in order to increase the effectiveness of the control. Therefore, the Delegations agreed to recommend setting up a Skagerrak Working Group on Monitoring, Control and Surveillance (MCS). The Skagerrak Working Group should be represented by MCS practitioners. The Terms of Reference of the Skagerrak Working Group would be as follows:
 - Develop and follow up mechanisms for the inspection services to cooperate, to exchange inspectors, establish joint operations and participate in training and workshops.
 - Consider risk-based inspection planning and procedures for assessing such inspections.
 - Establish procedures for mutual assistance for control purposes.
14. In order to maintain a forum for the continued assessment of the discard ban and the exchange of information related thereto, it was agreed by the Delegations that a Working Group on the implementation of the discard ban should operate within the Terms of Reference set out in Annex III. These Terms of Reference shall be reviewed on a regular basis.

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15. The Delegations recognised that such fundamental change in the management system will justify increased TAC levels. Such increases should be guided by scientific advice from ICES. To this end, the Delegations agreed to submit to ICES the joint request set out in Annex IV.
16. The Delegations agreed that a degree of inter-annual quota flexibility would facilitate the operation of a discard ban. This would be especially important during the early stages of the ban, when the industry will need to adjust its activities to meet the requirements of the new regime. The Delegations agreed that the level of the inter-annual quota flexibility should be fixed at 10 %. However, they agreed that the level of flexibility should be higher the first year and be gradually reduced thereafter. The Delegations therefore agreed to recommend that an inter-annual flexibility of 20 % should be allowed from 1 January 2013, 15 % the following year and 10 % after that. The inter-annual flexibility scheme for the Skagerrak is outlined in Annex V.
17. The Delegations agreed that vessels should have adequate quota to cover expected catch composition when fishing in Skagerrak.
18. The Norwegian Delegation agreed to conduct a small trial programme with CCTV in Skagerrak during 2013.

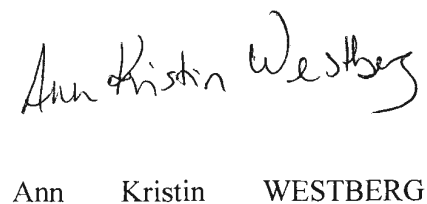
Reykjavik, 4 July 2012

For the European Union Delegation



John SPENCER

For the Norwegian Delegation



Ann Kristin WESTBERG

ANNEX I

PROCEDURE FOR IMPLEMENTING A DISCARD BAN IN THE SKAGERRAK

The Delegations agreed to the following procedure for implementing a discard ban to be applied in the Skagerrak:

- 1) The discard ban should be implemented in two steps. The first step should be introduced from 1 January 2013. The second step should be introduced no later than 1 January 2015.
- 2) All individuals of the species covered by the discard ban should be landed.
- 3) All catches by vessels using mesh size of less than 32mm should be landed irrespective of species.
- 4) Fisheries using pots and traps should be exempted from the discard ban
- 5) The species to be included in the first step of the discard ban should be as follows:
 - Cod (*Gadus morhua*)
 - Haddock (*Melanogrammus aeglefinus*)
 - Herring (*Clupea harengus*)
 - Mackerel (*Scomber scombrus*)
 - *Pandalus Borealis* (*Pandalus borealis*)
 - Saithe (*Pollachius virens*)
 - Sprat (*Sprattus sprattus*)
 - Whiting (*Merlangius merlangus*)
 - Hake (*Merluccius merluccius*)
 - Ling (*Molva molva*)
 - Monkfish (*Lophius piscatorius*)
 - Pollack (*Pollachius pollachius*)
 - Grenadier (*Coryphaenoides rupestris*)
 - Blue ling (*Molva dypterygia*)
 - Tusk (*Brosme brosme*)
- 6) The species to be included in the second step of the discard ban should be as follows:
 - Plaice (*Pleuronectes platessa*)
 - Witch (*Glyptocephalus cynoglossus*)
 - Long rough dab (*Hippoglossoides platessoides*)
 - Blue Whiting (*Micromesistius poutassou*)
 - Norway pout (*Trisopterus esmarkii*)
 - Argentine (*Argentina spp.*)
 - Sole (*Solea solea*)
 - Nephrops (*Nephrops norvegicus*)
 - Brill (*Scophthalmus rhombus*)

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- Dab (*Limanda limanda*)
- Turbot (*Scophthalmus maximus*)
- Lemon Sole (*Microstomus kitt*)
- Sandeel (*Ammodytidae*)
- Horse Mackerel (*Trachurus trachurus*)
- Rays (*Raja spp.*) (except prohibited species)
- Flounder (*Platichthys flesus*)
- Catfish/Wolfish (*Anarhichas lupus*)
- Greater Forkbeard (*Phycis blennoides*)
- Lumpsucker (*Cyclopterus lumpus*)
- Redfish spp (*Sebastes spp.*)

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ANNEX II

CONTROL MEASURES TO BE APPLIED IN THE SKAGERRAK

The Delegations agreed to introduce the following control measures to be applied in the waters of the Parties outside 4 nautical miles of the baselines in the Skagerrak.

Notification and licensing of fishing vessels operating in the Skagerrak

- 1.6 The scope of the existing electronic licensing systems used between Norway and the EU for other areas than Skagerrak should be adapted to cover Norwegian and EU vessels fishing in each other waters in the Skagerrak. The content of the notification and licensing shall be established by the MCS working group as referred to in point 14 of this Agreed Record.

Vessel Monitoring System (VMS)

- 1.7 All fishing vessel 12 metres overall length and more shall be equipped with a Vessel Monitoring System (VMS) as described in the Agreed Record of conclusions between the European Community and Norway on issues related to satellite tracking of fishing vessels signed 18 December 2008.
- 1.8 The tracking frequency shall be on a half hourly basis and the position reports shall be transmitted without delay and based on a preceding tracking on an half hourly basis.
- 1.9 Permanent exchange of VMS position reports of vessels operating in the Skagerrak and equipped with VMS. cf. point 2.1 shall be maintained.

Electronic reporting of catch and activity data (ERS)

- 1.5 Exchange of electronic catch and activity data and prior notification data for all vessels above 12 metres as described in the Agreed Record between Norway and the European Union on electronic exchange of catch and activity data signed 14 November 2011, or any subsequent amendment thereof. However, notwithstanding that, the master of a vessel entering a port of the other Party shall send the prior notification, at the latest, two hours before entering the port.
- 1.10 Electronic reporting of catch and activity data shall be on a haul by haul basis for trawl and purse seine.
- 1.11 For vessels not reporting electronically the port, date and time of arrival, the species and quantity of fish retained on board, planned landing time shall be submitted from the vessel to the Fisheries Monitoring Centre (FMC) where the landing will take place two hours in advance.

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Fisheries Monitoring Centres (FMC)

- 1.12 The FMC of the Countries should be the contact points for communication and exchange of information in regard to monitoring, control and surveillance.
- 1.13 FMCs operational 24/7 should be established and manned with MCS practitioners.

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ANNEX III

TERMS OF REFERENCE FOR THE WORKING GROUP ON THE IMPLEMENTATION OF A DISCARD BAN IN THE SKAGERRAK

The Working Group shall:

- Monitor and follow up the implementation of the discard ban in the Skagerrak.
- If necessary recommend appropriate adjustments to the discard ban and related supporting measures, including the functioning of the inter-annual quota flexibility scheme.

The Working Group shall give their recommendations before the annual consultations between the Parties.

The Working Group shall meet annually in 2013 and 2014, and thereafter if required by one of the parties.



ANNEX IV

JOINT REQUEST TO ICES

The European Union and Norway have agreed that a discard ban should be implemented in the Skagerrak (Division III a N) from 1 January 2013. It has also been agreed that new technical measures should be implemented.

The technical measures to be implemented are:

a) Pandalus fisheries

1. No change to the current cod end minimum size of 35 mm.
2. Mandatory use of a sorting grid with a maximum bar spacing of 19mm.
3. Allowing use of a fish retention device provided that there is adequate fishing opportunities to cover by-catch and that the retention device is:
 - a. Constructed with a top panel of a minimum mesh size of 120 mm square mesh;
 - b. A minimum of 3 meters in length.
 - c. At least as wide as the width of the sorting grid.

b) Directed Nephrops fisheries

Mandatory use of sorting grid (35mm bar spacing) together with a square mesh cod end with a minimum mesh size of 70 mm.

c) Mixed demersal trawl and seine and Mixed Nephrops/demersal fisheries

1. The basic cod end minimum mesh size for these fisheries should be 120 mm diamond mesh.
2. Allowing a derogation with the use of a 90 mm cod end together with a square mesh panel of 140 mm or a diamond mesh panel of 270 mm where in both cases the panel is:
 - a. A minimum of 3 metres in length.
 - b. The panel should be positioned no more than 4 metres from the cod line.
 - c. Be the full width of the top sheet of the trawl (i.e. from selvedge to selvedge); and
 - d. In the Case of the diamond mesh, the panel be placed in a four panel section and mounted with a joining ration of 3 meshes of 90 mm to 1 mesh of 270 mm.

The European Union and Norway have agreed that, for those species (stocks) where a discard ban is implemented, all catches should be accounted against the quotas concerned. This means that the quota set for the stocks concerned should reflect the total catch and not only the landings.

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In addition to the implementation of a discard ban for cod, haddock, whiting, saithe, herring, mackerel, *Pandalus borealis*, sprat, hake, ling, monkfish, pollack, blue ling, tusk and grenadier, a decrease in the EU minimum landing size for Nephrops is envisaged.

ICES is requested to advise on:

1. The estimated discard rates in weight by stock of cod, haddock, whiting, saithe, herring, mackerel, *Pandalus borealis*, sprat, hake, ling, blue ling, tusk and grenadier in the Skagerrak in 2012 and in 2013 taking into account the new technical measures and the obligation to land all catches that will be introduced from 1 January 2013.
2. The proportions of the EU catches of Nephrops in the Skagerrak above and below minimum landing size expected in 2012, and would be expected in 2013, if the above mentioned technical measures are implemented and the EU minimum landing size was i) unchanged or ii) 110 mm or iii) 100, or iv) 85 mm.

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ANNEX V

INTER-ANNUAL QUOTA FLEXIBILITY SCHEME FOR JOINTLY MANAGED SPECIES UNDER THE DISCARD BAN IN THE SKAGERRAK

1. Each Party may transfer to the following year unutilised quantities of up to 10% of the quota allocated to it. The quantity transferred shall be in addition to the quota allocated to the Party concerned in the following year. This quantity cannot be transferred further to the quotas for subsequent years.
2. Each Party may authorise fishing by its vessels of up to 10% beyond the quota allocated. All quantities fished beyond the allocated quota for one year shall be deducted from the Party's quota allocated for the following year.
3. If the uptake on an annual quota is exceeded by more than 10%, there should be a penalty resulting in a reduction of the Party's following year annual quota by more than 10%.
4. Complete catch statistics for those species subject to a discard ban and quotas for the previous year should be made available to the other Party no later than 1 April. The Parties will provide information regarding catches and quotas in the format as set out below. The Delegations agreed that in order to ensure transparency in the operation of inter-annual quota flexibility, more detailed information on catch utilisation shall be exchanged.
5. This scheme should be reviewed no later than 2016.
6. By way of derogation, the percentage limit mentioned in point 1 to 3 above shall be fixed at 20 % for the first year of operation of the discard ban and at 15 % for the second year.

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