

## Parecer n.º 90 do CC Sul sobre o Projecto de Regulamento Omnibus

*Destinatário: Parlamento Europeu*

### Comentários Gerais:

- O projecto de Regulamento Omnibus foi proposto pela Comissão Europeia, para a nova obrigação de desembarque poder efectivamente ser implementada, tentando eliminar todas as causas de rejeições de origem regulamentar, facto de que se congratula o CC Sul.
- Convém, contudo, que as disposições previstas por esse regulamento tenham uma acção provisória, na medida em que a definição das medidas técnicas deveria ocorrer mediante uma abordagem regionalizada, capaz de propor um quadro de gestão pragmático, claro e com rápida capacidade de resposta, o mais brevemente possível. Foi nesse sentido que o CC Sul se posicionou, no âmbito da consulta organizada pela Comissão Europeia relativamente às medidas técnicas.
- Mais globalmente, poder-se-ia procurar maior progressividade nessa proposta regulamentar e conceder maior flexibilidade aos navios de pesca artesanais.
- Muitas propostas relativas ao controlo das pescas são pouco sensatas e demasiado restritivas. Todos os esforços deveriam ser envidados para incentivar os pescadores a declararem todas as capturas, pois o futuro das mesmas não tem, afinal de contas, importância na gestão haliêutica.

### Observações lineares relativas à alteração do Regulamento 850/1998:

- Art. 3i: A proposta de definição das capturas involuntárias pode e deve ser melhorada ou alterada. Poderia ser útil especificar, sempre que necessário, que as medidas que obrigavam os pescadores à rejeições já não se aplicam no caso das espécies submetidas à obrigação de desembarque, segundo o calendário definido pela PCP.
- Art. 15.3: Não é aceitável recair sobre o capitão de um navio a responsabilidade de se certificar de que dispõe das quotas para lidar com as capturas. Na medida em que várias quotas não são objecto de distribuições individuais, essa responsabilidade deveria caber aos Estados Membros.
- Art. 19.1 e 19.2: Não é normal serem suprimidas, através desse regulamento, perdas em matéria de possibilidades de pesca. A isenção em termos de comercialização de 10% das capturas abaixo do tamanho mínimo foi implementada com vista a responder a realidades biológicas. Seria útil esta questão remeter para uma análise referente à definição do TMD.
- Tamanhos mínimos ( Anexo XII do Regulamento nº850/1998): Tendo em conta os Pareceres 80 e 87, os Membros do CC Sul recomendam uma redução do tamanho mínimo para a anchova das Canárias (de 12 para 9 cm), bem como a supressão do tamanho mínimo da amêijoia japonesa.



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## Observações lineares relativas ao Regulamento Controlo n.º 1224/2009

- Autorização de pesca e obrigação de desembarque (Art. 7.e): Esta proposta parece de facto excessiva, podendo afectar todos os navios de pesca. O CC Sul não vê qualquer utilidade na mesma, pelo que requer a sua supressão.
- Declaração de todas as capturas (Art. 14): Considera-se a proposta da Comissão muito pouco praticável, podendo suscitar muitos problemas aquando de controlos no mar. A manutenção de um limite de 50 quilos poderia ser oportuna.
- Estiva separada (Art. 49.bis)\* : A estiva separada das capturas de espécies abaixo do tamanho mínimo não é aceitável, tendo em conta as restrições logísticas e o acréscimo da carga de trabalho que pressuporia. Os esforços em termos de controlo deveriam prioritariamente focar-se na declaração correcta de todas as capturas.
- Faltas graves (Art 90.1.c): Parece-nos extremamente severo querer considerar como uma falta grave qualquer infracção à obrigação de desembarque, não tendo ainda sido explicadas as novas disposições relativas ao assunto. Seria proveitoso e valioso prever disposições acompanhadas de um reforço em termos de pedagogia.

Não foi possível acordar dum consenso sobre os comentários dos artigos 14 e 49.Bis .  
As ONG ambientais desejam expressar uma opinião minoritária:

- Declaração de todas as capturas (Art.14): uma melhor documentação de todas as capturas é necessária. O mantimento dum limite de 50 Quilos para cada espécie implicaria uma não declaração de quantidades de capturas muito importante e diminuiria a fiabilidade dos pareceres científicos
- Estiva separada( Art49.bis): as ONG ambientais estão a favor de uma estiva separada para todas as capturas bajo a TMRC, salvo no caso das pescarias de pequenos pelágicos e dos navios de talha inferior a 12metros, como proposto pela Comissão Europeia, esta medida facilita o controle das capturas.

**Contribuições recebidas: Federacion de Cofradias de Bizkaia ( anexo 1), CNPMM ( anexo 2), opinião minoritária das ONG Oceana, WWE Espanha, Seas At Risk (anexo 3), cofradia de Corralejo.**



# FEDERACION DE COFRADIAS DE PESCADORES DE BIZKAIA

## BIZKAIKO ARRANTZALEEN KOFRADIEN FEDERAKUNDEA

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### 1. **Observaciones generales**

- 1.1 La propuesta comienza introduciendo algunos cambios en definiciones que son comunes a varios Reglamentos, como la introducción de una expresión nueva , a saber, «capturas no intencionales» o el cambio de denominación del «tamaño mínimo de desembarque» (TMD) por «talla mínima de referencia para la conservación» (TMRC).
- 1.2 La mayor parte de los cambios en los Reglamentos de medidas técnicas pretenden eliminar la obligación de descartar que la actual normativa impone por tres causas:
  - incumplir las reglas de composición de las capturas;
  - no alcanzar los TMD;
  - incumplir las disposiciones sobre las capturas accesorias.
- 1.3 La Comisión propone mantener vigente la obligación de descartar todo aquello que no esté sujeto a la obligación de desembarque y eliminar, mediante excepciones, lo que va a quedar sujeto a la obligación de desembarque, que deberá, además, computarse en las cuotas.
- 1.4 Consideramos que las medidas técnicas son algo fundamental en la actividad pesquera y que, por ello, las decisiones sobre las mismas deberían tomarse tras establecer un contacto directo con los puertos, ser específicas para casos concretos, tener carácter temporal y basarse en procesos de decisión rápidos y eficaces que permitan adaptarse a las circunstancias cambiantes y a la evolución de las especies afectadas. Lamentablemente, el proceso de toma de decisiones de la UE no permite que sea así.
- 1.5 Estimamos que la propuesta de Reglamento es muy compleja y que va a generar un trabajo adicional excesivo y desproporcionado a los pescadores a la hora de aplicar la obligación de desembarque. Por ello, estima necesaria una normativa más pragmática, clara, sencilla y flexible y que conceda a los pescadores un período transitorio, tal y como ha ocurrido en otros países del mundo, para adaptarse sin ser sancionados. Por lo tanto, considera que no tienen justificación las nuevas medidas de control introducidas para asegurar el cumplimiento pleno desde el primer día de una normativa de la que no se tiene experiencia previa.
- 1.6 En este sentido, lamentamos que no se haya realizado una evaluación de impacto previa que analice las repercusiones que tendrá la aplicación de la obligación de desembarque en las distintas flotas.

### 2. **Observaciones particulares**

- 2.1 Con relación a la definición de «capturas no intencionales», que son las capturas accidentales de organismos marinos cuya pesca esté prohibida en las circunstancias pertinentes, consideramos que la definición resulta sencilla pero que no es muy satisfactoria porque

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normalmente se trata de especies acompañantes inevitables y valiosas que por razones de distribución de cuotas u otras normas no se permitían retener para el arte o el operador concreto. Se estima más conveniente definirlo como «las capturas incidentales que no cumplan plenamente la normativa en vigor».

- 2.2 Por lo que se refiere a la definición de «talla mínima de referencia de conservación», por el momento es un mero cambio de nombre, de forma que la especie que no alcance esa talla y esté sujeta a la obligación de desembarque, deberá desembarcarse de forma independiente y controlada para que no vuelva a entrar en el circuito comercial, mientras que las especies no sujetas se seguirán devolviendo al mar. Estimamos que deberían tenerse en cuenta márgenes de error para cubrir la dificultad técnica de separar exhaustivamente, entre las especies con obligación de desembarque, las diferentes TRMC, porque si no se va a crear una enorme inseguridad jurídica.
- 2.3 La modificación de las disposiciones sobre la composición de las capturas, que obligan ahora a descargar las especies sometidas a la obligación de desembarque, no deja claro en algunos casos si esas capturas no intencionadas deben tenerse en cuenta al calcular los porcentajes de composición. En este sentido, consideramos que surge el problema de saber en qué cuotas se van a computar estas capturas, a lo cual es difícil responder sin saber la flexibilidad que van a aportar los diferentes mecanismos previstos, cómo se van a comportar en el futuro los intercambios de cuota entre Estados miembros («*swaps*») y cuál va a ser la política de la Comisión en la fijación de los TAC para las diferentes especies en pesquerías mixtas. Si el criterio es el rendimiento máximo sostenible, se producirán desequilibrios que llevarán a una escasez generalizada de determinadas cuotas y se producirá el estrangulamiento de muchas pesquerías.
- 2.4 Registro de las capturas y los descartes
  - 2.4.1 La modificación del artículo 14 del Reglamento (CE) nº 1224/2009, sobre la cumplimentación y presentación del cuaderno diario de pesca, en su apartado 1, que antes decía "indicando expresamente todas las cantidades de cada especie capturadas y transportadas a bordo superiores a 50 kilogramos en equivalente de peso vivo", ahora elimina este último criterio. Estimamos que esta medida complicará mucho el trabajo, especialmente en los buques pequeños, aunque este capítulo solo se aplique a los mayores de 10 metros. Si la intención es mejorar la información, ello puede hacerse con suficiente precisión mediante muestreos.
  - 2.4.2 Así mismo, estimamos que la modificación de la letra f) que exige ahora «anotar por separado las cantidades o ejemplares que no alcancen la talla mínima de referencia para la conservación aplicable», puede suponer también en ocasiones una tarea desproporcionada, sobre todo para la flota artesanal.
  - 2.4.3 El apartado 4 establecía que «los capitanes de buques pesqueros comunitarios también anotarán en el cuaderno diario de pesca todos los descartes cuyo peso estimado supere 50

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kilogramos en equivalente de peso vivo para cualquier especie». Consideramos que la eliminación en dicho apartado de la referencia a los 50 kilogramos también va a implicar un trabajo considerable que ni siquiera se ha estimado. Hay que tener en cuenta que el texto se refiere a todas las especies, tanto las sometidas a la obligación de desembarque como a las no sometidas.

- 2.5 La nueva obligación de control que impone a los patronos el Artículo 15.3 del Reglamento (CE) 850/98 resulta especialmente llamativa, puesto que no es predecible lo que un buque va a capturar en una marea y no se puede exigir dotes adivinatorias a los patronos. Aunque la redacción es vaga en cuanto a los resultados prácticos de esta exigencia o a su incumplimiento, podría llegar a aplicarse para sancionar a patronos o para agravar cualquier situación conflictiva. Por ello, el Comité considera que debería eliminarse este punto que puede crear una grave inseguridad jurídica.
- 2.6 Estimamos que la exigencia de una autorización de pesca individual obligatoria para los buques afectados por la obligación de desembarque parece algo excesiva, ya que afectaría a un gran número de buques pequeños y generaría una enorme burocracia, teniendo en cuenta las exigencias adicionales de comunicación por parte del Estado miembro. Consideramos que sería mejor excluir de dicha autorización a los buques que tienen mareas inferiores a un día.
- 2.7 Otras obligaciones adicionales de control
  - 2.7.1 Las nuevas normas de control son de aplicación general para todas las pesquerías y para los buques grandes y pequeños. Reiteramos que estas medidas resultan especialmente inadecuadas para los buques pequeños, al suponer una enorme carga administrativa para la industria y las administraciones y dificultades prácticas para el trabajo a bordo.
  - 2.7.2 Se propone la estiba separada de las especies de baja talla, estableciendo que «deberán estar colocadas en cajas, compartimentos o contenedores separados para cada población». Consideramos que esta medida puede ser irrealizable para los buques pequeños y que la exclusión parcial prevista para los buques de menos de 12 metros no parece suficiente. Por ello, estimamos que debería excluirse de este requisito al menos a todos los buques que hacen mareas de uno o dos días, con independencia de su tamaño.
- 2.8 Sanciones y observadores
  - 2.8.1 La redacción propuesta para el artículo 90.1.c) del Reglamento (CE) nº 1224/2009 considera infracción grave cualquier incumplimiento de la obligación de desembarque. Consideramos que esta calificación es exagerada y excesiva y que debería eliminarse de la propuesta.
  - 2.8.2 Aunque ese mismo artículo especifica que la gravedad de la infracción en cuestión será determinada por la autoridad competente del Estado miembro de que se trate, estimamos que

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la normativa va a resultar tan compleja y difícil de cumplir que no va a ser fácil para ningún patrón de ninguna flota quedar a salvo de pequeñas infracciones involuntarias.

2.8.3 Consideramos que el establecimiento de márgenes de tolerancia mayores para cantidades pequeñas de captura es razonable. No obstante, estima que los márgenes propuestos no son realistas, especialmente al desaparecer el límite de 50 kilogramos en las declaraciones y exigirse la cuantificación de todos los descartes. En su lugar, propone que los nuevos márgenes de tolerancia, con estos requisitos de información, sean negociados y se discutan individualmente en cada pesquería. Incluso entendemos que con la nueva reglamentación, y con la obligación de desembarcar todas las capturas, no hay necesidad de mantener el margen de tolerancia del apartado 3 del artículo 14 del Reglamento CE 1224//2009. Proponemos suprimir dicho porcentaje para ciertas situaciones, ya que hay pesquerías en las que hay dificultad de cumplir el mismo, y la flota está teniendo graves problemas con propuestas de sanciones, incluso en pesquerías que no hay ningún problema de cuota.

2.9 Según la Comisión, la inclusión de un apartado sobre seguimiento electrónico remoto (CCTV), aunque en la actualidad no sea obligatorio, responde a la necesidad de disponer de un marco regulador para este sistema, que pasaría a ser uno más entre los actualmente disponibles en el reglamento de control. Consideramos que debería establecerse más claramente y delimitar bien bajo qué condiciones podría llegar a ser exigible.



## IMPLEMENTING THE NEW COMMON FISHERY POLICY

### Position of the Comité National des Pêches Maritimes et des Elevages Marins on the “Omnibus” Regulation proposal<sup>1</sup>

30<sup>th</sup> April 2014

#### Introduction

One of the central objectives of the reformed Common Fisheries Policy (CFP) adopted in December 2013 is to drastically reduce discards. Two important tools to achieve this objective have been defined. First, EU fishermen will be required to land all catches of species for which a maximum catch limit (known as the Total Allowable Catch level or TAC) is defined by the EU or for which minimum landing sizes are set (the latter only applies to the Mediterranean Sea). This is the so called “landing obligation”. The second tool is the improvement of the selectivity of fishing activities, in other words making sure that a vessel only catches the fish it wants to catch (sometimes referred to as the fish it targets). Eliminating discards means putting an end to a practice consisting of throwing back all fish that a fishing vessel does not want to fish at sea, or fish which EU regulation itself requires be thrown back at sea. Fish can be unwanted for a variety of reasons, ranging from the fact that they cannot be sold on the market, that it is unfit for human consumption or because of a lack of quota, meaning the right granted to a particular fishing vessel to fish a particular type of fish.

The obligation to land all fish caught will progressively be introduced across all types of European fisheries as of January 2015. The landing obligation will apply from 1 January 2015 onwards to so called pelagic fisheries – which target species found in the waters immediately below the surface of the seas or between the surface and the bottom of the seas – before being extended to all other fisheries between 2016 and 2019.

We fully support the objective of progressively and significantly reducing discards in EU fisheries and wish to work hand in hand with EU policy makers to ensure this can be done in an effective and pragmatic way. To do so, it is very important to keep in mind that the landing obligation brings many challenges for our sector:

- The obligation to land all fish caught is a fundamental change of the CFP approach since, to this day, many regulations applicable to our sector do either allow or impose the use of discards;
- It brings many technical challenges to our sector that need to be properly tackled.

In the longer term, the best way to address these challenges is for the EU to provide us with a new toolbox regulating the way we conduct our fishing activities, making sure that this toolbox gives us

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<sup>1</sup> *European Commission proposal for a Regulation of the European Parliament and of the Council amending Council Regulations (EC) No 850/98, (EC) 2187/2005, (EC) No 1967/2006, (EC) No 1098/2007, No 2347/2002 and (EC) No 1224/2009 and repealing Council Regulation (EC) No 1434/98 as regards the landing obligation*

the means to effectively put an end to discards. This toolbox is known as the “technical measure framework”, tackling topics such as the technical specifications of our fishing gear, which areas are closed to fisheries and during which season to help fish stocks recover, or how we can minimize the impact of our fishing activities on the marine ecosystem and environment.

The current technical measure framework is far from adequate. It allows or imposes discards in some instances but it is also too prescriptive. It imposes rules that are micromanaging the work of fishermen all over Europe without taking into account the regional specificities of fishery activities. As such it is not in line with the CFP objective of moving away from the unintended negative consequences of micro-managing EU regulations (and controls) to ensure compliance with overarching objectives. **The EC is currently preparing a new technical measure framework and has opened a public consultation due to end on 14th May. We hope the ensuing proposal will be published before the end of the year.** In addition we are fully aware that the adoption process will take time as the EC proposal will have to go through the ordinary legislative procedure, requiring agreement by both the EP and the Member States. We hope that this adoption process will be as quick as possible but we agree with the EC that a transitory solution must be found in order to iron out contradictions between existing regulations applicable to our sector and the landing obligation of the new CFP.

We do share the EC objective to see the omnibus regulation entering into force by the end of the year as we consider this essential to ensure that pelagic fisheries can implement the discard ban as of 1<sup>st</sup> January 2015.

Irrespective of the timing, some measures currently proposed go way beyond the scope of what is necessary to avoid contradictions between existing EU regulations and the landing obligation. Other measures are not defined in a pragmatic way, adding a layer of administrative complexity for our sector. These should be revised to ensure an easy implementation by fishermen.

#### **I. A scope adequate to regulatory needs**

The omnibus regulation naturally establishes a transitory regime, ahead of the future enactment of the upcoming proposal for a regulation on technical measures. Therefore, the priority of the omnibus regulation should be the pelagic fisheries, the first and only fishery sector to face the obligation to land all catches as of 1 January 2015. The discard plan for pelagic fisheries will be the first and only discard plan to be ready by the time the omnibus regulation is in force and will concretely define how the discard ban can be implemented for pelagic fisheries, amongst other things.

Depending on how fast the Commission can draft its proposal for a new technical measure framework, the scope of the omnibus regulation will have to be extended to include the demersal fisheries which are second in line for the implementation of the landing obligation, as of 1 January 2016. By this time, any technical measures in contradiction with the discard plan will have to have been removed. All other discard plans will only enter into force at a later stage, when one can reasonably assume that the new regulation on technical measures will be in place.



In the same vein, we do not think that the **Omnibus Regulation is appropriate to deal with the implementation of new measures designed to control our activities**. We do not support the EC proposal to introduce electronic monitoring system in the transitory regime (see amendment to article 25 regulation (EC) No 1224/2009). It is important to keep in mind that putting in place electronic monitoring systems is one of many possible tools which are referred to by the CFP basic regulation and that the choice of the most appropriate tools has been left to the discretion of the Member States (article 15 regulation (EC) N01380/2013). We would also like to point out that in some EU Member States, electronic monitoring may not be in line with the labour legislation neither with legislations tackling data protection, not to mention the socially controversial character of such a measure.

## **II. Ensuring pragmatic and cost effective measures**

We think that a series of improvements can be made to the current EC proposal to strengthen the transitory regime and ensure it does not lead to additional administrative and legal complexities for our sector. In this regard, we would like to propose the following modifications to the EC amendments:

### ***a) European Fishing Authorization - Do not add an unnecessary layer of administrative burden for our fleet***

#### The EC proposal

The EC proposal requests that fishing vessels, whose their fishing activities are partly or fully subject to a landing obligation, obtain a specific European Fishing Authorization for these activities. Such an authorization would come on top of the other fishing authorizations that vessels are required to obtain in order to operate in EU and international waters. These authorizations already bind vessels to respect the CFP and all related regulations and therefore cover the landing obligation.

#### Our proposal

We do not think that this additional European Fishing Authorization is either proportionate or relevant in any manner to achieve the CFP objectives. If this type of additional authorization requirement is introduced, it only increases the administrative burden for our fleets. We would therefore argue that this measure should be withdrawn from the regulation proposal. (See proposed amendment to article 7 of Regulation (EC) No 1224/2009).

### ***b) Fishing gear and catch composition - Give fishermen the necessary freedom to improve the selectivity of their catch***

#### Our solutions

To radically reduce discard and ensure that fishing remains an economically viable activity even when all catches are landed (commercial and non-commercial fish), fishermen need to drastically improve the selectivity of their catch. They will not catch more fish, as all catches will be deduced from catch quotas, but will rather better target commercial fish by changing their fishing strategy to avoid landing unwanted fish.

However, a vast array of old pieces of EU legislation currently regulates fishing activities in all sorts of details, including mesh sizes, percentage of catches, days at sea per gear category, etc. These requirements bind the hands of fishermen: they cannot implement more selective fishing strategies with these rules.

The knock-on effect is that fishermen could run the risk of running out of catch quota, simply because they are not allowed (by EU law) to use more selective gear and are required to land all catches discounted against quotas. This incoherent system could have dramatic consequences: without catch quotas, a boat can't go fishing and is obliged to remain berthed. The EU omnibus regulation proposal should focus on providing practical options to allow fishermen to improve the selectivity of their catch so as to reduce landing of non-commercial fish, whilst ensuring sustainable fishing. Concretely, these tools could include:

- Acknowledge that fishing does include a certain degree of unpredictability in spite of the best fishing techniques and experience of captains. The omnibus regulation should open possibilities for fishermen to make certain own decisions when fishing, in full respect of EU law.
- Move away from rules which bind fishermen to a particular catch composition in mixed fisheries (ie. percentage of different species per fishing trip): these rules force fishermen to discard fish in order to meet these mandatory catch composition percentages.
- Allow fishermen to select their technical tools, for examples mesh sizes and fishing selectivity devices depending on the type of fish.
- Include in the scope of the omnibus regulation, pieces of legislation which make references to old requirements of the former CFP and contradict the new landing obligation (ex: regulation EC No 494/2002 establishing additional technical measures for the recovery of the stock of hake, regulation EC No 2056/2001 establishing additional technical measures for the recovery of the stocks of cod in the North Sea and to the west of Scotland, regulation EC No 88/2006 establishing a multiannual plan for the sustainable exploitation of the stock of sole in the Bay of Biscay, regulation EC No 1342/2008 establishing a long-term plan for cod stocks and the fisheries exploiting those stocks).

***c) Assess the relevance of minimum conservation reference sizes in the context of the landing obligation***

The EC proposal

To this day, when a minimum landing size applies (MLS) for example in the Mediterranean, our vessels are only allowed to retain fish on board equal or bigger to the MLS. MLS are defined in EU legislation and often vary from one fish species to another. The EU proposal replaces the notion of MLS with the minimum conservation reference size concept (MCRS). It proposes to convert MLS into MCRS without considering whether the same size is adequate to achieve the objective of MCRS. The proposal also forbids the use for human consumption of fish below MCRS size.

Our proposal – address the opportunity to revise MLS

First, we would like to point out that our vessels do everything they can to avoid catching small individuals as currently they have to be discarded. In addition, as far as the pelagic sector is concerned, the discard level is generally very low.

Against this backdrop and taking into account that it will soon be forbidden to throw fish back at sea (and that fish of all sizes will have to be landed if caught) we should evaluate whether the MCRS notion in regulations tackling technical measures applicable to fishing operations is the best one. If it is considered appropriate, the definition of MCRS size necessary to achieve sustainability should be defined per species. MCRS should not necessarily be equal to the former MLS.

***d) Revise the separate stowage system of catches below MCRS***

The EC proposal

For vessels bigger than 12m, the EC is proposing a specific stowage system on board for each and every fish that is smaller than the MCRS. (See amendment proposed to article 49 of (EC) regulation No 1224/2009).

Let's look at a concrete example to illustrate the significant technical problems this would lead to:

A 14-16 meter-long trawler boat fishing for langoustines in the Bay of Biscay has around 14m<sup>3</sup> of storage space. The boat's limited storage space has already been optimized to ensure the best quality for consumers, separating langoustines from fish. By the end of a fishing trip, there is no storage space left in the boat. On an average fishing trip, this boat is likely to catch on average 6 species which are subject to MCRS, langoustines and 5 other species of fish it does not target but can't avoid catching (ex: hake, red mullet, sole, mackerel, and jack mackerel). There is simply no space to store each of these species in separate containers, per species and per size (above or below MCRS).

Our proposal – avoid a disproportionate and technically excessively difficult measure

The EU's objective is to make sure all catches below MCRS are registered. An efficient system is already currently in place to register catches, control and trace fish below MCRS. The requirement to separately store (below MCRS) each species of fish is disproportionate. It can't be implemented without creating excessive technical difficulties on board.

***e) Address the proposed reporting of catches below 50 kg in the revision of the regulation on control measures***

The EC proposal

The EC proposes to make it compulsory to register in the logbook the quantities of each and every species caught – providing details such as live weight and number of individuals. In addition, the EC proposes that the "permitted margins of tolerance" for fish retained on board – in other words the margin of error- shall be 10% for all species except for species for which less than 50 kg have been fished. In this case the tolerance level is set at 20%. If these requirements are not strictly observed, a

vessel will be considered to have committed a serious infringement of the regulation. (See proposed amendment to article 7 of EC regulation 1224/2009)

In practice, the only possibility to respect these tolerance levels is for fishermen to account for every single kilogram of fish captured. How else can a vessel master be sure that the margin of error does not exceed the 10 or 20% limit? It is not a realistic option. In addition, these proposals should not be included in the omnibus regulation, but should rather be discussed in the context of an overall revision of the regulation on controls, which will update all control measures.

***f) Obligation to notify quotas prior to fishing trip***

The EC proposal

The Commission proposes that masters of fishing vessels ensure that they have sufficient quota to cover their likely catch composition and the permitted percentages before their vessels start a fishing trip (see amendment to Article 15 of regulation (EC) n° 850/98).

In mixed fisheries, which the majority of European fisheries are, it is practically impossible for fishing vessels to predict in advance what the exact composition of a vessel's catch during a given time will be. While experience can help captains to assess what types of fish **could** be found, the final catch depends on seasonality, weather and sea conditions, and chance.

Administrative authorities who oversee and control fishing activities will make very little use of these predictions. What matters to authorities is to verify reports on catches (composition and volumes of fish actually caught), control the implementation of the landing obligation and ensure respect of quotas.

As regards compliance with quotas, the new CFP already requires Member States to allocate quotas taking into account the expected annual or monthly catch composition of a mixed-fisheries vessel or vessel association (article 16 of the Basic regulation). This ensures that meaningful quotas are attributed to the right fishermen for a period comprising many fishing trips.

Our proposal – avoid adding an unnecessary administrative burden

From a regulatory standpoint, the proposed notification of quotas prior to a fishing trip is not necessary. The discard-ban, the landing obligation and catch quotas are already stringent requirements, which ensure that fish is no longer discarded at sea and that all EU vessels practice sustainable fishing. Taken together, these requirements already force fishing vessels to abandon a fishing trip if they do not have the necessary quotas, rather than face strong legal and financial penalties for catching and landing fish over their quotas or for discarding unwanted or over-quota fish. The proposed amendment has very little practical use. It would create an unnecessary administrative burden on fishing vessels and on national administrations before they fish. We recommend dropping this amendment and focusing on implementing the core elements of the EU's new CFP: discard-ban, landing obligation and respect of catch quotas.

## Minority position by SWW Advisory Council NGOs on the SWW AC Advice 90, 'Omnibus regulation'

### Contributions by Oceana, WWF Spain, Seas At Risk

The contributing NGOs wish to express their surprise that a recommendation on this file is being sent to the European Parliament Fisheries Committee in a very rushed manner. The European Commission released its proposal for regulation COM(2013) 889 in December 2013. While the Council began discussion of the file immediately, the Parliament decided to delay the process, not beginning work on the file until the end of its legislative term in April. It is hard to understand why no input or momentum was provided at that time, given the urgency for legislative clarity at the latest on 1<sup>st</sup> January 2015.

On the content of the SWW AC recommendation, we wish to make the following comments:

1. The regulation needs to be applied to all fisheries, and not only limited to pelagic ones. It will probably take until 2017 for the new regulation on technical measures to be in place; clarity is needed for all fisheries up until that point, since discard plans for demersal species come into force already in January 2016.
2. On the SWW advice in Article 19.2, there should be no exemption to allow for 10% of the retained catches below MCRS to be sold. This will undermine the objective of the CFP to reduce unwanted catches in the first place and might create a market for such catch.
3. Regarding SWW advice on Article 14 (Control regulation): Better information is needed for all catches. If a maximum of 50kg for each species is to be omitted for each vessel and each trip, a huge amount of removals would remain unrecorded and decrease the value of scientific assessments.
4. On SWW advice on Art 49.bis (Control regulation): NGOs support the separate stowage of catches below MCRS, excepting for cases involving small pelagic species and fishing vessels of less than 12m, as proposed by the EC. This measure will facilitate the control of catches.
5. On SWW advice on Article 90.1 c (Control regulation): Difficulties with the initial phase-in of the landing obligation are known. Nevertheless, there is a sufficient amount of exemptions and flexibility measures that can be integrated in the respective discard plans to avoid any infringement taking place. If no clear limitations are set, the objectives of the CFP will not be reached.