

Impact assessment on the requirement to use automatic sampling devices, ref. no HaV 2024-003606

A. Description of the problem, consequences and alternatives

1. Description of the problem and the change that is sought

When pelagic species such as herring and sprat are fished, the catch is taken on board the vessel and kept unsorted in tanks or big boxes. The number of kilograms of each species is to be estimated by the master and recorded in the logbook. When landing, the catch is usually pumped from the vessel to a reception facility or directly onto a truck, or similar, via a tube or a belt. The catch that is stored in big boxes is instead lifted ashore. Irrespective of how the catch is landed, catches stored unsorted need to be sampled to establish a species composition, and be weighed. This data is then used in the quota calculation¹. It is the responsibility of the recipient, and in some cases the master, to ensure that samples are taken and that the catch is weighed upon landing.

When sampling, species samples shall be taken evenly distributed across the landing in order to provide the most reliable result possible. Samples need to be taken at regular intervals and be approximately the same size, to provide an accurate result.

Following an inspection by the European Commission, Sweden has been criticised for failing to comply with EU requirements on how pelagic landings are to be weighed and checked, and for the insufficiency of the current sampling plan. Therefore, in consultation with the European Commission, Sweden has developed a new sampling plan for weighing unsorted pelagic landings. This requires for a fully or semi-automatic sampling device for pelagic unsorted landings over ten tonnes, to ensure that samples of the same size are taken distributed evenly across the landing. Thus, the requirement does not cover landings below ten tonnes; instead, for these landings, Sweden may make an exception to the requirement for a sampling device. For landings below ten tonnes, samples must still be taken, however, this can be done entirely manually.

In the absence of an approved sampling plan, all species shall be weighed separately in connection with all landings. The proposal for a new sampling plan has been submitted to the

¹ For certain species, such as herring and sprat, annual total allowable catches (TACs) are established at EU level for the Member States, and the Member States are responsible for ensuring that the allocated quotas are not exceeded. Therefore, the Swedish Agency for Marine and Water Management monitors the reported landing on a daily basis, which is counted against allocated fishing quotas.

European Commission for approval, and what has been stated in the sampling plan and approved by the European Commission needs to be implemented in national legislation in order to apply to Swedish landings.

However, in order to make it easier for smaller operators, and in the event of smaller landings in e.g. boxes, it is clear from the submitted sampling plan that Sweden may exempt pelagic landings below ten tonnes from the requirement for a sampling device.

In light of this, the Swedish Agency for Marine and Water Management ('the Agency') proposes to introduce a requirement for a fully or semi-automatic sampling device to be used when sampling landings of unsorted pelagic catches over ten tonnes. The purpose of an automatic sampling device is to ensure that samples are approximately the same size on each sampling occasion, and to reduce the risk of the samples being influenced by the person taking them. Under this mechanism, when someone pulls a string or presses a button, a predetermined amount of catch is automatically removed from the flow, and then collected in a receptacle. The device can only be used when catch is passing through a tube or on a conveyor belt.

2. Description of the consequences expected if no action is taken

Article 60 of Council Regulation (EC) No 1224/2009², the 'Control Regulation', states that a Member State shall ensure that all fishery products are weighed on systems approved by the competent authorities unless it has adopted a sampling plan approved by the Commission and based on the risk-based methodology adopted by the Commission. Where the Member State does not have such a sampling plan, weighing shall be carried out on landing prior to the fisheries products being held in storage, transported or sold. The figure resulting from the weighing shall be used for the completion of landing declarations, transport document, sales notes and take-over declarations.

Although Sweden already has a sampling plan in force, if Sweden does not act on the Commission's criticism of Sweden, there is a risk that the Commission will initiate a formal infringement procedure against Sweden.

Unless a requirement for a semi-automatic sampling device is introduced for landings above ten tonnes, Sweden will not be able to comply with the new sampling plan developed by the Swedish Agency for Marine and Water Management in dialogue with the European Commission. This means that all unsorted catches above ten tonnes in connection with landings must be sorted in order to be weighed per species, which in turn will require other significantly more costly solutions to enable sorting before weighing in connection with landings.

3. Description of the different options available to achieve the change and the advantages and disadvantages associated with each

The minimum requirement for a semi-automatic sampling device is a technical requirement entailing that the person responsible for weighing shall place a sampling tube, or sampling gutter, on the tube or belt through which fish pass, before size grading. When the tube, or gutter, is opened, a predetermined catch amount shall automatically be removed from the stream and then collected in a receptacle. The tube, or gutter, may open when someone presses a button or pulls a string. Setting up this type of sampling tube will cost money, and time, for recipients or fishermen. However, once the device is in place, it will facilitate sampling for the operator and, thereby, save time.

² Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006.

If the sampling device is fully automatic, the sampling tube or gutter is regularly opened completely automatically, without anyone pressing a button or pulling a string. However, in the Agency's opinion, it is sufficient that the sampling is carried out semi-automatically in order to fulfil the purpose of the requirement.

An alternative solution is for the person responsible for weighing to decide how the samples are taken; as long as they are taken evenly distributed across the landing and consist of approximately the same amount of catch on each occasion. This does not require any special installation of mechanisms. But manual sampling by one person means a higher risk of the sample weights varying and a higher risk of influence of what ends up in the sample receptacle. In order to counteract variable sample weight, in the case of manual sampling, it is important that the same sampling receptacle size is used. In order to reduce the risk that the weighing operator himself controls which species end up in the sampling vessel, samples can be taken close to and during pumping. This is because the pumping is so rapid that it is difficult to determine which species will be included in the sample. If the catch has been landed in boxes, the risk of influencing the samples is higher than when the catch is pumped. However, this option cannot be used for landings above ten tonnes, as the requirement for a semi-automatic sampling device was set by the European Commission for the approval of the Agency's sampling plan. However, by excluding catches below ten tonnes, most landings in big boxes will not have to change their approach.

Another alternative solution is to introduce the requirement for a semi-automatic sampling device for landings under ten tonnes, as well. This would entail that more, and smaller, vessels would be affected, as well as smaller ports. However, the cost of installing a sampling tube or gutter would be disproportionate for a single smaller company, and it would, therefore, be likely that some ports would no longer accept smaller pelagic unsorted landings. In addition, such a requirement would affect pelagic landings below ten tonnes which are not pumped ashore, but rather landed in boxes. Such landings risk being made impossible if the requirement for a semi-automatic sampling device would also cover landings below ten tonnes.

4. Description of the option(s) considered most appropriate and the reasons why

As a result of the criticism made by the European Commission concerning, among other things, how pelagic landings are weighed in Sweden, the Commission has imposed a requirement on Sweden to introduce rules requiring sampling to be carried out at least by semi-automatic means. In consultation with the Commission, the requirement has been limited to landings of pelagic catches weighing more than ten tonnes. On the basis of the foregoing, the Agency proposes to introduce a requirement for the use of a semi-automatic sampling device in connection with landings of more than ten tonnes. This is to ensure that, for larger pelagic landings, samples are approximately equal in size, evenly distributed across the landing, and not influenced by the sampler. Since the sampling plan drawn up by the Agency in dialogue with the European Commission only requires a sampling device for landings of more than ten tonnes, the Agency considers that there is no reason to require a sampling device for all pelagic landings.

B. Relation of the draft to EU law

1. Assessment of whether the regulation is in line with or exceeds Sweden's obligations as a Member State of the European Union

The Agency considers the draft regulations to be in line with the obligations arising from Sweden's EU membership. The requirement for a semi-automatic sampling mechanism is a prerequisite for Sweden to be able to apply the sampling plan developed by the Agency in dialogue with the European Commission.

C. Legal bases

1. Information about the authorisations on which the Agency's decision-making power is based

Authorisation for the draft amendments to the regulations is provided for in Chapter 5, Section 7 of the Ordinance (1994:1716) on fisheries, aquaculture and the fishing industry.

D. Analysis of the consequences of the draft

1. Description of the overall impact

The draft regulations will allow Sweden to fulfil the Commission's requirement on it regarding the possibility of having a new sampling plan for unsorted pelagic landings approved. There is, thus, no risk of Sweden facing any action from the Commission for not following the recommendations. It should be added that the purpose of the EU regulated weighing requirements is, among other things, to ensure that fishery resources are managed long term in an environmentally sustainable manner in order to achieve economic, social and employment benefits.

2. Description and estimate of the costs and benefits of the draft regulations for

a. *The Central government*

The draft regulations do not have any consequences for central government other than that the Agency's fisheries inspectors will include the operation of the sampling device in their regular supervisory activities.

b. *Municipalities and regions*

There are twelve ports, in twelve municipalities, which in the last three years have received pelagic landings of more than ten tonnes. In the twelve ports, there must be a catch recipient or professional fisherman who installs a sampling device, if unsorted pelagic catches above ten tonnes are to continue to be landed in the port. In some of the ports, there will probably be no one willing to invest in a device, which means that a vessel may have to go to another port to unload. It could also mean that pelagic landings will no longer take place in some ports, but these ports have had so few landings that it does not affect the ports' current operations. Unloading towers and facilities are privately owned, and investments in sampling equipment will primarily be made by catch recipients. The municipalities are not involved in landing operations and the Agency, therefore, considers that the draft regulations will not have any consequences for municipalities and regions. The Agency has contacted some municipalities to obtain information on possible impacts, but the municipalities that the Agency has been in contact with have not had any comments on the draft regulations.

c. *Businesses*

The cost of investing in a sampling tube for an existing pumping tower is approximately SEK 60 000-75 000. The extent of the cost depends on which company carries out the installation and how complicated the intervention is on an existing facility. The cost may, therefore, be lower or slightly higher than the estimate.

Those directly affected by the regulation are pelagic reception companies, and vessels landing pelagic catches over ten tonnes. At the current time, three Swedish pelagic reception companies, and two Danish ones are affected. The latter two buy pelagic catches landed in Sweden by the lorry, which is then transported to Denmark. According to the guidelines of the Swedish Agency

for Economic and Regional Growth, one of the three Swedish recipient companies is classified as a micro-enterprise, one as a small enterprise, and one as a medium-sized enterprise. Of the two Danish recipients, one is classified as a small enterprise, and one as a large enterprise. The Danish recipients are not responsible for weighing, but may invest in the ports from which they are interested in purchasing catches, according to information from the Swedish producer organisation Swedish Pelagic Federation. The ports affected are shown in Figure 1, based on catch data over three years.

In the period 2021–2023, a total of 35 Swedish vessels landed pelagic catches over ten tonnes in Swedish ports at least once. Of these 35 vessels, 31 are classified as micro-enterprises or sole proprietorships, one as a small enterprise, and three as medium-sized enterprises. In ports where recipients do not invest in a sampling device, it is possible that fishermen wishing to land more than ten tonnes in a port join decide to force and invest in a semi-automatic sampling device.

The regulation may also have some consequences for ports where pelagic catches over ten tonnes are rarely or never landed. If no one chooses to invest in a sampling device in these ports, the consequence is that landings above ten tonnes may not take place in these ports.

In the period 2021–2023, pelagic catches over ten tonnes have been landed in twelve Swedish ports. However, in two of these ports, Sanda-Sturkö and Trelleborg, there have only been occasional landings of the relevant size. In Rönnäng, since 2021, there have been no landings over ten tonnes. This means that these ports will most likely not to be able to accept pelagic catches over ten tonnes. For vessels that might have preferred to use a port without a sampling device, this entails increased fuel costs, and time required for transport to another port.

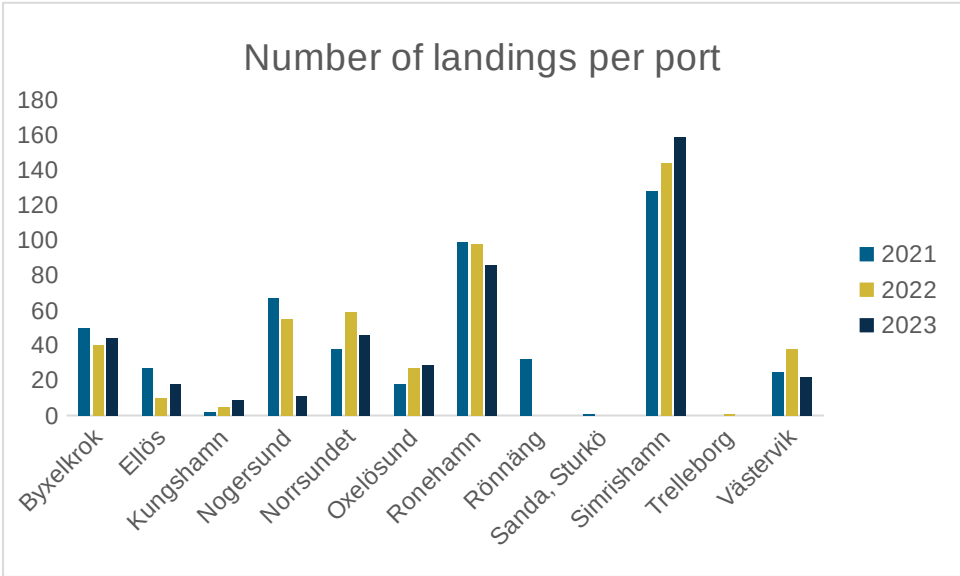


Figure 1. Number of pelagic landings over ten tonnes in Swedish ports during 2021, 2022 and 2023.

The regulation entails a higher cost, and effort, for fishing vessels landing more than ten tonnes in a port where there is no established recipient providing an unloading tower, and with a semi-automatic sampling device. These vessels need to either invest in a sampling device, or go to a different port where it is possible to unload to a facility or unloading tower with a sampling device. This means increased costs in terms of fuel and time, which negatively affects the competitiveness of these vessels and businesses compared to vessels unloading in ports where a sampling device is in place. However, in preparing this impact assessment, the Agency has not been able to obtain any information on whether there are any ports where there are no companies or vessels that do not wish to invest. There is considerable competition between buyers for landings, which may motivate recipients to want to invest in a port despite few landings.

d. Other individuals

No, the draft regulations concern only companies with fishing vessels or reception facilities

3. Description and, where possible, an estimate of relevant impacts other than those referred to in point 1

No

4. Outline of the measures taken to ensure that the draft regulations do not entail costs or restrictions that go beyond what is deemed necessary to achieve the objective

The draft regulations correspond to the requirement set out in Sweden's revised sampling plan, which has been developed following the Commission's criticism and in consultation with the Commission. In the plan, Sweden has included an exemption for landings below ten tonnes, and the minimum requirement is a semi-automatic sampling device, which corresponds to the draft regulations. Such a solution is cheaper to purchase than a fully automatic solution.

5. Assessment as to whether special consideration must be given to the date of entry into force and whether special information initiatives are required

The date of entry into force needs to be adjusted so that those who need to invest in a sampling device have time to have one in place before the regulations begin to apply. The date of entry into force also depends on whether the draft regulations need to be notified in accordance with the Single Market Transparency Directive or not. However, the Agency intends for the regulations to enter into force approximately two months after the decision has been adopted. The Agency will make targeted information efforts to those affected as soon as the draft regulations are finalised.

6. Description of how and when the impact of the draft regulations can be evaluated

The Agency can carry out an evaluation of the impact approximately one year after the entry into force by making an inventory of the number of reception facilities that have installed a sampling device, and by comparing landing patterns with previous years. The Agency can also consult with stakeholders to determine how individual vessels have been affected. However, it can be added here that regardless of the outcome of an evaluation of the impact, there is no possibility of removing the requirement for a sampling device, as it is a requirement from the European Commission. There are also indications from the European Commission that the requirement for a sampling device will become an EU requirement in a few years' time.

E. Municipalities and regions

The draft regulations are not considered to entail any restriction of municipal autonomy.

F. Contact person

For any questions, please contact:

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