



Council of the
European Union

Brussels, 6 July 2017
(OR. en)

11058/17

PECHE 282
DELECT 125

COVER NOTE

| | |
|------------------|--|
| From: | Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director |
| date of receipt: | 5 July 2017 |
| To: | Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union |

| | |
|----------------|---|
| No. Cion doc.: | C(2017) 4505 final |
| Subject: | COMMISSION DELEGATED REGULATION (EU) .../... of 5.7.2017 amending Commission Delegated Regulation (EU) 2016/2374 establishing a discard plan for certain demersal fisheries in South-Western waters |

Delegations will find attached document C(2017) 4505 final.

Encl.: C(2017) 4505 final



Brussels, 5.7.2017
C(2017) 4505 final

COMMISSION DELEGATED REGULATION (EU) .../...

of 5.7.2017

**amending Commission Delegated Regulation (EU) 2016/2374 establishing a discard plan
for certain demersal fisheries in South-Western waters**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

A key objective of the new Common Fisheries Policy (CFP), as set out in Regulation (EU) 1380/2013 is the progressive elimination of discards in all EU fisheries. Discarding constitutes a substantial waste of resources and negatively impacts on the sustainable exploitation of resources as well as the economic viability of fisheries. The landing obligation in Union waters applies as of 1 January 2016 to certain demersal fisheries. The reformed policy also provides for increased regionalisation, which is intended both to move away from micromanagement at Union level, and also to ensure that rules are adapted to the specific characteristics of each fishery and sea area.

The new CFP provides for a series of provisions to facilitate the implementation of the landing obligation. There are generic flexibility provisions which can be applied by Member States in the context of quota management. In addition, the new CFP provides for specific flexibility mechanisms that need to be implemented through multiannual plans, or in the absence of multiannual plans, in the so-called discard plans. Those discard plans are envisaged as a temporary measure with a maximum duration of three years. They are based on joint recommendations agreed by groups of Member States from the same region or sea basin.

This delegated act includes fisheries of black scabbardfish and red seabream in addition to the species covered by Regulation (EU) 2016/2374, which define demersal fisheries in the South-Western waters (SWW) as set out in Article 15(1)(c) of Regulation (EU) No1380/2013.

In accordance with Article 18 of Regulation (EU) No 1380/2013, the proposed delegated act is based on the Joint Recommendation (JR) developed and submitted to the Commission by the Member States concerned (i.e. Belgium, Spain, France, the Netherlands and Portugal) who have a direct management interest in the relevant fisheries in this region.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

For the purpose of implementing the regionalised approach the SWW Member States agreed that the chair of the group, Portugal, should submit to the Commission a JR. Accordingly, the JR was submitted to the Commission services on 2 January 2017¹. SWW Member States have revised the existing discard plan for demersal fisheries and are suggesting to add black scabbardfish and red seabream fisheries in the respective areas.

In accordance with the procedure described in Article 18 of Regulation (EU) No 1380/2013, this JR is the result of discussions between the SWW Member States having a direct management interest, and taking account of the views of the South Western Waters Advisory Council, which is concerned by the fisheries covered by the JR.

The JR was developed by the Member States concerned, cooperating in a regional setup, working together on a technical level under the guidance of a high level group of fisheries Directors and in close consultation with interested parties.

¹ Ares(2017)32679, 04/01/2017

During the development of the JR the South Western Waters Advisory Council was consulted in relation to measures envisaged in the JR. Furthermore, the Member States group aimed at a consistent approach, as far as possible, with the implementation of the landing obligation in other sea basin areas, especially in the North Western Waters.

Scientific contributions were obtained from relevant scientific bodies and reviewed by the International Council for the Exploration of the Seas (ICES) for the fisheries of black scabbardfish². Discards by Portuguese vessels operating black scabbardfish targeted deep water set longlines in ICES division IX display low frequency of occurrence. The black scabbardfish discard mortality is mainly caused by shark and cetacean predation on hooked black scabbard-fish and is relatively low when compared to landings. Consequently discards are not likely to play a significant role in the assessment of this species.

As regards the red seabream fisheries, SWW Member States engage themselves to provide related scientific data in 2017. Further studies are planned and should provide further information on likely survival rates in this fishery. Spain is planning to conduct high survivability experiments to ask for a high survivability exemption for the red seabream. Therefore, this exemption may be considered in the future when Spain submits data from ongoing trials to the Commission to allow the STECF to fully assess the justification for the exemption.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

Summary of the proposed action

The main legal action is to adopt measures that would facilitate the implementation of the landing obligation.

The Regulation specifies the species and fisheries to which specific measures would apply.

Legal basis

Article 15(6) and Articles 18(1) and (3) of Regulation (EU) No 1380/2013.

Subsidiarity principle

The proposal falls under the exclusive competence of the European Union.

Proportionality principle

The proposal is within the scope of the delegated powers provided to the Commission by Article 15(6) of Regulation (EU) No 1380/2013 and does not go beyond what is necessary to achieve the purpose of that provision.

Choice of instrument

Proposed instrument: Commission Delegated Regulation.

Other means would not be adequate for the following reason: The Commission has been granted powers to adopt a discard plan by means of delegated acts. Member States having a

² <http://www.ices.dk/sites/pub/Publication%20Reports/Forms/DispForm.aspx?ID=32090>

direct management interest submitted their joint recommendation. Measures provided in the joint recommendation and included in this proposal are based on the best available scientific advice and fulfil all the relevant requirements set out in Article 18(5) of Regulation (EU) No 1380/2013.

COMMISSION DELEGATED REGULATION (EU) .../...

of 5.7.2017

amending Commission Delegated Regulation (EU) 2016/2374 establishing a discard plan for certain demersal fisheries in South-Western waters

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC³, and in particular Articles 15(6) and 18(1) and (3) thereof,

Whereas:

- (1) Regulation (EU) No 1380/2013 aims to progressively eliminate discards in Union fisheries through the introduction of a landing obligation for catches of species subject to catch limits.
- (2) According to Article 15(1)(d) of Regulation (EU) No 1380/2013, the landing obligation applies in South-Western waters at the latest from 1 January 2017 to species that define the fisheries.
- (3) In order to implement the landing obligation, Commission Delegated Regulation (EU) 2016/2374⁴ has established a discard plan for certain demersal fisheries in South-Western waters for the period 2016-2018, following a joint recommendation submitted by Belgium, Spain, France, the Netherlands and Portugal in 2016.
- (4) Belgium, Spain, France, the Netherlands and Portugal have a direct fisheries management interest in South-Western waters. On 2 January 2017, those Member States submitted a new joint recommendation to the Commission after consultation of the South Western Waters Advisory Council.
- (5) The new joint recommendation supplements the discard plan established by Delegated Regulation (EU) 2016/2374 and covers the fisheries of black scabbardfish in ICES (International Council for the Exploration of the Seas) divisions VIIIa, IX and X and CECAF (Fishery Committee for the Eastern Central Atlantic) area 34.1.2, and the fisheries of red seabream in ICES division IX.

³ OJ L 354, 28.01.2013, p. 22.

⁴ Commission Delegated Regulation (EU) 2016/2374 of 12 October 2016 establishing a discard plan for certain demersal fisheries in South-Western waters (OJ L 352, 23.12.2016, p. 33).

- (6) That measure suggested by the new joint recommendation is in line with Article 18(3) of Regulation (EU) No 1380/2013 and may thus be included in Delegated Regulation (EU) 2016/2374.
- (7) The new joint recommendation suggested that an exemption from the landing obligation be applied to black scabbardfish caught by deepwater set-longlines in ICES divisions VIIIa, IX and X and CECAF area 34.1.2, as existing scientific advice indicates the low frequency of occurrence (and number of specimens) registered, taking into account the characteristics of the gears targeting this species, the fishing practices and the ecosystem. ICES in its evaluation concluded that the discards can be assumed null or negligible for most assessment purposes as the black scabbardfish discard mortality is mainly caused by shark and cetacean predation on hooked black scabbard-fish and is relatively low when compared to landings. In the light of the above the Commission therefore accepts the proposed exemption.
- (8) The new joint recommendation also suggests that an exemption from the landing obligation be applied to red seabream in ICES subarea IX, as Member States consider that scientific evidence indicates possible high survival rates. However, new studies need to be carried out to prove it and the exemption may be considered in the future when Member States concerned will submit data from ongoing trials to the Commission.
- (9) The Annex to Delegated Regulation (EU) 2016/2374 should be restructured for reasons of clarity.
- (10) Delegated Regulation (EU) 2016/2374 should be amended accordingly.
- (11) Since the measures provided for in this Regulation impact directly on the economic activities linked to and the planning of the fishing season of Union vessels, this Regulation should enter into force immediately after its publication. It should apply from 1 January 2017, as an exception to a general principle, due to the late submission of the joint recommendation.

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Delegated Regulation (EU) 2016/2374 is replaced by the text in the Annex to this Regulation

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2017.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 5.7.2017

*For the Commission
The President
Jean-Claude JUNCKER*