



Council of the
European Union

Brussels, 2 July 2018
(OR. en)

10712/18

PECHE 260
DELACT 106

COVER NOTE

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	28 June 2018
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	C(2018) 3989 final
Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 28.6.2018 correcting Commission Delegated Regulation (EU) 2016/2374 establishing a discard plan for certain demersal fisheries in South-Western waters

Delegations will find attached document C(2018) 3989 final.

Encl.: C(2018) 3989 final



Brussels, 28.6.2018
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COMMISSION DELEGATED REGULATION (EU) .../...

of 28.6.2018

**correcting 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

Commission Delegated Regulation (EU) 2016/2374 of 12 October 2016 established a discard plan for certain demersal fisheries in South-Western Waters that specifies the details for implementing the landing obligation provided for in Article 15 of the Regulation (EU) 1380/2013.

On 2 June 2017 Belgium, France, the Netherlands, Portugal and Spain submitted to the Commission a joint recommendation (JR) suggesting an amendment of the discard plan established by Delegated Regulation (EU) 2016/2374. Based on that, Commission Delegated Regulation (EU) 2018/44 of 20 September 2017 amending Delegated Regulation (EU) 2016/2374 establishing a discard plan for certain demersal fisheries in South-Western waters was adopted.

In accordance with Article 18 of Regulation (EU) No 1380/2013, a Joint Recommendation (JR) was developed and submitted to the Commission by the Member States concerned (i.e. Belgium, France, the Netherlands, Portugal and Spain, further referred to as "SWW Member States") having a direct management interest in the relevant fisheries in this region.

As an error occurred in the Annex of the Delegated Regulation (EU) 2018/44, the current Correcting Delegated Regulation was drafted in order to correct the mistake.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

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.

During the development of the JR the South Western Waters Advisory Council was consulted in relation to measures envisaged in the JR.

The discard plan for certain demersal fisheries in South-Western waters gradually brings the fisheries proposed by the Member States as it is provided for in Article 15 of the Regulation (EU) 1380/2013 to the landing obligation, therefore it is important to correct the occurred mistake in order to have a consistent discard plan for certain demersal fisheries in the South-Western waters.

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 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 28.6.2018

correcting 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/EC¹, 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 all Union fisheries through the introduction of a landing obligation for catches of species subject to catch limits.
- (2) In order to implement the landing obligation, Article 15(6) of Regulation (EU) No 1380/2013 empowers the Commission to adopt discard plans by means of a delegated act on the basis of joint recommendations developed by Member States in consultation with the relevant Advisory Councils.
- (3) Commission Delegated Regulation (EU) 2016/2374² established a discard plan for certain demersal fisheries in South-Western Waters following a joint recommendation submitted by Belgium, France, the Netherlands, Portugal and Spain (The South Western Waters Group) in 2016.
- (4) On 2 June 2017 Belgium, France, the Netherlands, Portugal and Spain have submitted a new joint recommendation suggesting a number of amendments to the discard plan. Based on that, the Commission adopted Delegated Regulation (EU) 2018/44 amending Delegated Regulation (EU) 2016/2374³.
- (5) On 26 October 2017 the South Western Waters Group communicated to the Commission the existence of a textual error in the Annex to Delegated Regulation (EU) 2018/44 as regards the description of Hake fisheries subject to the landing obligation. According to the current version of that Annex, Hake fisheries carried out in ICES (International Council for the Exploration of the Seas) divisions VIIIc and IXa with bottom trawls and seines are subject to the landing obligation if the total hake landings in the period 2014/2015 exceeded 5 % of all landed species and more than 5 metric tons. That condition however is no longer applicable.

¹ OJ L 354, 28.01.2013, p. 22.

² 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.)

³ Commission Delegated Regulation (EU) 2018/44 of 20 October 2017 amending Delegated Regulation (EU) 2016/2374 establishing a discard plan for certain demersal fisheries in South-Western waters (OJ L 7, 12.01.2018, p. 1.)

- (6) There is therefore a need to correct Delegated Regulation (EU) 2016/2374 as amended by Delegated Regulation (EU) 2018/44.
- (7) Since the textual error in the Annex to Delegated Regulation (EU) 2016/2374 has been introduced by Delegated Regulation (EU) 2018/44, and in order to avoid any discontinuity and legal uncertainty in the application of the landing obligation, this Regulation should enter into force on the day following that of its publication and should apply retroactively from the date of application of Delegated Regulation (EU) 2018/44,

HAS ADOPTED THIS REGULATION:

Article 1

In the fourth column of the table "3. Hake (*Merluccius merluccius*) fisheries" of the Annex to Delegated Regulation (EU) 2016/2374 the text:

“Vessels which fulfil the following cumulative criteria:

- (1) 1. Use mesh size larger or equal to 70 mm
- (2) 2. Total hake landings in the period 2014/2015 (1) consist of: more than 5 % of all landed species and more than 5 metric tons.”

is replaced by the following:

"Use mesh size larger or equal to 70 mm".

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 2018.

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

Done at Brussels, 28.6.2018

For the Commission
The President
Jean-Claude JUNCKER