



Council of the
European Union

076756/EU XXVI. GP
Eingelangt am 02/10/19

Brussels, 2 October 2019
(OR. en)

12736/19

PECHE 424
DELACT 179

COVER NOTE

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	1 October 2019
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	C(2019) 7046 final
Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 1.10.2019 specifying details of the landing obligation for certain demersal fisheries in South-Western waters for the period 2020-2021

Delegations will find attached document C(2019) 7046 final.

Encl.: C(2019) 7046 final



Brussels, 1.10.2019
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COMMISSION DELEGATED REGULATION (EU) .../...

of 1.10.2019

specifying details of the landing obligation for certain demersal fisheries in South-Western waters for the period 2020-2021

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

A key objective of the Common Fisheries Policy (CFP), as set out in Regulation (EU) 1380/2013¹ 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 applies from 1 January 2019 to all catches of species subject to the catch limits in demersal fisheries. The reformed policy also provides for increased regionalisation, which is to ensure that rules are adapted to the specific characteristics of each fishery and sea area.

The 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 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 for a limited period of maximum three years renewable for another period of three years. They are based on joint recommendations agreed by groups of Member States from the same region or sea basin.

Commission Delegated Regulation (EU) 2016/2374² established a discard plan for certain demersal fisheries in South-Western Waters, which was repealed and replaced by Commission Delegated Regulation (EU) 2018/2033³.

This delegated act repeals and replaces the current South-Western Waters (SWW) demersal discard plan (Delegated Regulation (EU) 2018/2033).

Regulation (EU) 2019/472⁴ establishing the multiannual management plan for stocks fished in the Western Waters and adjacent waters and the fisheries exploiting those stocks was adopted in 2019 covering the demersal stocks in the South-Western waters.

For all stocks of species in the South-Western waters to which the landing obligation applies under Article 15(1) of Regulation (EU) No 1380/2013, Article 13 of Regulation (EU) 2019/472 provides the empowerment to the Commission to adopt delegated acts in accordance with Article 18 of that Regulation and Article 18 of Regulation (EU) No 1380/2013 in order to supplement the Regulation (EU) 2019/472 by specifying details of that obligation as provided in points (a) to (e) of Article 15(5) of Regulation (EU) No 1380/2013.

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.

¹ OJ L 354, 28.12.2013, p. 22.

² OJ L 352, 23.12.2016, p. 33.

³ OJ L 327, 21.12.2018, p. 1.

⁴ OJ L 83, 25.3.2019, p. 1-17.

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, Spain, should submit to the Commission a JR. Accordingly, the JR was submitted to the Commission services on 31 May 2019. Additional information has been provided at a later stage. After the Scientific, Technical and Economic Committee for Fisheries (STECF) assessment, the SWW Member States revised the JR on 9 August 2019. It contained, inter alia, the following elements:

- A description of the fisheries covered by the discard plan;
- Modifications of exemptions for high survivability;
- Modifications of *de minimis* exemptions.

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 (SWW AC) and Pelagic Advisory Council (PELAC), which are concerned by the fisheries covered by the JR. For all of these elements the JR included supporting documentation underpinning the exemptions and other provisions set out in 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.

During the development of the JR the SWW AC was consulted in relation to measures envisaged in the JR. Furthermore, the Member States group aimed at having 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.

The JR mentioned the need to exempt certain catches on account of legislation related to fisheries products unfit for human or animal consumption, i.e. Regulation (EC) No 853/2004 and Regulation (EC) No 1881/2006. However, such an exemption appears to be outside the scope of discard plans under Article 15(5) of Regulation (EU) No 1380/2013 for JRs in the context of the Common Fisheries Policy. Therefore, this exemption has not been included in this regulation.

The JR also mentioned the exemption for fish damaged by predators. However, this exemption is already covered by Article 15(4)(d) of Regulation (EU) No 1380/2013 and does not need to be implemented by a delegated act.

All elements of the JR submitted to the Commission by the Member States relating to the application of the landing obligation to the fisheries concerned and the *de minimis* as well as high-survivability exemptions were evaluated by the relevant STECF Expert Working Group and during the STECF plenary meeting of 1-5 July 2019⁵.

On the basis of the evaluation by the STECF and by the Commission, and following clarification of certain points of the JR, the Commission considers that the JR complies with Article 15(6) of Regulation (EC) No 1380/2013 as outlined above.

⁵ <https://stecf.jrc.ec.europa.eu/documents/43805/2537709/STECF+PLEN+19-02.pdf>

The Commission is mindful that the nature of fisheries can change over time. It is therefore important to clarify that where exemptions have previously been granted for the duration of a discard plan (i.e. 3 or 5 years) this does not mean they will automatically be renewed in a following discard plan. As the catch composition, fishing technology or fishing behaviour of the fleets covered by an exemption may have changed, it is necessary that established exemptions are reviewed again by the STECF after 3 or 5 years from being initially granted and that Member States will have to provide again justification and scientific data for review by the STECF.

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: i.e. *de minimis* exemptions and the high survivability exemption.

Legal basis

Article 13 of Regulation (EU) 2019/472.

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 for 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 1.10.2019

specifying details of the landing obligation for certain demersal fisheries in South-Western waters for the period 2020-2021

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/EC⁶, and in particular Articles 15(6) and 18(1) and (3) thereof,

Having regard to Regulation (EU) No 2019/472⁷ of the European Parliament and of the Council of 19 March 2019 establishing a multiannual plan for stocks fished in the Western Waters, and in particular Article 13 thereof,

Whereas:

- (1) Regulation (EU) No 1380/2013 aims to eliminate progressively discards in all Union fisheries through the introduction of a landing obligation for catches of species subject to catch limits.
- (2) Article 9 of Regulation (EU) No 1380/2013 provides for the adoption of multiannual plans containing conservation measures for fisheries exploiting certain stocks in a relevant geographical area.
- (3) Such multiannual plans specify details of the implementation of the landing obligation and may empower the Commission to further specify those details on the basis of joint recommendations developed by Member States.
- (4) On 19 March 2019, the European Parliament and the Council adopted Regulation (EU) 2019/472⁸ establishing a multiannual plan for stocks fished in the Western

⁶ OJ L 354, 28.12.2013, p. 22.

⁷ Regulation (EU) 2019/472 of the European Parliament and of the Council of 19 March 2019 establishing a multiannual plan for stocks fished in the Western Waters and adjacent waters, and for fisheries exploiting those stocks, amending Regulations (EU) 2016/1139 and (EU) 2018/973, and repealing Council Regulations (EC) No 811/2004, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007 and (EC) No 1300/2008 (OJ L 83, 25.3.2019, p. 1).

⁸ Regulation (EU) 2019/472 of the European Parliament and of the Council of 19 March 2019 establishing a multiannual plan for stocks fished in the Western Waters and adjacent waters, and for fisheries exploiting those stocks, amending Regulations (EU) 2016/1139 and (EU) 2018/973, and repealing Council Regulations (EC) No 811/2004, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007 and (EC) No 1300/2008 (OJ L 83, 25.3.2019, p. 1).

Waters, and for fisheries exploiting those stocks. Article 13 of that Regulation empowers the Commission to adopt delegated acts in order to supplement this Regulation by specifying details of the landing obligation for all stocks of species in the Western Waters to which the landing obligation applies under Article 15(1) of Regulation (EU) No 1380/2013, as provided for in points (a) to (e) of Article 15(5) of that Regulation (EU) No 1380/2013, on the basis of joint recommendations developed by Member States.

- (5) Belgium, Spain, France, the Netherlands and Portugal have a direct fisheries management interest in the South-Western waters. By Delegated Regulation (EU) 2016/2374⁹, the Commission established a discard plan for certain demersal fisheries in South-Western waters, which was repealed and replaced by Commission Delegated Regulation (EU) 2018/2033¹⁰ following a joint recommendation submitted by Belgium, Spain, France, the Netherlands and Portugal in 2018.
- (6) On 31 May 2019, Belgium, Spain, France, the Netherlands and Portugal submitted a new joint recommendation to the Commission after consulting the South Western Waters Advisory Council and Pelagic Advisory Council, the joint recommendation was amended on 9 August 2019. Scientific contributions were obtained from the relevant scientific bodies and reviewed by the Scientific, Technical and Economic Committee for Fisheries (STECF)¹¹. The measures concerned were presented for a written consultation of the expert group, consisting of 28 Member States and European Parliament as an observer, by the Commission.
- (7) Delegated Regulation (EU) 2018/2033 included an exemption from the landing obligation for Norway lobster caught with bottom trawls in the International Council for the Exploration of the Seas (ICES) subareas 8 and 9 and for red seabream caught with the artisanal gear “*voracera*” in ICES division 9a, as existing scientific evidence indicated possible high survival rates, taking into account the characteristics of the gears targeting that species, the fishing practices and the ecosystem. The STECF in its evaluation¹² concluded that the latest experiments and studies completed in 2016-2018 show Norway lobster survival rates in the range of the survival rate observed in previous assessments. The evidence to demonstrate discard survival rates of red seabream was submitted by Member States to the STECF which concluded¹³ that the exemption is well justified. Therefore, considering that the circumstances have not changed, those survivability exemptions should be maintained in the South-Western waters demersal discard plan for the period 2020-2021.
- (8) In Delegated Regulation (EU) 2018/2033 a survivability exemption for skates and rays caught with any gears in ICES subareas 8 and 9 was granted pending the submission of detailed scientific evidence on survival rates for all fleet segments and combinations of gears, areas and species. The STECF considers that Member States have collected vitality information which provides a certain indication on survivability¹⁴, but that

⁹ 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).

¹⁰ Commission Delegated Regulation (EU) 2018/2033 of 18 October 2018 establishing a discard plan for certain demersal fisheries in South-Western waters for the period 2019-2021 (OJ L 327, 21.12.2019, p. 1).

¹¹ <https://stecf.jrc.ec.europa.eu/documents/43805/2147402/STECF+PLEN+18-02.pdf>

¹² <https://stecf.jrc.ec.europa.eu/documents/43805/2147402/STECF+PLEN+18-02.pdf>

¹³ <https://stecf.jrc.ec.europa.eu/documents/43805/2147402/STECF+PLEN+18-02.pdf>

¹⁴ <https://stecf.jrc.ec.europa.eu/documents/43805/2537709/STECF+PLEN+19-02.pdf>

further details are required. In order to collect the relevant data, fishing needs to be continued. The exemption may therefore be granted, but Member States should be required to submit relevant data allowing the STECF to fully assess the justification and allowing the Commission to carry out a review. Member States having a direct management interest should submit by 1 May each year: (a) a roadmap developed in order to increase survivability and to fill in the data gaps identified by the STECF, to be annually assessed by the STECF, (b) annual reports on the progress and any modifications or adjustments made to the survivability programmes.

- (9) When considering the survival rates of skates and rays, cuckoo rays (*Leucoraja naevus*) were found to have a considerably lower survival rate than other species. Furthermore, the scientific understanding of the survival pattern of that species appears to be less robust. Evidence on vitality and direct discard survival for cuckoo rays was provided by the Member States. The STECF reviewed that evidence and concluded¹⁵ that the data shows variable vitality for cuckoo ray but is not representative for commercial fishing conditions and does not exclude that cuckoo ray survivability is close to zero. Therefore, that exemption should only be granted for 2 years for the cuckoo ray caught with trammel nets in ICES subareas 8 and 9 and for 1 year for the cuckoo ray caught with trawls in ICES subarea 8. The results of the ongoing studies and improved survivability measures should be developed as a matter of urgency and provided to the STECF for assessment as soon as possible and not later than by 1 May 2020 for the cuckoo ray caught with trawls in ICES subarea 8 and not later than by 1 May every year for the cuckoo ray caught with trammel nets in ICES subareas 8 and 9.
- (10) Delegated Regulation (EU) 2018/2033 included *de minimis* exemptions from the landing obligation pursuant to Article 15(5)(c) of Regulation (EU) No 1380/2013 for common sole caught with beam trawls and bottom trawls in ICES divisions 8a and 8b and for common sole caught with trammel nets and gillnets in ICES divisions 8a and 8b. The evidence provided by the Member States for those exemptions was reviewed by the STECF¹⁶. The STECF concluded that the joint recommendation contained reasoned arguments demonstrating difficulties in increasing selectivity and disproportionate costs of handling unwanted catches. Therefore, considering that the circumstances have not changed, the *de minimis* exemptions should be maintained in the South-Western waters demersal discard plan for the period 2020-2021.
- (11) Delegated Regulation (EU) 2018/2033 provisionally included a *de minimis* exemption from the landing obligation pursuant to Article 15(5)(c) of Regulation (EU) No 1380/2013 for hake caught with trawls and seines in ICES subareas 8 and 9. The evidence provided by the Member States for that exemption in the new joint recommendation was reviewed by the STECF, which concluded¹⁷ that selectivity trials have not identified more selective devices available at this stage. The STECF noted that the information available shows a substantial increase in cost of handling unwanted catches. An additional study on disproportionate costs is being carried out by Member States, including for hake catches. In order to collect the relevant data, fishing needs to be continued. The exemption may therefore be granted, but Member States should be required to submit relevant data allowing the STECF to fully assess

¹⁵ <https://stecf.jrc.ec.europa.eu/documents/43805/2537709/STECF+PLEN+19-02.pdf>

¹⁶ <https://stecf.jrc.ec.europa.eu/documents/43805/1099561/STECF+PLEN+15-02.pdf>

¹⁷ <https://stecf.jrc.ec.europa.eu/documents/43805/2537709/STECF+PLEN+19-02.pdf>

the justification and allowing the Commission to carry out a review. The Member States concerned should undertake additional trials and provide information as soon as possible and not later than by 1 May every year for assessment by the STECF.

- (12) The new joint recommendation suggests an extension of a survivability exemption for red seabream caught with hooks and lines in ICES subarea 8 and ICES division 9a in addition to an existing exemption for that species in ICES subarea 10. The Member States provided scientific evidence in order to demonstrate high survival rates of red seabream in ICES subarea 8 and ICES division 9a in that fishery. The additional evidence on survival rates in ICES subarea 8 and ICES division 9a was submitted to the STECF which concluded¹⁸ that there are limitations in the method used, as regards in particular including a short monitoring period, which are likely to result in an overestimation of survival rates. Further studies are needed to generate robust survival estimates. The exemption may be therefore be granted, but Member States should be required to submit relevant data allowing the STECF to fully assess the justification and allowing the Commission to carry out a review. Member States having a direct management interest should submit by 1 May each year: (a) annual reports on the progress and any modifications or adjustments made to the survivability programmes to be annually assessed by the STECF.
- (13) Delegated Regulation (EU) 2018/2033 included a *de minimis* exemption for alfonsinos caught with hooks and lines in ICES subarea 10. The STECF reviewed the evidence submitted by the Member States and concluded¹⁹ that the information provided contained reasoned arguments demonstrating that further improvements in selectivity are difficult to achieve or imply disproportionate costs in handling unwanted catches. Considering that the circumstances have not changed, it is appropriate to include those *de minimis* exemptions in the new discard plan for the years 2020-2021.
- (14) The new joint recommendation contains *de minimis* exemptions for:
- horse mackerel caught with trawls and seines in ICES subareas 8 and 9,
 - horse mackerel caught with gillnets in ICES subareas 8, 9 and Fishery Committee for the Eastern Central Atlantic (CECAF) zones 34.1.1, 34.1.2, 34.2.0,
 - mackerel caught with trawls and seines in ICES subareas 8 and 9,
 - mackerel caught with gillnets in ICES subareas 8 and 9 and CECAF zones 34.1.1, 34.1.2, 34.2.0,
 - megrim caught with trawls and seines in ICES subareas 8 and 9,
 - megrim caught with gillnets in ICES subareas 8 and 9,
 - plaice caught with trawls and seines in ICES subareas 8 and 9,
 - plaice caught with gillnets in ICES subareas 8 and 9,
 - anglerfish caught with trawls and seines in ICES subareas 8 and 9,

¹⁸ <https://stecf.jrc.ec.europa.eu/documents/43805/2537709/STECF+PLEN+19-02.pdf>

¹⁹ <https://stecf.jrc.ec.europa.eu/documents/43805/2147402/STECF+PLEN+18-02.pdf>

- anglerfish caught with gillnets in ICES subareas 8 and 9,
 - whiting caught with trawls and seines in ICES subarea 8,
 - whiting caught with gillnets in ICES subarea 8,
 - pollack caught with trawls and seines in ICES subareas 8 and 9,
 - pollack caught with gillnets in ICES subareas 8 and 9.
- (15) The evidence provided by the Member States on the new *de minimis* exemptions for horse mackerel and mackerel caught with trawls and seines in ICES subareas 8 and 9 was reviewed by the STECF, which concluded²⁰ that the relevant trials did not show that by-catches could be reduced. The STECF noted that an additional work has been planned by the Member States to support the exemptions on the basis of disproportionate handling costs. Given that the selectivity is difficult to achieve, the exemption for that fishery may be granted for one year and Member States should be required to submit relevant data allowing the STECF to assess fully the justification and allowing the Commission to carry out a review. The Member States concerned should undertake additional trials and provide information as soon as possible and not later than by 1 May 2020 for assessment by the STECF. Those exemptions should therefore be applied provisionally until 31 December 2020.
- (16) The evidence provided by the Member States on the new *de minimis* exemptions for megrim, plaice, anglerfish, whiting and pollack caught with trawls and seines in ICES subareas 8 and 9 was reviewed by the STECF which concluded²¹ that completion of a Spanish study on disproportionate handling costs may provide additional evidence to support the exemption for anglerfish and megrim. The STECF noted that Member States should commit to undertake further work to justify the exemptions for whiting and pollack. Given that selectivity is difficult to achieve, the exemptions may be granted for one year, but Member States should be required to submit relevant data allowing the STECF to assess fully the justification and allowing the Commission to carry out a review. The Member States concerned should undertake additional trials and provide information as soon as possible and not later than by 1 May 2020 for assessment by the STECF. Those exemptions should therefore be applied provisionally until 31 December 2020.
- (17) The evidence provided by the Member States on the new *de minimis* exemptions for horse mackerel and mackerel caught with gillnets in ICES subareas 8 and 9 and CECAF zones 34.1.1, 34.1.2, 34.2.0 was reviewed by the STECF, which concluded²² that the information regarding difficulties in improving selectivity is credible given the nature of the fisheries. The STECF noted that a study on disproportionate costs in Spanish gillnet fisheries is ongoing and that the assessment of that study should take place once it is finished. Given that selectivity is difficult to achieve, the exemptions for that fishery may be granted for one year and Member States should be required to submit relevant data allowing the STECF to fully assess the justification of those exemptions and allowing the Commission to carry out a review. The Member States concerned should undertake additional trials and provide information as soon as

²⁰ <https://stecf.jrc.ec.europa.eu/documents/43805/2537709/STECF+PLEN+19-02.pdf>

²¹ <https://stecf.jrc.ec.europa.eu/documents/43805/2537709/STECF+PLEN+19-02.pdf>

²² <https://stecf.jrc.ec.europa.eu/documents/43805/2537709/STECF+PLEN+19-02.pdf>

possible and not later than by 1 May 2020 for assessment by the STECF. Those exemptions should therefore be applied provisionally until 31 December 2020.

- (18) The evidence provided by the Member States on the new *de minimis* exemptions for megrim, plaice, anglerfish, whiting and pollack caught with gillnets in ICES subareas 8 and 9 was reviewed by the STECF, which concluded²³ that the potential scale of any marketable losses resulting from an increase in selectivity in these fisheries has not been quantified and that it is not clear how that potential scale would vary across particular gillnet fisheries. The STECF noted that Member States should provide specific information for each gillnet fishery involved. Given that selectivity is difficult to achieve, those exemptions may be granted for one year, but Member States should be required to submit relevant data allowing the STECF to assess fully the justification and allowing the Commission to carry out a review. The Member States concerned should undertake additional trials and provide information as soon as possible and not later than by 1 May 2020 for assessment by the STECF. Those exemptions should therefore be applied provisionally until 31 December 2020.
- (19) To ensure reliable estimates of discard levels for the purpose of setting total allowable catches (TACs), Member States should, in cases where the *de minimis* exemption is based on extrapolation of data-limited situations and partial fleet information, provide accurate and verifiable data for the whole fleet covered by that exemption.
- (20) The measures suggested by the new joint recommendation are in line with Article 15(4), Article 15(5)(c) and Article 18(3) of Regulation (EU) No 1380/2013 and may thus be included in this Regulation.
- (21) Under Article 18 of Regulation (EU) No 1380/2013, the Commission has considered both the STECF's assessment and the need for Member States to ensure the full implementation of the landing obligation. In several cases, continued fishing activity and data collection is necessary in order to address the comments made by the STECF. In those cases, it is appropriate to follow a pragmatic and prudent approach to fisheries management by granting exemptions on a temporary basis. Not granting such exemptions would prevent the collection of data which are essential for the proper and informed management of discards with a view to implementing fully the landing obligation.
- (22) Delegated Regulation (EU) 2018/2033 should therefore be repealed and replaced by a new Regulation.
- (23) 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 2020,

²³ <https://stecf.jrc.ec.europa.eu/documents/43805/2537709/STECF+PLEN+19-02.pdf>

HAS ADOPTED THIS REGULATION:

Article 1
Implementation of the landing obligation

In ICES subareas 8, 9, 10 and CECAF zones 34.1.1, 34.1.2, 34.2.0, the landing obligation provided for in Article 15(1) of Regulation (EU) No 1380/2013 shall apply to demersal species in accordance with this Regulation for the period 2020-2021.

Article 2
Definitions

'*Voracera*' means a locally designed and built mechanized hook line, used by the artisanal fleet targeting red seabream in the South of Spain in ICES division 9a.

Article 3
Survivability exemption for Norway lobster

1. The exemption from the landing obligation for species for which scientific evidence demonstrates high survival rates, as provided for in Article 15(4)(b) of Regulation (EU) No 1380/2013, shall apply to Norway lobster (*Nephrops norvegicus*) caught in ICES subareas 8 and 9 with bottom trawls (gear codes²⁴: OTB, OTT, PTB, TBN, TBS, TB, TBB, OT, PT and TX).
2. When discarding Norway lobster caught in the cases referred to in paragraph 1, the Norway lobster shall be released immediately and in the area where it has been caught.

Article 4
Survivability exemption for skates and rays

1. The exemption from the landing obligation for species for which scientific evidence demonstrates high survival rates, as provided for in Article 15(4)(b) of Regulation (EU) No 1380/2013, shall apply to skates and rays (*Rajiformes*) caught with all gears in ICES subareas 8 and 9.
2. When discarding skates and rays in the cases referred to in paragraph 1, the skates and rays shall be released immediately.
3. Member States having a direct management interest shall submit as soon as possible, but not later than by 1 May every year additional scientific information supporting the exemption laid down in paragraph 1. The Scientific, Technical and Economic

²⁴ Gear codes used in this Regulation refer to those codes in Annex XI to Commission Implementing Regulation (EU) No 404/2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the Common fisheries policy. For the vessels whose LOA is less than 10 metres gear codes used in this table refer to the codes from the FAO gear classification.

Committee for Fisheries shall assess that scientific information by 31 July every year.

4. The exemption referred to in paragraph 1 shall apply to Cuckoo ray:
 - caught by trammel nets in ICES subareas 8 and 9 until 31 December 2021. Member States having a direct management interest shall submit as soon as possible, but not later than by 1 May every year, additional scientific information supporting this exemption for Cuckoo ray caught with trammel nets. The Scientific, Technical and Economic Committee for Fisheries shall assess that scientific information by 31 July every year;
 - caught by trawls in ICES subarea 8 only until 31 December 2020. Member States having a direct management interest shall submit as soon as possible, but not later than by 1 May 2020, additional scientific information supporting this exemption for Cuckoo ray caught with bottom trawls. The Scientific, Technical and Economic Committee for Fisheries shall assess that scientific information by 31 July 2020.

Article 5

Survivability exemption for red sea bream

1. The exemption from the landing obligation for species for which scientific evidence demonstrates high survival rates, as provided for in Article 15(4)(b) of Regulation (EU) No 1380/2013, shall apply to red seabream (*Pagellus bogaraveo*) caught with the artisanal gear *voracera* in ICES division 9a and to red seabream (*Pagellus bogaraveo*) caught with hooks and lines (gear codes: LHP, LHM, LLS, LLD) in ICES subareas 8 and 10 and in ICES division 9a.
2. Member States having a direct management interest shall submit as soon as possible, but not later than by 1 May every year additional scientific information supporting the exemption laid down in paragraph 1 for red seabream caught with hooks and lines in ICES subareas 8 and 10 and in ICES division 9a. The Scientific, Technical and Economic Committee for Fisheries shall assess the provided scientific information by 31 July every year.
3. When discarding red sea bream caught in the cases referred to in paragraph 1, the red seabream shall be released immediately.

Article 6

De minimis exemptions

1. By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, the following quantities may be discarded pursuant to Article 15(5)(c) of that Regulation:
 - (a) for hake (*Merluccius merluccius*), up to a maximum of 5% of the total annual catches of that species by vessels using trawls and seines (gear codes: OTT, OTB, PTB, OT, PT, TBN, TBS, TX, SSC, SPR, TB, SDN, SX, SV) in ICES subareas 8 and 9;

Member States having a direct management interest shall submit yearly as soon as possible, but not later than by 1 May 2020, additional scientific information supporting this exemption. The Scientific, Technical and Economic Committee for Fisheries shall assess that scientific information by 31 July every year;

- (b) for common sole (*Solea solea*), up to a maximum of 5% of the total annual catches of that species by vessels using beam trawls and bottom trawls (gear codes: OTB, OTT, PTB, TBN, TBS, TBB, OT, PT and TX) in ICES divisions 8a and 8b;
- (c) for common sole (*Solea solea*), up to a maximum of 3% of the total annual catches of that species by vessels using trammel nets and gillnets (gear codes: GNS, GN, GND, GNC, GTN, GTR and GEN) in ICES divisions 8a and 8b;
- (d) for alfonsinos (*Beryx spp.*), up to a maximum of 5%, of the total annual catches of those species by vessels using hooks and lines (gear codes: LHP, LHM, LLS, LLD) in ICES subarea 10;
- (e) for horse mackerel (*Trachurus spp.*), up to a maximum of 7% in 2020 of the total annual catches of horse mackerel by vessels using beam trawls, bottom trawls and seines (gear codes: OTB, OTT, PTB, TBN, TBS, TBB, OT, PT, TX, SSC, SPR, SDN, SX, SV) in ICES subareas 8 and 9;
- (f) for horse mackerel (*Trachurus spp.*), up to a maximum of 3% in 2020 of the total annual catches of horse mackerel by vessels using gillnets (gear codes: GNS, GND, GNC, GTR, GTN) in ICES subareas 8, 9 and 10 and and CECAF zones 34.1.1, 34.1.2, 34.2.0;
- (g) for mackerel (*Scomber scombrus*), up to a maximum of 7% in 2020 of the total annual catches of that species by vessels using beam trawls, bottom trawls and seines (gear codes: OTB, OTT, PTB, TBN, TBS, TBB, OT, PT, TX, SSC, SPR, SDN, SX, SV) in ICES subareas 8 and 9;
- (h) for mackerel (*Scomber scombrus*), up to a maximum of 3% in 2020 of the total annual catches of that species by vessels using gillnets (gear codes: GNS, GND, GNC, GTR, GTN) in ICES subareas 8 and 9 and and CECAF zones 34.1.1, 34.1.2, 34.2.0;
- (i) for megrim (*Lepidorhombus spp.*), up to a maximum of 5% in 2020 of the total annual catches of megrim by vessels using beam trawls, bottom trawls and seines (gear codes: OTB, OTT, PTB, TBN, TBS, TBB, OT, PT, TX, SSC, SPR, SDN, SX, SV) in ICES subareas 8 and 9;
- (j) for megrim (*Lepidorhombus spp.*), up to a maximum of 4% in 2020 of the total annual catches of megrim by vessels using gillnets (gear codes: GNS, GND, GNC, GTR, GTN) in ICES subareas 8 and 9;
- (k) for plaice (*Pleuronectes platessa*), up to a maximum of 5% in 2020 of the total annual catches of that species by vessels using beam trawls, bottom trawls and seines (gear codes: OTB, OTT, PTB, TBN, TBS, TBB, OT, PT, TX, SSC, SPR, SDN, SX, SV) in ICES subareas 8 and 9;

- (l) for plaice (*Pleuronectes platessa*), up to a maximum of 3 % in 2020 of the total annual catches of that species by vessels using gillnets (gear codes: GNS, GND, GNC, GTR, GTN) in ICES subareas 8 and 9;
 - (m) for anglerfish (*Lophiidae*), up to a maximum of 5% in 2020 of the total annual catches of anglerfish by vessels using beam trawls, bottom trawls and seines (gear codes: OTB, OTT, PTB, TBN, TBS, TBB, OT, PT, TX, SSC, SPR, SDN, SX, SV) in ICES subareas 8 and 9;
 - (n) for anglerfish (*Lophiidae*), up to a maximum of 4% in 2020 of the total annual catches of anglerfish by vessels using gillnets (gear codes: GNS, GND, GNC, GTR, GTN) in ICES subareas 8 and 9;
 - (o) for whiting (*Merlangius merlangus*), up to a maximum of 5% in 2020 of the total annual catches of that species by vessels using beam trawls, bottom trawls and seines (gear codes: OTB, OTT, PTB, TBN, TBS, TBB, OT, PT, TX, SSC, SPR, SDN, SX, SV) in ICES subarea 8;
 - (p) for whiting (*Merlangius merlangus*), up to a maximum of 4% in 2020 of the total annual catches of that species by vessels using gillnets (gear codes: GNS, GND, GNC, GTR, GTN) in ICES subareas 8;
 - (q) for pollack (*Pollachius pollachius*), up to a maximum of 5% in 2020 of the total annual catches of that species by vessels using beam trawls, bottom trawls and seines (gear codes: OTB, OTT, PTB, TBN, TBS, TBB, OT, PT, TX, SSC, SPR, SDN, SX, SV) in ICES subareas 8 and 9;
 - (r) for pollack (*Pollachius pollachius*), up to a maximum of 2% in 2020 of the total annual catches of that species by vessels using gillnets (gear codes: GNS, GND, GNC, GTR, GTN) in ICES subareas 8 and 9;
2. The *de minimis* exemptions set out in paragraph 1 (e) to (r) shall be provisionally applicable until 31 December 2020. Member States having a direct management interest shall submit as soon as possible but not later than by 1 May 2020, additional scientific information supporting those exemptions. The Scientific, Technical and Economic Committee for Fisheries shall assess that scientific information by 31 July 2020.

Article 7
Repeal

Delegated Regulation (EU) 2018/2033 is repealed.

Article 8
Entry into force

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 2020 until 31 December 2021.

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

Done at Brussels, 1.10.2019

For the Commission
The President
Jean-Claude JUNCKER