



Council of the  
European Union

197936/EU XXVII. GP  
Eingelangt am 30/09/24

Brussels, 30 September 2024  
(OR. en)

13955/24

PECHE 383  
DELACT 179

## COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	30 September 2024
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	C(2024) 6800 final
Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 30.9.2024 amending Regulation (EU) 2019/1241 as regards measures to reduce incidental catches of common dolphin ( <i>Delphinus delphis</i> ) and other small cetaceans in the Bay of Biscay

Delegations will find attached document C(2024) 6800 final.

Encl.: C(2024) 6800 final



EUROPEAN  
COMMISSION

Brussels, 30.9.2024  
C(2024) 6800 final

**COMMISSION DELEGATED REGULATION (EU) .../...**  
**of 30.9.2024**

**amending Regulation (EU) 2019/1241 as regards measures to reduce incidental catches  
of common dolphin (*Delphinus delphis*) and other small cetaceans in the Bay of Biscay**

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE DELEGATED ACT

Article 3(2) of Regulation (EU) 2019/1241<sup>1</sup> provides that technical measures should contribute, *inter alia*, to achieving to the objective of ensuring that incidental catches of sensitive marine species, including those listed under Directives 92/43/EEC<sup>2</sup> and 2009/147/EC<sup>3</sup>, that are a result of fishing, are minimised and where possible eliminated so that they do not represent a threat to the conservation status of these species.

Article 15(2) of Regulation (EU) 2019/1241 empowers the Commission to adopt delegated acts to take into account regional specificities of the relevant fisheries, by amending, supplementing, repealing or derogating from the technical measures set out in the Annexes, in accordance with Article 29 of that Regulation and Article 18 of Regulation (EU) No 1380/2013<sup>4</sup>.

Annex XIII to Regulation (EU) 2019/1241 sets out technical measures established at regional level for sensitive species. Point 3 of that annex requires Member States to submit joint recommendations for additional mitigation measures to reduce incidental catches of sensitive species where validated scientific evidence indicates the negative impacts of fishing gear on such species. Points 2 and 4 of that annex also require that Member States take the necessary steps to collect scientific data on incidental catches of sensitive species and to monitor and assess the effectiveness of the mitigation measures established under the Annex.

Article 21 of Regulation (EU) 2019/1241 provides that a joint recommendation submitted for the purpose of adopting the measures referred to in Article 15(2), in relation to the protection of sensitive species and habitats, may specify the use of additional or alternative measures to those referred to in Annex XIII to minimise the incidental catches of the species referred to in Article 11, provide information on the effectiveness of existing mitigation measures and monitoring arrangements and specify restrictions on the operation of certain gear or introduce a total prohibition on the use of certain fishing gear within an area where such gear represent a threat to the conservation status of species in that area as referred to in Articles 10 and 11 or other sensitive habitats. Article 11(1) of Regulation (EU) 2019/1241 refers to marine mammals or marine reptiles listed in Annexes II and IV to Directive 92/43/EEC and species of seabirds covered by Directive 2009/147/EC.

The common dolphin (*Delphinus delphis*) is a strictly protected species listed in Annex IV to Directive 92/43/EEC. Incidental catches have been observed since the 1970s and are a threat

---

<sup>1</sup> Regulation (EU) 2019/1241 of the European Parliament and of the Council of 20 June 2019 on the conservation of fisheries resources and the protection of marine ecosystems through technical measures, amending Council Regulations (EC) No 1967/2006, (EC) No 1224/2009 and Regulations (EU) No 1380/2013, (EU) 2016/1139, (EU) 2018/973, (EU) 2019/472 and (EU) 2019/1022 of the European Parliament and of the Council, and repealing Council Regulations (EC) No 894/97, (EC) No 850/98, (EC) No 2549/2000, (EC) No 254/2002, (EC) No 812/2004 and (EC) No 2187/2005 (OJ L 198, 25.7.2019, p. 105).

<sup>2</sup> Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7).

<sup>3</sup> Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7).

<sup>4</sup> 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/EC (OJ L 354, 28.12.2013, p. 22).

to the common dolphin in the Northeast Atlantic<sup>5</sup>. Spain and France have developed stranding networks with the aim of monitoring marine mammal strandings, with the common dolphin being the most encountered cetacean. Between 2019 and 2021, a total of 5 938 individuals of common dolphin were stranded on the coasts of the Bay of Biscay<sup>6</sup>.

Most strandings occur between December and April and vary depending on meteorological conditions and sea currents. According to the French national stranding network, on average 75% of stranded cetacean carcasses show traces of fishing gear (Pelagis, 2024). The main fishing gears interacting with the common dolphin are pelagic trawls, demersal pair trawls, set gillnets, trammel nets and seines<sup>7</sup>. Additional information on incidental catches is collected through on-board observers and electronic monitoring systems, and further analysed within EU research programs (such as CETAMBICION, MERMACIFRA and CIBBRiNA).

On 26 May 2020,<sup>8</sup> the International Council for the Exploration of the Sea (ICES) published its advice on emergency measures to prevent incidental catches of common dolphin in fisheries in the Bay of Biscay. ICES tested fifteen mitigation scenarios and advised a combination of temporal closures of all métiers of concern and application of pingers on pair trawlers to mitigate incidental catches outside of the period of closure. The precise combination differed, depending on the tested mitigation scenario.

In October 2020, and as a response to the ICES advice of 26 May 2020, a first joint recommendation was submitted by Belgium, Spain, France, the Netherlands and Portugal (the South Western Waters regional group). The first joint recommendation proposed the equipment of trawls with acoustic deterrent devices in the Bay of Biscay (ICES Subarea 8), the obligation for EU vessels to report incidental catches in the fishing logbook, and the development and testing of new technical solutions to reduce incidental catches.

In its plenary meeting on 16-20 March 2021, the Scientific, Technical and Economic Committee for Fisheries (STECF) considered that the measures proposed in the first joint recommendation were insufficient to reduce incidental catches of common dolphin in the Bay of Biscay<sup>9</sup>.

On 20 March 2023, the French Conseil d'État<sup>10</sup> ordered France to implement, within six months, concrete measures to reduce incidental catches of small cetaceans, including spatio-temporal closures and complementary measures.

On 29 June 2023,<sup>11</sup> and in response to a request from the EU, ICES reassessed the fifteen mitigation scenarios that it had tested in its advice of 26 May 2020 and advised that six of those scenarios are likely to reduce incidental catches of the common dolphin below the

---

<sup>5</sup> ICES (2020). EU request on emergency measures to prevent bycatch of common dolphin (*Delphinus delphis*) and Baltic Proper harbour porpoise (*Phocoena phocoena*) in the Northeast Atlantic, <https://doi.org/10.17895/ices.advice.6023>

<sup>6</sup> ICES(2023) Working Group on Bycatch of Protected Species (WGBYC). ICES Scientific Reports. 5:111. 334 pp, <https://doi.org/10.17895/ices.pub.24659484>.

<sup>7</sup> ICES(2023) Working Group on Bycatch of Protected Species (WGBYC). ICES Scientific Reports. 5:111. 334 pp, <https://doi.org/10.17895/ices.pub.24659484>.

<sup>8</sup> ICES (2020). EU request on emergency measures to prevent bycatch of common dolphin (*Delphinus delphis*) and Baltic Proper harbour porpoise (*Phocoena phocoena*) in the Northeast Atlantic, <https://doi.org/10.17895/ices.advice.6023>.

<sup>9</sup> [STECF\(2021\)](https://data.europa.eu/doi/10.2760/437609). 66th plenary report (PLEN-21-01), Publications Office of the European Union, 2021, <https://data.europa.eu/doi/10.2760/437609>.

<sup>10</sup> Conseil d'État. N° 449788.

<sup>11</sup> ICES (2023). EU request on mitigation measures to reduce bycatches of common dolphin (*Delphinus delphis*) in the Bay of Biscay (ICES Subarea 8), <https://doi.org/10.17895/ices.advice.23515176.v1>.

potential biological removal (PBR) limit, but only for mortality estimates derived from at-sea sampling. Moreover, ICES considered that none of the scenarios considered would result in a reduction in annual common dolphin mortality below the PBR for mortality estimates derived from both at-sea sampling and strandings. In addition, ICES noted that estimates based on at-sea sampling and strandings data can be regarded as proxies for, respectively, the lower- and upper estimates of actual incidental catch mortality. ICES also advised that: (i) temporal closures in Subarea 8 in certain métiers are likely to be the most effective management measures for reducing incidental catch mortality in the short term and (ii) that the performance of pingers is conditional upon the pingers performing optimally in certain gears.

On 25 October 2023, the South Western Waters regional group submitted a second joint recommendation. The second joint recommendation included measures to record and reduce incidental catches with acoustic deterrent devices, the experimentation with new gears and devices to exclude cetaceans and a ban of fishing for at-risk gears in French waters up to the outer limit of the economic exclusive zone within ICES subarea 8, with the possibility to exclude vessels that use acoustic deterrent devices, other experimental technical measures or have observers on board. In parallel, on 24 October 2023, France adopted measures including a one-month fishing closure for 2024, 2025 and 2026 but with derogations for 2024 for vessels equipped with pingers and cameras.

In its plenary meeting on 13-17 November 2023, STECF considered that the measures proposed in the second joint recommendation remained insufficient to reduce the level of incidental catches of common dolphin in the Bay of Biscay<sup>12</sup>.

On 22 December 2023, the French Conseil d'État, while not calling into question the one-month fishing closure for 2024 adopted by France on 24 October 2023, suspended the application of the derogations for vessels equipped with pingers and cameras.

On 17 January 2024, France adopted additional spatio-temporal measures for foreign-flagged vessels, aimed at reducing incidental catches of small cetaceans in the Bay of Biscay for the year 2024<sup>13</sup>. France established a four-week closure where fishing with vessels over 8 meters using pelagic trawls (OTM, PTM), demersal pair trawls (PTB), gillnets (GNS), trammel nets (GTR) and purse seines (PS) was prohibited from 22 January 2024 to 20 February 2024 within EU waters of ICES subareas 8 a, b, c, and e.

Preliminary data from the observatory Pelagis suggests that, as a result of the measures adopted by France on 17 January 2024, the total number of strandings of common dolphin has decreased compared with the period 2010-2023<sup>14</sup>.

On 20 June 2024, the South Western Waters regional group submitted a third joint recommendation. The Member States proposed two management measures for the reduction of incidental catches, as well as ancillary monitoring measures to improve the knowledge on the interactions between cetaceans and fishing activities. The management measures consist in the use of acoustic deterrent devices for all mid-water pelagic trawls and demersal twin trawls, and a fishing closure from 22 January to 20 February 2025. The monitoring measures to collect scientific data consist in recordings of incidental catches of small cetaceans in the

---

<sup>12</sup> [STECF\(2023\)](https://data.europa.eu/doi/10.2760/230145). 74th plenary report (PLEN-22-03), Publications Office of the European Union, 2023, <https://data.europa.eu/doi/10.2760/230145>.

<sup>13</sup> Arrêté du 17 janvier 2024 établissant des mesures spatio-temporelles pour les navires battant pavillon étranger, visant la réduction des captures accidentelles de petits cétacés dans le golfe de Gascogne pour l'année 2024.

<sup>14</sup> Observatory Pelagis 'Bilan des échouages durant la fermeture des engins de pêche à risque lors de l'hiver 2024', 22 March 2024.

logbook, as well as recordings made by covering certain percentages of the fishing effort with observers or electronic monitoring systems incorporating cameras on board.

In its plenary meeting on 12-16 July 2024, the STECF considered the measures proposed in the third joint recommendation and concluded that while they remain less stringent than the measures advised by ICES to reduce incidental catches below the PBR threshold, they represent a step forward in attempting to reduce incidental catches of common dolphin in fisheries in the Bay of Biscay<sup>15</sup>. The STECF also considered that preliminary data suggests that, as a result of the measures adopted by France on 17 January 2024, the total number of strandings of common dolphin has decreased compared to 2023. Furthermore, the STECF considered that ongoing research projects on acoustic deterrent devices and cetacean excluder devices should soon provide results regarding the use of management measures as an alternative to closures.

The Member States updated the joint recommendation on 19 September 2024 to clarify the measurement of the fishing effort that applies to gillnets and trammel nets and add combined gillnets and trammel nets (GTN) to the list of gears to which the closure applies.

The Expert Group on Fisheries and Aquaculture was consulted on 20 September 2024.

## **2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT**

On 13 May 2024, the SWWAC issued an opinion on the strandings of dolphins in which it stressed the different positions between the sector and other interest groups. While developing the three joint recommendations, the South Western Waters Advisory Council and the Pelagic Advisory Council were invited to attend, in part, meetings of the South Western Waters High Level Group and the Technical Group.

## **3. LEGAL ELEMENTS OF THE DELEGATED ACT**

### **Summary of the action**

The delegated act adopts the technical measures included in the third joint recommendation.

### **Legal Basis**

Article 15(2) of Regulation (EU) 2019/1241.

---

<sup>15</sup> Scientific, Technical and Economic Committee for Fisheries (STECF) – 76th Plenary report (STECF-PLN-24-02), Publications Office of the European Union, Luxembourg, 2024.



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

of 30.9.2024

**amending Regulation (EU) 2019/1241 as regards measures to reduce incidental catches of common dolphin (*Delphinus delphis*) and other small cetaceans in the Bay of Biscay**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2019/1241 of the European Parliament and of the Council of 20 June 2019 on the conservation of fisheries resources and the protection of marine ecosystems through technical measures, amending Council Regulations (EC) No 1967/2006, (EC) No 1224/2009 and Regulations (EU) No 1380/2013, (EU) 2016/1139, (EU) 2018/973, (EU) 2019/472 and (EU) 2019/1022 of the European Parliament and of the Council, and repealing Council Regulations (EC) No 894/97, (EC) No 850/98, (EC) No 2549/2000, (EC) No 254/2002, (EC) No 812/2004 and (EC) NO 2187/2005<sup>16</sup>, and in particular Article 15(2) thereof,

Whereas:

- (1) According to Article 3(2)(b) of Regulation (EU) 2019/1241, technical measures are to contribute to minimise and where possible eliminate catches of sensitive marine species, including those listed under Council Directive 92/43/EEC<sup>17</sup> and Directive 2009/147/EC of the European Parliament and of the Council<sup>18</sup>, that are a result of fishing.
- (2) According to Article 21 of Regulation (EU) 2019/1241, a joint recommendation submitted for the purpose of adopting the measures referred to in Article 15(2), in relation to the protection of sensitive species and habitats, may in particular specify the use of additional or alternative measures to those referred to in Annex XIII to minimise the incidental catches of the species referred to in Article 11, provide information on the effectiveness of existing mitigation measures and monitoring arrangements and specify restrictions on the operation of certain gear or introduce a total prohibition on the use of certain fishing gear within an area where such gear represent a threat to the conservation status of species in that area as referred to in Articles 10 and 11 or other sensitive habitats. Article 11(1) refers to marine mammals or marine reptiles listed in Annexes II and IV to Directive 92/43/EEC and species of seabirds covered by Directive 2009/147/EC.
- (3) The common dolphin (*Delphinus delphis*) is a strictly protected species according to Annex IV to Directive 92/43/EEC, which lists all cetaceans as species of Community interest in need of strict protection. According to ICES, the abundance of common

<sup>16</sup> OJ L 198, 25.7.2019, p. 105.

<sup>17</sup> Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7).

<sup>18</sup> Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26/01/2010, p. 7).

dolphin in the Bay of Biscay is 634 286 individuals<sup>19</sup>. Incidental catches are considered a high threat and is estimated from at-sea observations at 5 938 common dolphins per year between 2019 and 2021. This value is above the Potential Biological Removal (PBR)<sup>20</sup> limit, estimated at 4926 individuals per year<sup>21</sup>.

- (4) The distribution of small delphinids (common dolphins, striped dolphins and unidentified common or striped dolphins) was more dispersed in 2021 than in the past and sightings of small delphinids over the shelf area of the Bay of Biscay were numerous<sup>22</sup>. A series of large-scale surveys started 30 years ago with the aim of monitoring whales, dolphins and porpoises on the shelf and offshore waters of the Northeast Atlantic. Part of the overall aim is to assess the impact of direct mortality caused by human activities and to feed into the information that will be the basis to identify any conservation action necessary to increase the conservation status of cetaceans<sup>23</sup>.
- (5) Annex XIII to Regulation (EU) 2019/1241 lays down rules at regional level regarding mitigation measures to reduce incidental catches of sensitive species including cetaceans, by detailing restricted areas, periods and gear limitations. Member States should take the necessary steps to collect scientific data on incidental catches of sensitive species and monitor and assess the effectiveness of the mitigation measures established under Annex XIII.
- (6) According to point 3 of that Annex, Member States are to submit joint recommendations for additional mitigation measures for the reduction of incidental catches of sensitive species, based on Article 15 of that Regulation, where scientific evidence, validated by the International Council for the Exploration of the Sea (ICES) or by the Scientific, Technical and Economic Committee for Fisheries (STECF), shows negative impacts of the fishing gears on the species concerned.
- (7) In its advice of 29 June 2023<sup>24</sup>, ICES reassessed the fifteen mitigation scenarios that it had tested in its advice of 26 May 2020<sup>25</sup> and advised that six of those scenarios are likely to reduce incidental catches of the common dolphin in fisheries in the Bay of Biscay below the potential biological removal (PBR) limit, but only for mortality estimates derived from at-sea sampling. Moreover, ICES considered that none of the mitigation scenarios would result in a reduction in annual common dolphin mortality below the PBR for mortality estimates derived from both at-sea sampling and

<sup>19</sup> ICES(2020). EU request on emergency measures to prevent bycatch of common dolphin (*Delphinus delphis*) and Baltic Proper harbour porpoise (*Phocoena phocoena*) in the Northeast Atlantic, <https://doi.org/10.17895/ices.advice.6023>

<sup>20</sup> Limit estimated by ICES to ensure that a population will remain at, or recover to, its maximum net productivity level (typically 50% of the populations carrying capacity), with 95% probability, within a 100-year period.

<sup>21</sup> ICES(2023). Workshop on mitigation measures to reduce bycatch of short-beaked common dolphins in the Bay of Biscay (WKEMBYC2), <https://doi.org/10.17895/ices.pub.21940337.v1>

<sup>22</sup> ICES. 2023. Workshop on mitigation measures to reduce bycatch of short-beaked common dolphins in the Bay of Biscay.

<sup>23</sup> ASCOBANS. Small Cetaceans in European Atlantic waters and the North Sea (SCANS-III): Project Introduction. 20th ASCOBANS Advisory Committee Meeting, [https://www.ascobans.org/sites/default/files/document/AC20\\_4.1.a\\_SCANSIII.pdf](https://www.ascobans.org/sites/default/files/document/AC20_4.1.a_SCANSIII.pdf)

<sup>24</sup> ICES(2023). EU request on mitigation measures to reduce bycatches of common dolphin (*Delphinus delphis*) in the Bay of Biscay (ICES Subarea 8), <https://doi.org/10.17895/ices.advice.23515176>

<sup>25</sup> ICES (2020). EU request on emergency measures to prevent bycatch of common dolphin (*Delphinus delphis*) and Baltic Proper harbour porpoise (*Phocoena phocoena*) in the Northeast Atlantic, <https://doi.org/10.17895/ices.advice.6023>.



strandings. ICES also advised that: (i) temporal closures in Subarea 8 in certain métiers are likely to be the most effective management measures for reducing incidental catch mortality in the short term; and (ii) that the performance of pingers is conditional upon the pingers performing optimally in certain gears.

- (8) On 17 January 2024, France adopted spatio-temporal measures for foreign-flagged vessels, aimed at reducing incidental catches of small cetaceans in the Bay of Biscay for the year 2024<sup>26</sup>, which supplemented the measures already in force for French vessels by the Decree of 24 October 2023, amended by the order of the Conseil d'Etat of 22 December 2023. France established a four-week closure where fishing with vessels over 8 meters using pelagic trawls (OTM, PTM), demersal pair trawls (PTB), gillnets (GNS), trammel nets (GTR) and purse seines (PS) was prohibited from 22 January 2024 to 20 February 2024 within French waters of ICES subareas 8 a, b, c, and e. On 18 January 2024, Spain also adopted a national regulation to implement the same closure in French waters of ICES area 8 for the Spanish fleet<sup>27</sup>.
- (9) On 20 June 2024, the regional group of the South Western Waters (Belgium, Spain, France, the Netherlands and Portugal) submitted a joint recommendation proposing specific measures to reduce incidental catches of small cetaceans in the Bay of Biscay (ICES Subarea 8). The Member States proposed two management measures for the reduction of incidental catches, as well as ancillary monitoring measures to improve the knowledge on the interactions between cetaceans and fishing activities. The management measures consist in the use of acoustic deterrent devices for all mid-water pelagic trawls and demersal twin trawls, and a fishing closure from 22 January to 20 February. The monitoring measures to collect scientific data consist in recordings of incidental catches of small cetaceans in the logbook, as well as recordings made by covering certain percentages of the fishing effort with observers or electronic monitoring systems incorporating cameras on board.
- (10) The joint recommendation also proposed that: (i) trammel and gillnetters, pelagic trawlers and demersal pair trawlers are encouraged to experiment with new gears and devices to exclude cetaceans; and (ii) Member States collect and share data on incidental catches with ICES and between themselves.
- (11) While developing the joint recommendation, the South Western Waters Advisory Council and the Pelagic Advisory Council were invited to attend, in part, meetings of the South Western Waters High Level Group and the Technical Group.
- (12) In its plenary meeting on 12-16 July 2024, the STECF considered the measures proposed in the joint recommendation and concluded that while they remain less stringent than the measures advised by ICES as likely to reduce incidental catches of the common dolphin in fisheries in the Bay of Biscay below the PBR level, they represent a step forward in attempting to reduce such catches<sup>28</sup>. The STECF also considered that while there is not yet enough data to evaluate the performance of the closure in relation to PBR limit, as a result of the measures adopted by France on 17

<sup>26</sup> Arrêté du 17 janvier 2024 établissant des mesures spatio-temporelles pour les navires battant pavillon étranger, visant la réduction des captures accidentelles de petits cétacés dans le golfe de Gascogne pour l'année 2024.

<sup>27</sup> Orden APA/24/2024, de 18 de enero, por la que se modifica la Orden APA/1200/2020, de 16 de diciembre, por la que se establecen medidas de mitigación y mejora del conocimiento científico para reducir las capturas accidentales de cetáceos durante las actividades pesqueras.

<sup>28</sup> Scientific, Technical and Economic Committee for Fisheries (STECF) – 76th Plenary report (STECF-PLN-24-02), Publications Office of the European Union, Luxembourg, 2024.

January 2024, the total number of strandings of common dolphin has decreased compared to 2023.

- (13) The Member States updated the joint recommendation on 19 September 2024 to clarify the measurement of the fishing effort that applies to gillnets and trammel nets and add combined gillnets and trammel nets (GTN) to the list of gears to which the closure applies.
- (14) The Expert Group on Fisheries and Aquaculture was consulted on 20 September 2024.
- (15) The Commission considers that while the measures proposed in the joint recommendation are less stringent than the measures advised by ICES in the six mitigation scenarios that are likely to reduce incidental catches below the PBR limit, they will contribute to reducing incidental catches of common dolphin in the Bay of Biscay in 2025.
- (16) The Commission also notes that: (i) while the STECF highlights that the use of pingers is less conclusive for dolphins than for other species, it also refers to recent studies showing a lower proportion of incidental catches when dolphin deterrent devices are deployed; (ii) the STECF considers that ongoing research efforts, notably regarding the effectiveness of acoustic deterrent devices, should soon deliver results; and (iii) regarding interactions between dolphins and other small cetaceans and fisheries, the STECF is of the view that electronic monitoring is effective for monitoring incidental catch events and collecting data that will inform the incidental catch rates.
- (17) Regulation (EU) 2019/1241 should therefore be amended accordingly, except for the measures summarised in recital (10), given that: (i) Regulation (EU) 2019/1241 already allows trammel and gillnetters, pelagic trawlers and demersal pair trawlers to experiment with new gears and devices to exclude cetaceans; and (ii) Member States are already under a legal obligation to collect and share the data on incidental catches with ICES and between themselves.
- (18) Member States should ensure that the use of cameras on board complies with the rules on data protection in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>29</sup>. Therefore, recorded video material obtained from cameras on board should only concern the gear and the parts of the vessels where catches are brought on board, handled, stored and all areas where incidental catches of small cetaceans can occur, and should not, to the extent possible, allow the identification of natural persons. The competent authorities should also ensure anonymisation of personal data as soon as possible.
- (19) This Delegated Regulation is without prejudice to additional measures for the protection of the common dolphin and other small cetaceans that the Commission may adopt under Union law, including in relation to the enforcement of Council Directive 92/43/EEC<sup>30</sup> or, in case of duly justified imperative grounds of urgency relating to a serious threat to the conservation of marine biological resources or to the marine ecosystem pursuant to Article 12 of Regulation (EU) No 1380/2013 of the European

---

<sup>29</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection

of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

<sup>30</sup> Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (Habitats Directive) (OJ L 206, 22.7.1992, p. 7).

Parliament and of the Council, and more stringent national measures that Member States may adopt for that purpose in their waters in accordance with Regulation (EU) No 1380/2013 and Regulation (EU) 2019/1241.

- (20) As the measures provided for in this Regulation have a direct impact on the planning of the fishing season of Union vessels and on related economic activities, this Regulation should enter into force as soon as possible,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

Annex XIII to Regulation (EU) 2019/1241 is amended in accordance with 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*.

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

Done at Brussels, 30.9.2024

*For the Commission*  
*The President*  
*Ursula VON DER LEYEN*