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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

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Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 21.8.2020 specifying details of the implementation of the landing obligation for certain fisheries in Western Waters for the period 2021-2023

Delegations will find attached document C(2020) 5645 final.

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Brussels, 21.8.2020
C(2020) 5645 final

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

of 21.8.2020

**specifying details of the implementation of the landing obligation for certain fisheries in
Western Waters for the period 2021-2023**

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 in Union waters applies from 1 January 2019 to all catches of species subject to catch limits. The CFP also provides for increased regionalisation, which is intended 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 that can be applied by Member States in the context of quota management. In addition, the CFP provides for so-called discard plans. Those discard plans are based on joint recommendations agreed by groups of Member States from the same region or sea basin.

Commission Delegated Regulation (EU) No 2019/2239² specified details of the landing obligation for certain demersal fisheries in the North-Western waters for the period 2020-2021.

Commission Delegated Regulation (EU) 2019/2237³ specified details of the landing obligation for certain demersal fisheries in in the South-Western waters for the period 2020-2021.

This delegated act repeals Delegated Regulation (EU) 2019/2239 and Delegated Regulation (EU) 2019/2237.

Regulation (EU) 2019/472 of the European Parliament and of the Council⁴ establishing the multiannual management plan for stocks fished in the Western Waters and adjacent waters and the fisheries exploiting those stocks was adopted on 19 March 2019 covering the demersal stocks in the Western waters.

For all stocks of species in the North-Western waters and 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 empowers 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 recommendations (JR) developed and submitted to the Commission by the Member States concerned.

¹ OJ L 354, 28.12.2013, p.22.

² OJ L 336, 30.12.2019, p. 47-58.

³ Commission Delegated Regulation (EU) 2019/2237 of 1 October 2019 specifying details of the landing obligation for certain demersal fisheries in South-Western waters for the period 2020-2021 (OJ L 336, 30.12.2019, p. 26–33).

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 NWW Member States and SWW Member States agreed that the chair of the respective groups, Spain and Ireland (NWW) and France (SWW), should submit to the Commission joint recommendations (JRs). Accordingly, the Commission received the JRs on 4 May 2020. Member States submitted additional information at a later stage. After the Scientific, Technical and Economic Committee for Fisheries (STECF) assessment, the SWW revised the JR on 16 July 2020 and the NWW on 29 July 2020.

It contained, *inter alia*, the following elements:

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

In accordance with the procedure described in Article 18 of Regulation (EU) No 1380/2013, these JRs are the result of discussions between the NWW Member States and SWW Member States having a direct management interest, and taking account of the views of the North-Western Waters Advisory Council (NWW AC), the South-Western Waters Advisory Council (SWW AC) and the Pelagic Advisory Council (PELAC), that are concerned by the fisheries covered by the relevant JRs. For all of these elements the JRs included supporting documentation underpinning the exemptions and other provisions set out in the JRs.

The JRs were developed by the Member States concerned as a result of meetings of the technical group and in meetings of the Directors' Group.

Direct consultations between the Advisory Council and experts and fisheries managers from the national administrations of the NWW Member States and SWW Member States were held in the first half of 2020. Representatives from the Commission and the NWW Member States and SWW Member States also participated.

The STECF evaluated the elements of the final joint recommendations concerning the application of the landing obligation to the fisheries concerned and the *de minimis* as well as high-survivability exemptions.

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, this does not mean they will automatically be renewed. 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 a number of years from being initially granted and that Member States will have to provide again justification and scientific data for review by the STECF.

STECF⁵ recognises that this year the restrictions imposed due to the coronavirus pandemic created additional challenges in the preparation of proposals and supporting information, collation and review of joint recommendations. Furthermore, STECF notes that in recent

⁵ <https://stecf.jrc.ec.europa.eu/documents/43805/2694823/STECF+20-04+-+Eval+JRs+LO+and+TM+Reg.pdf>

years the process from assessment of the joint recommendations by the EWG to provision of the final advice by STECF has become constricted into a very short period. There was limited time for Regional Groups to respond to any serious gaps identified by the EWG because the missing information identified by STECF requires additional scientific trials or studies. Besides, STECF acknowledges the time pressure to ensure that the process is completed by the end of the year. Therefore, to address STECF's concerns, where the Member States have submitted new evidence but improvements in data collection are still needed, the Commission has decided to grant the exemptions, requiring the Member States to provide additional information resulting from the ongoing trials and studies.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

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 exemptions.

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 13 of Regulation (EU) 2019/472 and does not go beyond what is necessary to achieve the purpose of those provisions.

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 relevant measures 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 21.8.2020

specifying details of the implementation of the landing obligation for certain fisheries in Western Waters for the period 2021-2023

THE EUROPEAN COMMISSION,

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

Having regard to 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 1300/2008¹, and in particular Article 13 thereof,

Whereas:

- (1) Regulation (EU) No 1380/2013 of the European Parliament and of the Council² 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) 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) Regulation (EU) 2019/472 establishes a multiannual plan for stocks fished in the Western Waters, and for fisheries exploiting those stocks. Article 13 of that Regulation empowers the Commission to adopt delegated acts in order to supplement that 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 Regulation (EU) No 1380/2013, on the basis of joint recommendations developed by Member States.

¹ OJ L 83, 25.3.2019, p. 1-1

² 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).

- (5) Commission Delegated Regulation (EU) 2019/2239³ specifies details of the implementation of the landing obligation for certain demersal fisheries in the North-Western waters for the period 2020-2021, following a joint recommendation submitted by Belgium, Spain, France, Ireland, the Netherlands and the United Kingdom⁴ which have a direct fisheries management interest in the North-Western waters.
- (6) Belgium, Spain, France, Ireland and the Netherlands, after consulting the North-Western Waters Advisory Council and the Pelagic Advisory Council, submitted on 5 May 2020 a joint recommendation to the Commission concerning a discard plan for certain fisheries in the North-Western Waters for the period 2021-2023. The Member States reviewed the joint recommendation on 29 July 2020.
- (7) Commission Delegated Regulation (EU) 2019/2237⁵ specifies details of the implementation of the landing obligation for certain demersal fisheries in the South-Western waters for the period 2020-2021, following a joint recommendation submitted by Belgium, Spain, France, the Netherlands and Portugal which have a direct fisheries management interest in the South-Western waters.
- (8) Belgium, Spain, France, the Netherlands and Portugal, after consulting the South Western Waters Advisory Council and the Pelagic Advisory Council on 24 April 2020, submitted on 5 May 2020 a joint recommendation to the Commission concerning a discard plan for certain fisheries in the South-Western Waters for the period 2021-2023. The Member States reviewed the joint recommendation on 16 July 2020.
- (9) Scientific contributions were obtained from relevant scientific bodies and reviewed by the Scientific, Technical and Economic Committee for Fisheries ('STECF')⁶. The Commission presented the measures concerned to an expert group consisting of representatives of the Member States on 28 July 2020 in a meeting attended by the European Parliament as an observer.
- (10) 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, new evidence has been submitted but STECF has considered that improvements in the information provided are required. In those cases, it is appropriate to grant exemptions on a temporary basis. By continuing fishing activities, data collection will improve and STECF considerations will be addressed.
- (11) The regional groups of Member States have based most of their *de minimis* exemption requests on a potential increase in costs as a consequence of handling unwanted catches. The information provided by the Member States in this regard has improved. However, STECF notes that improving data collection is still needed and that improving selectivity should be the priority to reduce the level of unwanted catches.

³ Commission Delegated Regulation (EU) 2019/2239 of 1 October 2019 specifying details of the landing obligation for certain demersal fisheries in North-Western waters for the period 2020-2021 (OJ L 336, 30.12.2019, p. 47).

⁴ The United Kingdom ceased being a Member State from 1 February 2020.

⁵ Commission Delegated Regulation (EU) 2019/2237 of 1 October 2019 specifying details of the landing obligation for certain demersal fisheries in South-Western waters for the period 2020-2021 (OJ L 336, 30.12.2019, p.26).

⁶ <https://stecf.jrc.ec.europa.eu/documents/43805/2537709/STECF+PLEN+19-02.pdf>

Therefore, in such cases the exemptions should be granted on a case-by-case basis for 1 or 2 years. Member States should provide additional data resulting from trials and scientific studies that are ongoing.

- (12) The following high survivability exemptions to the landing obligation should apply to the North-Western Waters.
- (13) Delegated Regulation (EU) 2019/2239 included a survivability exemption, as provided for by Article 15(4)(b) of Regulation (EC) No 1380/2013, for Norway lobster caught with pots, traps or creels in International Council for the Exploration of the Sea ('ICES') subareas 6 and 7. Member States requested that the exemption be continued. The STECF evaluated the evidence submitted by the Member States in previous years and concluded⁷ that the exemption is justified. Considering that the circumstances have not changed, that exemption should be maintained.
- (14) Delegated Regulation (EU) 2019/2239 included a survivability exemption for Norway lobster caught using bottom trawls with a mesh size equal to or larger than 100 mm and for Norway lobster caught with bottom trawls with a mesh size of 70 to 99 mm in combination with selective gear options (TRI and TR2 fisheries) in ICES subarea 7. The Member States requested that the exemption be continued. The STECF reviewed in previous years the evidence provided by the Member States and concluded⁸ that the survival study made with Seltra trawl provided sufficient data, but that the overall effect on the extensive fishery of Norway lobster with other fishing gears remains difficult to assess. The STECF noted that assuming that a relatively high survival rate applies to all gears, a relatively low discard rate is implied in that fishery. Considering that the circumstances have not changed, that exemption should therefore be maintained with gear specificities for the Celtic Sea Protection Zone and the Irish Sea.
- (15) Delegated Regulation (EU) 2019/2239 included a survivability exemption for Norway lobster caught in ICES division 6a, within twelve nautical miles of the coast, using otter trawls with a mesh size of 80 to 110 mm in combination with selective gear options. The Member States requested that the exemption be continued. The STECF analysed the evidence submitted by the Member States in previous years and concluded⁹ that the survivability study is robust and indicates a relatively high survival rate. Considering that the circumstances have not changed, that exemption should be maintained.
- (16) Delegated Regulation (EU) 2019/2239 included a survivability exemption for common sole below the minimum conservation reference size ('MCRS') caught with 80 to 99 mm otter trawl gears in ICES division 7d within six nautical miles from the coast and outside identified nursery areas. The Member States requested that the exemption be continued. The STECF evaluated in previous years the evidence submitted by the Member States and concluded¹⁰ that the evidence was sufficient. Considering that the circumstances have not changed, that exemption should therefore be maintained.
- (17) Delegated Regulation (EU) 2019/2239 granted a survivability exemption for skates and rays caught with any gear in ICES subareas 6 and 7. The Member States requested

⁷ <https://stecf.jrc.ec.europa.eu/documents/43805/1099561/STECF+PLEN+15-02.pdf>

⁸ <https://stecf.jrc.ec.europa.eu/documents/43805/2147402/STECF+PLEN+18-02.pdf>

⁹ <https://stecf.jrc.ec.europa.eu/documents/43805/2147402/STECF+PLEN+18-02.pdf>

¹⁰ <https://stecf.jrc.ec.europa.eu/documents/43805/1099561/STECF+PLEN+15-02.pdf>

that the exemption be continued. The STECF analysed the new evidence submitted by the Member States and concluded¹¹ that survival varies across species and fisheries. The STECF noted that there are projects ongoing that should provide useful information about this exemption. This conclusion applies to cuckoo ray (*Leucoraja naevus*). STECF noted that the evidence indicated lower survival rates for cuckoo ray. Member States should submit additional scientific information resulting from these studies as soon as possible, but not later than 1 May every year.

- (18) Delegated Regulation (EU) 2019/2239 granted a survivability exemption for plaice caught in ICES divisions 7a to 7k by vessels using beam trawls, with a maximum engine power of 221 kW, a maximum length of 24 meters, fishing within 12 nautical miles of the coast and with tow durations of no more than ninety minutes, and by vessels using beam trawls with an engine power of more than 221 kW, using a flip-up rope or benthic release panel. The Member States requested that the exemption be continued. The STECF analysed the new evidence provided by the Member States and concluded¹² that the discard survival estimates are variable between trips and evidence was insufficient for ICES divisions 7h, 7j, and 7k. Under those circumstances, the exemption for plaice should be maintained only in ICES divisions 7a to 7g. The Member States concerned should submit evidence as soon as possible, but not later than 1 May every year. The Commission also notes that Member States committed in the joint recommendation to submit a timetable for the completion of the agreed roadmap with the next annual report by 1 May 2021.
- (19) Delegated Regulation (EU) 2019/2239 included a survivability exemption for plaice caught with trammel nets or otter trawls in ICES divisions 7d to 7g. The Member States requested that the exemption be continued. The STECF analysed the evidence submitted by the Member States in previous years and concluded¹³ that the survivability study is robust and indicates a relatively high survival rate. Considering that the circumstances have not changed, that exemption should therefore be maintained.
- (20) Delegated Regulation (EU) 2019/2239 granted a survivability exemption for plaice caught with Danish seines in ICES division 7d. The Member States requested that the exemption be continued. The STECF analysed in previous years the evidence submitted by the Member States and concluded¹⁴ that the data of the study on survival rates are reliable and give robust survival estimates for that fishery. Considering that the circumstances have not changed, that exemption should therefore be maintained.
- (21) Delegated Regulation (EU) 2019/2239 included a survivability exemption for species caught in pots, traps and creels in North Western Waters (ICES subareas 5, 6 and 7). The Member States requested that the exemption be continued. Member States provided scientific evidence in order to demonstrate high discard survival rates for species caught in that fishery. The STECF analysed the evidence in previous years and concluded¹⁵ that the survival of the species discarded from trap and pot fishing is

¹¹ <https://stecf.jrc.ec.europa.eu/documents/43805/2694823/STECF+20-04+-+Eval+JRs+LO+and+TM+Reg.pdf>

¹² <https://stecf.jrc.ec.europa.eu/documents/43805/2694823/STECF+20-04+-+Eval+JRs+LO+and+TM+Reg.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>

¹⁵ <https://stecf.jrc.ec.europa.eu/documents/43805/2147402/STECF+PLEN+18-02.pdf>

likely to be substantial. Considering that the circumstances have not changed this exemption should therefore be maintained.

- (22) Commission Delegated Regulation (EU) No 1393/2014¹⁶ included a survivability exemption for mackerel and herring caught with purse seines under certain conditions in ICES subarea 6. The Member States requested that the exemption be continued. The STECF reviewed the supporting evidence in previous years and concluded¹⁷ that survival rates depend on the crowding time and the density of fish within the net, which are typically limited in these fisheries. Assuming the results of the survival study are representative of survival rates under commercial fishing operations, the proportion of slipped mackerel surviving would likely be around 70 %. The densities would also be lower than the density where mortality of herring was observed to increase. Considering that the circumstances have not changed, this exemption should therefore be maintained in this Regulation.
- (23) Delegated Regulation (EU) No 1393/2014 included a survivability exemption for mackerel and herring caught in the ring net fishery targeting pelagic species not subject to quotas in ICES divisions 7e and 7f. The Member States requested that the exemption be continued. The STECF reviewed the evidence provided by the Member States in previous years and concluded¹⁸ that the survival rates were likely to be similar to survival rates from purse seine fishery and the supporting evidence was similar to the evidence justifying other exemptions included in previous discard plans. Considering that the circumstances have not changed, the exemption should therefore be maintained.
- (24) The following high survivability exemptions from the landing obligation should apply to the South-Western Waters.
- (25) Delegated Regulation (EU) 2019/2237 included an exemption from the landing obligation for Norway lobster caught with bottom trawls in ICES subareas 8 and 9 and for red seabream caught with the artisanal gear “*voracera*” in ICES division 9a. The Member States requested that the exemption be continued. The STECF evaluated the exemption on Norway lobster in the previous years and concluded¹⁹ that the evidence was robust. For red seabream, the STECF concluded in previous assessments²⁰ that the studies represented reasonably sound scientific evidence for the survival of red seabream. Considering that the circumstances have not changed, these two exemptions should therefore be maintained.
- (26) Delegated Regulation (EU) 2019/2237 granted a survivability exemption for skates and rays caught with all gears in ICES subareas 8 and 9. The Member States requested that the exemption be continued and provided new evidence. The STECF concluded²¹

¹⁶ Commission Delegated Regulation (EU) No 1393/2014 of 20 October 2014 establishing a discard plan for certain pelagic fisheries in north-western waters (OJ L 370, 30.12.2014, p. 25).

¹⁷ <https://stecf.jrc.ec.europa.eu/documents/43805/812327/STECF+PLEN+14-02.pdf>

¹⁸ <https://stecf.jrc.ec.europa.eu/documents/43805/1710831/STECF+17-08+-+Evaluation+of+LO+joint+recommendations.pdf/d7110d8a-c4da-498c-8b30-98d0b5c2fc22>

¹⁹ <https://stecf.jrc.ec.europa.eu/documents/43805/1710831/STECF+17-08+-+Evaluation+of+LO+joint+recommendations.pdf>

²⁰ <https://stecf.jrc.ec.europa.eu/documents/43805/2124128/STECF+18-06+-+Evaluation+of+LO+joint+recommendations.pdf>

²¹ <https://stecf.jrc.ec.europa.eu/documents/43805/2694823/STECF+20-04+-+Eval+JRs+LO+and+TM+Reg.pdf>

that there was a significant effort in addressing data gaps, with several projects still ongoing. However, improvements in data collection are required. Member States with a direct management interest should submit as soon as possible, but not later than 1 May 2022, additional scientific evidence resulting from the ongoing projects. The exemption should therefore be maintained.

- (27) Delegated Regulation (EU) 2019/2237 granted an exemption for cuckoo ray caught with trammel nets in ICES subareas 8 and 9 and caught with bottom trawls in ICES subarea 8. The Member States requested that the exemption be continued and provided new evidence. The STECF analysed the evidence and noted²² that there was a significant effort in addressing data gaps and that there are significant number of ongoing projects. However, improvements in data collection are required. Given that in the past survival rates for cuckoo ray revealed to be lower than for other skates and rays, the exemption should be maintained until 31 December 2022 for cuckoo ray caught by trammel nets in ICES subareas 8 and 9, and until 31 December 2021 for cuckoo ray caught with bottom trawls in ICES subarea 8. Member States should submit additional scientific information resulting from the ongoing projects as soon as possible.
- (28) Delegated regulation (EU) 2019/2237 granted a survivability exemption for red seabream caught with the artisanal gear *voracera* in ICES division 9a and with hooks and lines in ICES subareas 8 and 10 and ICES division 9a. The Member States requested to continue this exemption and provided new evidence. However, improvements in data collection are required. The STECF noted²³ that several scientific projects on survivability planned for the period 2019-2020 were not performed due to constraints acquiring material. The exemption may be granted until 31 December 2022. Member States having a direct management interest should submit as soon as possible, but not later than by 1 May 2022 additional scientific information supporting the exemption.
- (29) Commission Delegated Regulation (EU) 1394/2014²⁴ included a high survivability exemption for anchovy, horse mackerel and mackerel in artisanal purse seine fisheries (PS), provided that the net is not fully taken on board. The Member States requested that the exemption be continued and provided new evidence. The STECF noted²⁵ that the evidence showed high survival rates for anchovy, horse mackerel and mackerel when the crowding time related to slipping procedure is estimated to be less than 5 minutes, which is the estimated crowding time under real fishing condition. Therefore, the exemption should be maintained.
- (30) The following *de minimis* exemptions from the landing obligation should apply to the North-Western Waters.
- (31) Delegated Regulation (EU) 2019/2239 included *de minimis* exemptions from the landing obligation for certain fisheries. The Member States requested that the

²² <https://stecf.jrc.ec.europa.eu/documents/43805/2694823/STECF+20-04+-+Eval+JRs+LO+and+TM+Reg.pdf>

²³ <https://stecf.jrc.ec.europa.eu/documents/43805/2694823/STECF+20-04+-+Eval+JRs+LO+and+TM+Reg.pdf>

²⁴ Commission Delegated Regulation (EU) No 1394/2014 of 20 October 2014 establishing a discard plan for certain pelagic fisheries in south-western waters (OJ L 370, 30.12.2014, p. 31).

²⁵ <https://stecf.jrc.ec.europa.eu/documents/43805/2694823/STECF+20-04+-+Eval+JRs+LO+and+TM+Reg.pdf>

exemption be continued. The STECF reviewed in previous years the evidence provided by the Member States and concluded²⁶ that the arguments on disproportionate costs in handling unwanted catches were reasonable. Considering that the circumstances have not changed, it is appropriate to maintain the *de minimis* exemptions for:

- whiting caught by vessels using bottom trawls and seines with a mesh size equal to or larger than 80 mm (OTB, OTT, OT, PTB, PT, SSC, SDN, SPR, SX, SV, TBN, TBS, TB, TX), pelagic trawls (OTM, PTM) and beam trawls (BTT) with a mesh size of 80 to 119 mm (BT2) in ICES divisions 7b to 7k.

The exemption set out in this indent shall be applicable until December 2021 given the general observation made by the STECF on the overall conservation status of whiting in ICES subareas 7b to k. The Member States concerned should submit additional information on catch composition not later than 1 May 2021;

- common sole caught by vessels using trammel and gill nets to catch common sole in ICES divisions 7d to 7g.
- common sole caught by vessels using TBB gear with a mesh size of 80 to 119mm and with increased selectivity (Flemish panel) in ICES divisions 7d to 7h,

(32) Delegated Regulation (EU) 2019/2239 included a *de minimis* exemption for haddock caught by vessels using bottom trawls with a mesh size greater than or equal to 80 mm in ICES divisions 7b, 7c and 7e to 7k. The Member States requested that the exemption be continued. The STECF²⁷ reviewed the new evidence provided by the Member States and concluded that haddock is a high-risk choke species in this area. However, the STECF also noted that cod and whiting are heavily depleted in the Celtic Sea and advised to reduce the level of unwanted catches of these species. The exemption may therefore be granted for bottom trawls with a mesh size greater than or equal to 100mm, seines and excluding beam trawls and the Norway lobster directed fisheries; for vessels targeting Norway lobster with a mesh size of at least 80mm for the Norway lobster directed fishing; and for beam trawls with a mesh size greater or equal to 80mm with a Flemish panel. This exemption should be maintained until 31 December 2022.

(33) Delegated Regulation (EU) 2019/2239 granted a *de minimis* exemption for demersal mixed fishery made by vessels targeting brown shrimp and using beam trawls in ICES division 7a. The Member States requested that the exemption be continued. The STECF reviewed in previous years the evidence submitted by the Member States and concluded²⁸ that the exemption for this fishery is well documented in the North Sea and it is likely that the North Sea fishery is representative of the Irish Sea fishery. Considering that the circumstances have not changed, the exemption should be maintained.

²⁶ <https://stecf.jrc.ec.europa.eu/documents/43805/1099561/STECF+PLEN+15-02.pdf>

²⁷ <https://stecf.jrc.ec.europa.eu/documents/43805/2694823/STECF+20-04+-+Eval+JRs+LO+and+TM+Reg.pdf>

²⁸ <https://stecf.jrc.ec.europa.eu/documents/43805/2537709/STECF+PLEN+19-02.pdf>

- (34) Delegated Regulation (EU) 2019/2239 granted a *de minimis* exemption for boarfish caught by vessels using bottom trawls in ICES divisions 7b, 7c and 7f to k. The Member States requested that the exemption be continued. The STECF reviewed the new data submitted by the Member States and concluded²⁹ that there is evidence of increased costs associated with handling and storing unwanted catches in the relevant fisheries. However, improving selectivity should be the priority. The exemption should be maintained until 31 December 2022. The Member States concerned should present as soon as possible, and not later than by May 2022 additional evidence supporting this exemption.
- (35) Delegated Regulation (EU) 2019/2239 granted a *de minimis* exemption for megrim below minimum conservation reference size caught by vessels using beam trawls with a mesh size of 80 to 119 mm in ICES subarea 7 and using bottom trawls under specific conditions. The Member States requested that the exemption be continued. The STECF analysed the new data provided by the Member States and concluded³⁰ that there are indications of additional costs of handling unwanted catches. The exemption should be maintained for two years with additional specifications to allow for additional data collection. The Member States concerned should present as soon as possible, and not later than May 2021 additional evidence supporting this exemption.
- (36) Delegated Regulation (EU) 2019/2239 granted a *de minimis* exemption for common sole caught by vessels using beam trawls with a mesh size of 80 to 119 mm with increased selectivity (Flemish panel) in ICES divisions 7a, 7j and 7k. The Member States requested that the exemption be continued. The STECF analysed the new evidence submitted by the Member States and concluded³¹ that additional technical specifications concerning the fishing gears were needed. The exemption should be maintained for two years but only for ICES division 7a and Member States should submit as soon as possible, and not later than by 1 May 2022 the evidence supporting the exemption.
- (37) Delegated Regulation (EU) 2019/2239 granted a *de minimis* exemption for greater silver smelt caught by vessels using bottom trawls with a mesh size equal to or greater than 100 mm in ICES division 5b and ICES subarea 6. The Member States requested that the exemption be continued. The STECF analysed the new evidence submitted by the Member States and concluded³² that there is evidence of increased costs associated with handling and storing unwanted catches. The exemption should be maintained for two years and Member States should submit as soon as possible, but not later than 1 May 2022, additional evidence supporting this exemption.
- (38) Delegated Regulation (EU) 2019/2239 granted a *de minimis* exemption for mackerel and horse mackerel caught in demersal mixed fisheries by vessels using bottom trawls, seines and beam trawls in ICES subarea 6 and ICES divisions 7b to 7k. The Member States requested that the exemption be continued. The STECF analysed the evidence

²⁹ <https://stecf.jrc.ec.europa.eu/documents/43805/2694823/STECF+20-04+-+Eval+JRs+LO+and+TM+Reg.pdf>

³⁰ <https://stecf.jrc.ec.europa.eu/documents/43805/2694823/STECF+20-04+-+Eval+JRs+LO+and+TM+Reg.pdf>

³¹ <https://stecf.jrc.ec.europa.eu/documents/43805/2694823/STECF+20-04+-+Eval+JRs+LO+and+TM+Reg.pdf>

³² <https://stecf.jrc.ec.europa.eu/documents/43805/2694823/STECF+20-04+-+Eval+JRs+LO+and+TM+Reg.pdf>

submitted by the Member States and concluded that there is evidence of increased costs associated with handling unwanted catches, as concluded in previous evaluations. Considering that the circumstances have not changed, the exemption should be maintained for two years and Member States should submit as soon as possible, and not later than 1 May 2022, additional evidence supporting the exemption.

- (39) Delegated Regulation (EU) 2019/2239 granted a *de minimis* exemption for haddock below minimum conservation reference size caught by vessels using bottom trawls with a mesh size up to 119 mm in the West of Scotland Norway lobster fishery in ICES division 6a. The Member States requested that the exemption be continued. The STECF analysed the evidence submitted by the Member States and noted³³ that the conclusions of the STECF report 19-08 were still valid and the arguments of disproportionate costs seem reasonable. Given the current level of unwanted catches in this fishery, the exemption should be maintained but only for vessels that use the highly selective gears.
- (40) Delegated Regulation (EU) 1393/2014 granted *de minimis* exemptions for the following pelagic fisheries:
- blue whiting in the industrial pelagic trawler fishery targeting that species in ICES zones 5b, 6 and 7 and processing that species on board to obtain surimi base;
 - albacore tuna in the albacore tuna directed fisheries using midwater pair trawls in ICES subarea 7;
 - mackerel, horse mackerel, herring and whiting caught by pelagic trawlers up to 25 meters in length overall using midwater trawls in ICES division 7d.
- (41) The Member States requested to continue the *de minimis* exemption for blue whiting (*Micromesistius poutassou*) in the industrial pelagic trawler fishery targeting that species in ICES divisions 5b, 6, and 7 and processing that species on board to obtain surimi base. The STECF analysed positively this exemption in previous years³⁴ and it was granted on the basis of difficulties to improve selectivity. Considering that the circumstances of the fishery have not changed, the exemptions should be maintained. The Member States should provide by 1 May 2023 evidence on fishing patterns.
- (42) The Member States requested to continue the *de minimis* exemption for albacore tuna (*Thunnus alalunga*) in the albacore tuna directed fisheries using midwater pair trawls (PTM) in ICES subarea 7. The STECF analysed the evidence submitted by the Member States on disproportionate costs of storage and handling unwanted catches in previous years and concluded³⁵ that the request is related to the loss of marketable catches. The Member States argued costs of storage and handling at sea and on shore. Considering that the circumstances of the fishery have not changed, the exemptions should be maintained. The Member States should provide by 1 May 2023 evidence on fishing patterns.

³³ <https://stecf.jrc.ec.europa.eu/documents/43805/2694823/STECF+20-04+-+Eval+JRs+LO+and+TM+Reg.pdf>

³⁴ <https://stecf.jrc.ec.europa.eu/documents/43805/812327/STECF+PLEN+14-02.pdf>

³⁵ <https://stecf.jrc.ec.europa.eu/documents/43805/812327/STECF+PLEN+14-02.pdf>

- (43) The Member States requested to continue the *de minimis* exemption for mackerel, horse mackerel, herring and whiting caught by pelagic trawlers up to 25 meters in length overall using midwater trawls in ICES division 7d. The STECF analysed the evidence submitted by Member States in previous years and concluded³⁶ that reasoned qualitative arguments supported the exemption on the grounds of disproportionate costs. Considering that the circumstances of the fishery have not changed, the exemptions should be maintained. The Member States should provide by 1 May 2023 evidence on fishing patterns.
- (44) The following *de minimis* exemptions from the landing obligation should apply to the South-Western Waters.
- (45) Delegated Regulation (EU) 2019/2237 included a *de minimis* exemption for:
- hake caught with trawls and seines in ICES subareas 8 and 9
 - common sole caught using trawls in ICES divisions 8a and 8b,
 - common sole caught using trammel nets and gillnets in ICES divisions 8a and 8b,
 - alfonsinos caught using hooks and lines in ICES subarea 10,
- (46) Delegated Regulation (EU) 2019/2237 included a *de minimis* exemption for hake caught with trawls and seines in ICES subareas 8 and 9. The Member States requested that the exemption be continued. The STECF reviewed the new evidence submitted by the Member States in 2020. STECF concluded³⁷ that the analysis on additional costs as a consequence of handling unwanted catches are tailored to the fleets targeting hake and that the results indicate that there will be an increase in handling and sorting time of unwanted catches. The evidence is comprehensive and sufficient to support the exemption and it should be maintained. The exemption should also be granted for hake and common sole caught by vessels using pair trawls and otter trawls (OTM, PTM).
- (47) Delegated Regulation (EU) 2019/2237 included a *de minimis* exemption 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 Member States requested that the exemptions be continued. The STECF reviewed the evidence submitted by the Member States in previous years and concluded³⁸ 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, these *de minimis* exemptions should be maintained. The exemption should also be granted for common sole caught by vessels using pair trawls and otter trawls (OTM, PTM).
- (48) Delegated Regulation (EU) 2019/2237 included a *de minimis* exemption for alfonsinos caught with hooks and lines in ICES subarea 10. The Member States requested that the exemption be continued. The STECF reviewed the evidence submitted by the Member

³⁶ <https://stecf.jrc.ec.europa.eu/documents/43805/812327/STECF+PLEN+14-02.pdf>

³⁷ <https://stecf.jrc.ec.europa.eu/documents/43805/2694823/STECF+20-04+-+Eval+JRs+LO+and+TM+Reg.pdf>

³⁸ <https://stecf.jrc.ec.europa.eu/documents/43805/1099561/STECF+PLEN+15-02.pdf>

States in previous years and concluded³⁹ 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, that exemption should be maintained.

- (49) Delegated Regulation (EU) 2019/2237 included a *de minimis* exemption 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 10 and 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,
 - anglerfish caught with trawls and seines in ICES subareas 8 and 9,
 - anglerfish caught with gillnets in ICES subareas 8 and 9,
- (50) Delegated Regulation 2018/2033 included a *de minimis* exemption for:
- anchovy caught by trawls and seines in ICES subareas 8 and 9,
 - red seabream caught by trawls and seines in ICES division 9a,
 - sole caught by trawls and seines in ICES division 9a.
- (51) The Member States requested that these exemptions be continued and that it be granted for anglerfish caught with pelagic trawls. The Member States provided a detailed economic analysis on disproportionate costs of unwanted catches that was evaluated by STECF⁴⁰. The STECF concluded that although the study is detailed and extensive, the STECF could not fully evaluate its methodology during the written procedure. Given the information provided by the Member States and that the STECF could not assess the methodology of the study, those exemptions should be included in this Regulation. Member States should provide as soon as possible, but not later than 1 May every year additional data supporting the exemption.
- (52) Delegated Regulation (EU) 2019/2237 included a *de minimis* exemption for:
- whiting caught with trawls and seines in ICES subarea 8,
 - whiting caught with gillnets in ICES subarea 8,

³⁹ <https://stecf.jrc.ec.europa.eu/documents/43805/2147402/STECF+PLEN+18-02.pdf>

⁴⁰ <https://stecf.jrc.ec.europa.eu/documents/43805/2694823/STECF+20-04+-+Eval+JRs+LO+and+TM+Reg.pdf>

- (53) The Member States requested that these exemptions be continued for whiting caught with trawls and seines in ICES subarea 8, and be granted for whiting caught with pelagic trawls. Member States provided new evidence. The STECF concluded⁴¹ that that there are indications that improving selectivity is difficult in mixed demersal fisheries in which whiting are caught without significant losses of other marketable catch and that new studies are ongoing. The exemption should be granted for two years. The Member States concerned should provide additional scientific information resulting from the ongoing studies as soon as possible and not later than 1 May every year.
- (54) The Member States requested to continue the *de minimis* exemption for whiting caught with gillnets in ICES subarea 8 and provided new evidence. The STECF concluded⁴² that improving selectivity in gillnet fisheries is difficult to achieve. However, improvements in the information provided on disproportionate costs are required. The exemption should be granted for two years and the Member States concerned should provide additional data as soon as possible, but not later than 1 May every year.
- (55) Delegated Regulation (EU) 1394/2014 included *de minimis* exemptions for:
- blue whiting in the industrial pelagic trawler fishery in ICES subarea 8,
 - albacore tuna caught by trawls in ICES subarea 8,
 - anchovy, mackerel and horse mackerel caught by pelagic trawls in ICES subarea 8,
 - horse mackerel and mackerel caught by purse seines (PS) in ICES subarea 8.
- (56) The Member States requested that the exemptions be continued with regard to pelagic fisheries. Delegated Regulation (EU) No 1394/2014 provided for these exemptions following a positive STECF assessment in previous years⁴³ and the exemptions were granted on the basis of difficulties encountered in improving selectivity for blue whiting, horse mackerel and mackerel; and high costs of handling unwanted catches in the case of albacore and anchovy. Considering that the circumstances have not changed, the exemption should therefore be maintained.
- (57) Following the new joint recommendations, it is appropriate to repeal Delegated Regulation (EU) 2019/2239 and Delegated Regulations (EU) 2019/2237 and to replace them with a new Regulation.
- (58) 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 immediately upon publication. It should apply from 1 January 2021,

⁴¹ <https://stecf.jrc.ec.europa.eu/documents/43805/2694823/STECF+20-04+-+Eval+JRs+LO+and+TM+Reg.pdf>

⁴² <https://stecf.jrc.ec.europa.eu/documents/43805/2694823/STECF+20-04+-+Eval+JRs+LO+and+TM+Reg.pdf>

⁴³ <https://stecf.jrc.ec.europa.eu/documents/43805/812327/STECF+PLEN+14-02.pdf>

HAS ADOPTED THIS REGULATION:

Chapter I **General provisions**

Article 1 *Implementation of the landing obligation*

In the North Western Waters (ICES subareas 5 (excluding division 5a and only Union waters of division 5b), 6 and 7) and the South Western Waters (ICES subareas 8, 9 and 10 (waters around Azores), and CECAF zones 34.1.1, 34.1.2 and 34.2.0 (waters around Madeira and the Canary Islands), the landing obligation provided for in Article 15(1) of Regulation (EU) No 1380/2013 shall apply in demersal and pelagic fisheries in accordance with this Regulation for the period 2021-2023.

Article 2 *Definitions*

1. 'Flemish panel' means the last tapered netting section of a beam trawl whose:
 - posterior is directly attached to the cod-end;
 - upper and lower netting sections are constructed of at least 120 mm mesh as measured between the knots; and
 - stretched length is at least 3 m.
2. 'Seltra panel' means a selectivity device which:
 - consists of a top panel of at least 270 mm mesh size (diamond mesh) or a top panel of at least 300 mm mesh size (square mesh), placed in a four-panel box section, in the straight section of a cod end;
 - is at least 3 metres long;
 - is positioned no more than 4 metres from the cod line; and
 - is the full width of the top sheet of the box section of the trawl (i.e. from selvedge to selvedge).
3. 'Netgrid selectivity device' means a selectivity device consisting of a four panel section inserted into a two-panel trawl with an inclined sheet of diamond mesh netting with a mesh size of at least 200mm, leading to an escape hole in the top of the trawl;
4. 'CEFAS Netgrid' means a Netgrid selectivity device developed by The Centre for Environment, Fisheries and Aquaculture Science for catches of Nephrops in the Irish Sea;

5. 'Flip-flap trawl' means a trawl equipped with a netting grid developed to reduce the capture of cod, haddock and whiting in Norway lobster fisheries;
6. 'Flip-up rope' means a gear modification on demersal beam trawls to help prevent stones and boulders entering the trawl and causing damage to both gear and catches;
7. 'Benthos release panel' means a panel of larger mesh or square mesh netting fitted into the lower panel of a trawl, usually a beam trawl to release any benthic material and seabed debris before it passes into the codend;
8. 'Celtic Sea Protection Zone' means the waters inside ICES divisions 7f, 7g and the part of 7j that lies North of latitude 50° N and East of 11° W.
9. 'Voracera' means a locally designed and built mechanised hook line, used by the artisanal fleet targeting red seabream in the South of Spain in ICES division 9a.

Chapter II

Survivability exemptions in North-Western Waters

Article 3

Survivability exemption for Norway lobster

1. The survivability exemption provided for in Article 15(4)(b) of Regulation (EU) No 1380/2013 shall apply to:
 - (a) Norway lobster (*Nephrops norvegicus*) caught in pots, traps or creels (gear codes:⁴⁴ FPO and FIX and FYK), in ICES subareas 6 and 7;
 - (b) Norway lobster (*Nephrops norvegicus*) caught with bottom trawls (OTT, OTB, TBS, TBN, TB, PTB, OT, PT, TX) with a mesh size equal to or larger than 100 mm in ICES subarea 7;
 - (c) Norway lobster (*Nephrops norvegicus*) caught in ICES subarea 7, with bottom trawls (OTT, OTB, TBS, TBN, TB, PTB, OT, PT, TX) with a mesh size of 70 to 99 mm in combination with highly selective gear options, as set out in paragraphs 2 and 3;
 - (d) Norway lobster (*Nephrops norvegicus*) caught with otter trawls (OTT, OTB, TBS, TBN, TB, PTB, OT, PT, TX) with a mesh size of 80 to 110 mm in ICES division 6a within twelve nautical miles of the coast.
2. The exemption under paragraph 1(c) shall apply to vessels fishing in the Celtic Sea Protection Zone, provided that they use one of the following selective gears:
 - (a) square mesh panel of at least 300 mm;

⁴⁴ 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.

- (b) square mesh panel of at least 200 mm for vessels less than 12 meters in length
 - (c) Seltra panel;
 - (d) Sorting grid with a maximum bar spacing of 35 mm as defined in Annex VI Part B to Regulation (EU) 2019/1241 of the European Parliament and of the Council⁴⁵ or equivalent Netgrid selectivity device;
 - (e) 100 mm cod-end with a 100 mm square mesh panel.
 - (f) Dual cod-end with the uppermost cod-end constructed with T90 mesh of at least 90mm and fitted with a separation panel with a maximum mesh size of 300mm.
3. The exemption under paragraph 1(c) shall apply to vessels fishing in ICES division 7a provided that they use one of the following selective gears:
- (a) 300 mm square mesh panel of at least 300 mm;
 - (b) square mesh panel of at least 200 mm for vessels less than 12 meters in length;
 - (c) Seltra panel;
 - (d) Sorting grid with a maximum bar spacing of 35 mm as defined in Annex VI Part B to Regulation (EU) 2019/1241;
 - (e) CEFAS Netgrid;
 - (f) Flip-flap trawl.
4. When discarding Norway lobster caught in the cases referred to in paragraph 1, the Norway lobster shall be released whole, immediately and in the area where it has been caught.

Article 4
Survivability exemption for common sole

1. The survivability exemption provided for in Article 15(4)(b) of Regulation (EU) No 1380/2013 shall apply in ICES division 7d, within six nautical miles of the coast but outside identified nursery areas, to catches of common sole (*Solea solea*) below the minimum conservation reference size made using otter trawl gears (gear codes: OTT, OTB, TBS, TBN, TB, PTB, OT, PT, TX) with a cod end mesh size of 80 to 99 mm, by vessels:

⁴⁵ 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).

- (a) having a maximum length of 10 meters and a maximum engine power of 221 kW; and
 - (b) fishing in waters with the depth of 30 meters or less and with tow durations of no more than ninety minutes.
2. When discarding common sole caught in the cases referred to in paragraphs 1, the common sole shall be released immediately.

Article 5

Survivability exemption for skates and rays

1. The survivability exemption provided for in Article 15(4)(b) of Regulation (EU) No 1380/2013 shall apply to skates and rays (*Rajiformes*) caught by any fishing gear in the North Western Waters (ICES subareas 6 and 7).
2. Member States having a direct management interest shall submit, every year as soon as possible and not later than by 1 May, additional scientific information supporting the exemption laid down in paragraph 1. The Scientific, Technical and Economic Committee for Fisheries (STECF) shall assess that scientific information by 31 July every year.
3. The exemption laid down in paragraph 1 shall also apply to Cuckoo ray. Member States having a direct management interest shall submit, every year as soon as possible and not later than by 1 May, additional scientific information supporting that exemption including provisional information on Cuckoo ray catches, Cuckoo ray discards and the progress of Cuckoo ray vitality or survival research in relevant fisheries. The STECF shall assess the provided scientific information before 31 July every year.
4. When discarding skates and rays caught in the cases referred to in paragraph 1, the skates and rays shall be released immediately.

Article 6

Survivability exemption for plaice

1. The survivability exemption provided for in Article 15(4)(b) of Regulation (EU) No 1380/2013 shall apply to:
 - (a) plaice (*Pleuronectes platessa*) caught in ICES divisions 7d to 7g with trammel nets (gear codes: GTR, GTN, GEN, GN);
 - (b) plaice (*Pleuronectes platessa*) caught in ICES divisions 7d to 7g with otter trawls (gear codes: OTT, OTB, TBS, TBN, TB, PTB, OT, PT, TX);
 - (c) plaice (*Pleuronectes platessa*) caught in ICES divisions 7a to 7g by vessels having a maximum engine greater than 221 kW, and using beam trawls (TBB) fitted with a flip-up rope or benthic release panel;

- (d) plaice (*Pleuronectes platessa*) caught in ICES divisions 7a to 7g by vessels using beam trawls (TBB), having a maximum engine power of 221 kW or a maximum length of 24 meters, which are constructed to fish within 12 nautical miles of the coast and with average tow durations of no more than ninety minutes;
 - (e) plaice (*Pleuronectes platessa*) caught in ICES division 7d with Danish seines (gear code: SDN).
- 2. For the exemptions set out in points (c) and (d), Member States having a direct management interest shall submit, as soon as possible and not later than by 1 May every year, additional scientific information supporting these exemptions, including provisional information on plaice catches, discards and the progress of vitality or survival research in the relevant fisheries. Member States shall also submit a timetable for the completion of the agreed roadmap by 1 May 2021. The STECF shall assess that information by 30 June 2021.
 - 3. When discarding plaice caught in the cases referred to in paragraph 1, the plaice shall be released immediately.

Article 7

Survivability exemption for species caught in pots, traps and creels

- 1. The survivability exemption provided for in Article 15(4)(b) of Regulation (EU) No 1380/2013 shall apply to species caught with pots, traps and creels (gear codes: FPO, FIX, FYK) in ICES subareas 5 (excluding 5a and including only Union waters of 5b), 6 and 7.
- 2. When discarding fish caught in the cases referred to in paragraph 1, the fish shall be released immediately.

Article 8

Survivability exemption for pelagic species

- 1. The survivability exemption provided for in Article 15(4)(b) of Regulation (EU) No 1380/2013 shall apply to catches of mackerel and herring in the purse seine fisheries in ICES subarea 6, if all of the following conditions are met:
 - (a) the catch is released before a certain percentage (set out in paragraphs 2 and 3 below) of the purse seine is closed ('the point of retrieval'),
 - (b) the purse seine gear is fitted with visible buoys clearly marking the limit for the point of retrieval,
 - (c) the vessel and the purse seine gear are equipped with an electronic recording and documenting system when, where and extent to which the purse seine has been hauled for all fishing operations.
- 2. The point of retrieval shall be 80 % closure of the purse seine in fisheries for mackerel and it shall be 90 % closure of the purse seine in fisheries for herring.

3. If the surrounded school consists of a mixture of both species the point of retrieval shall be 80 % closure of the purse seine.
4. It shall be prohibited to release catches of mackerel and herring after the point of retrieval.
5. The surrounded school of fish shall be sampled before its release to estimate the species composition, the fish size composition and the quantity.
6. The survivability exemption provided for in Article 15(4)(b) of Regulation (EU) No 1380/2013 shall apply to catches of mackerel and herring in the ring net fishery targeting pelagic species not subject to quotas in ICES divisions 7e and 7f, if the requirements set out in paragraphs 1 to 5 of this Article and in Article 15 of this Regulation are met mutatis mutandis.

Chapter III **Survivability exemptions in South-Western Waters**

Article 9 *Survivability exemption for Norway lobster*

1. The survivability exemption 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 codes: 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 10 *Survivability exemption for skates and rays*

1. The survivability exemption 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 2022 additional scientific information supporting the exemption laid down in paragraph 1. The STECF shall assess that scientific information by 31 July 2022.
4. The exemption referred to in paragraph 1 shall apply to cuckoo ray:
 - (a) caught by trammel nets in ICES subareas 8 and 9 until 31 December 2022. Member States having a direct management interest shall submit as soon as possible, but not later than by 1 May 2022, additional scientific information

supporting this exemption for cuckoo ray caught with trammel nets. The STECF shall assess that scientific information by 31 July 2022;

- (b) caught by bottom trawls in ICES subarea 8 until 31 December 2021. Member States having a direct management interest shall submit as soon as possible, but not later than by 1 May 2021, additional scientific information supporting this exemption for cuckoo ray caught with bottom trawls. The STECF shall assess that scientific information by 31 July 2021.

Article 11

Survivability exemption for red sea bream

1. The survivability exemption 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) until 31 December 2022 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 2022 additional scientific information supporting the exemption laid down in paragraph 1 for red seabream caught with hooks and lines in ICES subareas 8 and in ICES division 9a. The STECF shall assess the provided scientific information by 31 July 2022.
3. When discarding red sea bream caught in the cases referred to in paragraph 1, the red seabream shall be released immediately.

Article 12

Survivability exemption for anchovy, horse mackerel and mackerel

The survivability exemption provided for in Article 15(4)(b) of Regulation (EU) No 1380/2013 shall apply to catches of anchovy (*Engraulis encrasicolus*), horse mackerel (*Trachurus* spp) and mackerel (*Scomber scombrus*) in purse seine fisheries (PS), provided that the net is not fully taken on board.

Chapter IV

***De minimis* exemptions in North-Western Waters**

Article 13

De minimis exemptions in the North-Western Waters

1. By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, the following quantities may be discarded in the North Western Waters pursuant to Article 15(5)(c) of that Regulation, subject to paragraphs 2 to 7:
 - (a) for whiting (*Merlangius merlangus*), up to a maximum of 5% of the total annual catches of that species by vessels using bottom trawls and seines with a

mesh size equal to or greater than 80 mm (OTB, OTT, OT, PTB, PT, SSC, SDN, SPR, SX, SV, TBN, TBS, TB, TX), pelagic trawls (OTM, PTM) and beam trawls (BT2) with a mesh size of 80 to 119 mm in ICES divisions 7b to 7k;

- (b) for common sole (*Solea solea*), up to a maximum of 3% of the total annual catches of that species by vessels using trammel and gill nets (GN, GNS, GND, GNC, GTN, GTR, GEN, GNF) to catch common sole in ICES divisions 7d to 7g;
- (c) for common sole (*Solea solea*), up to a maximum of 3% of the total annual catches of that species by vessels using TBB gear with a mesh size of 80 to 119 mm equipped with Flemish panel, to catch common sole in ICES divisions 7d to 7h;
- (d) for haddock (*Melanogrammus aeglefinus*), up to a maximum of 5% of the total annual catches of that species caught:
 - i. by vessels operating with a mesh size greater than or equal to 100 mm for all bottom trawls, seines (OTB, OTT, OT, PTB, PT, SSC, SDN, SPR, SX, SV, TBB, TBN, TBS, TB, TX) in 7b, 7c and 7e to 7k with catches comprising not more than 30% Norway lobster and excluding beam trawls,
 - ii. by vessels operating with mesh sizes greater than or equal to 80 mm in 7b, 7c and 7e to 7k with catches comprising more than 30% of Norway lobster,
 - iii. by vessels operating with beam trawls using mesh sizes greater than or equal to 80 mm in 7b, 7c and 7e to 7k in conjunction with the use of a Flemish panel;
- (e) in the demersal mixed fishery carried out by vessels targeting brown shrimp and using beam trawls (TBB) with a mesh size equal to or greater than 31 mm in ICES division 7a:

a combined quantity of fish species below MCRS, which shall not exceed 0,85% of the total annual catches of plaice and 0,15% of the total annual catches of whiting in the demersal mixed fisheries;
- (f) for boarfish (*Caproidae*), up to a maximum of 0,5% of the total annual catches of that species by vessels using bottom trawls (OTT, OTB, TBS, TBN, TB, PTB, OT, PT, TX) in ICES divisions 7b, 7c and 7f to 7k;
- (g) for megrim (*Lepidorhombus spp.*) below MCRS, up to a maximum of 4% of the total annual catches of those species by vessels using beam trawls (TBB) with a mesh size of 80 to 119 mm (BT2) in ICES subarea 7; and using bottom trawls (OTT, OTB, TBS, TBN, TB, PTB, OT, PT, TX) in the following conditions:
 - i. in ICES divisions 7f, 7g, the part of 7h North of latitude 49° 30' North and the part of 7j North of latitude 49° 30' North and East of longitude

11° West, for TR2 vessels with catches comprising more than 55 % of whiting or 55 % of anglerfish, hake or megrim combined;

- ii. in ICES subarea 7, outside the abovementioned area, for TR2 vessels.
 - (h) for common sole (*Solea solea*), up to a maximum of 3% of the total annual catches of that species by vessels using beam trawls with a mesh size of 80 to 119 mm (BT2) with increased selectivity (Flemish panel) in ICES divisions 7a;
 - (i) for greater silver smelt (*Argentina silus*), caught by vessels using bottom trawls (OTT, OTB, TBS, TBN, TB, PTB, OT, PT, TX) with a mesh size greater or equal to 100mm (TR1) in ICES division 5b (EU waters) and subarea 6, up to 0.6% of the total annual catches of that species from all gears in those areas.
 - (j) for horse mackerel (*Trachurus spp.*), up to a maximum of 3% of the total annual by-catches of those species, caught in demersal mixed fisheries, by vessels using bottom trawls, seines and beam trawls (OTB, OTT, OT, PTB, PT, SSC, SDN, SPR, SX, SV, TBB, TBN, TBS, TB, TX) in ICES subarea 6 and ICES divisions 7b to 7k;
 - (k) for mackerel (*Scomber scombrus*), up to a maximum of 3% of the total annual by-catches of that species, caught in demersal mixed fisheries, by vessels using bottom trawls, seines and beam trawls (OTB, OTT, OT, PTB, PT, SSC, SDN, SPR, SX, SV, TBB, TBN, TBS, TB, TX) in ICES subarea 6 and ICES divisions 7b to 7k;
 - (l) for haddock (*Melanogrammus aeglefinus*) below minimum conservation reference size, up to a maximum of 3% of the total annual catches of that species by vessels using bottom trawls with a mesh size up to 119 mm (OTB, OTT, OT, TBN, TB) in the West of Scotland Norway lobster (*Nephrops Norvegicus*) fishery in ICES division 6a provided that vessels use the highly selective gear options described in Article 3(3) of this Regulation.
 - (m) for blue whiting (*Micromesistius poutassou*), up to a maximum of 5 % of the total annual catches in the industrial pelagic trawler fishery targeting that species in ICES subareas 5b, 6 and 7 and processing that species on board to obtain surimi base;
 - (n) for albacore tuna (*Thunnus alalunga*) in the albacore tuna directed fisheries, up to a maximum of 5 % of the total annual catches using midwater pair trawls (PTM) in ICES subarea 7;
 - (o) for mackerel (*Scomber scombrus*), horse mackerel (*Trachurus spp.*), herring (*Clupea harengus*) and whiting (*Merlangius merlangus*), up to a maximum of 1 % of the total annual catches in the pelagic fishery with pelagic trawlers up to 25 metres in length overall, using mid-water trawl (OTM and PTM), targeting mackerel, horse mackerel and herring in ICES division 7d;
2. The de minimis exemption laid down in point (a) of paragraph 1, shall be applicable until 31 December 2021. Member States having a direct management interest shall submit, as soon as possible and not later than by 1 May 2021, additional information

on catch composition. The STECF shall assess the provided scientific information by 31 July 2021.

3. The de minimis exemption laid down in point (g) of paragraph 1, shall be applicable until 31 December 2022. Member States having a direct management interest shall submit, as soon as possible and not later than by 1 May 2022 additional information on costs of megrim below MCRS being stored on vessels and fleet data. The STECF shall assess the provided scientific information by 31 July 2022.
4. The de minimis exemption laid down in point (h) of paragraph 1, shall be applicable until 31 December 2022. Member States having a direct management interest in the de minimis exemption shall submit, as soon as possible and not later than by 1 May 2022 additional information on selectivity and the use of this de minimis exemption. The STECF shall assess the provided scientific information by 31 July 2022.
5. Member States having a direct management interest shall submit, as soon as possible and not later than by 1 May 2022 additional information on selectivity and disproportionate costs supporting the exemptions set out in points (f) and (i) to (k) of paragraph 1. The STECF shall assess the provided scientific information by 31 July 2022.
6. Member States having a direct management interest shall submit, as soon as possible and not later than by 1 May 2023 additional information on fishing patterns supporting the exemptions set out in points (m), (n) and (o) of paragraph 1. The STECF shall assess the provided scientific information by 31 July 2023.
7. The *de minimis* exemptions laid down in points (d), (f) and (i) to (l) of paragraph 1 shall be applicable until 31 December 2022.

Chapter IV

***De minimis* exemptions in South-Western Waters**

Article 14

De minimis exemptions in the South-Western Waters

1. By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, the following quantities may be discarded in the South-Western Waters 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: OTM, PTM, OTT, OTB, PTB, OT, PT, TBN, TBS, TX, SSC, SPR, TB, SDN, SX, SV) in ICES subareas 8 and 9;
 - (b) for common sole (*Solea solea*), up to a maximum of 5% of the total annual catches of that species by vessels using pelagic trawls, beam trawls and bottom trawls (gear codes: OTM, PTM, 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 5% 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% 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 5% 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% 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 CECAF zones 34.1.1, 34.1.2, 34.2.0;
- (i) for megrim (*Lepidorhombus spp.*), up to a maximum of 5% 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% 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 anglerfish (*Lophiidae*), up to a maximum of 5% of the total annual catches of anglerfish by vessels using pelagic trawls, beam trawls, bottom trawls and seines (gear codes: OTM, PTM, OTB, OTT, PTB, TBN, TBS, TBB, OT, PT, TX, SSC, SPR, SDN, SX, SV) in ICES subareas 8 and 9;
- (l) for anglerfish (*Lophiidae*), up to a maximum of 4% of the total annual catches of anglerfish by vessels using gillnets (gear codes: GNS, GND, GNC, GTR, GTN) in ICES subareas 8 and 9;
- (m) for whiting (*Merlangius merlangus*), up to a maximum of 5% of the total annual catches of that species by vessels using pelagic trawls, 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;

- (n) for whiting (*Merlangius merlangus*), up to a maximum of 4 % of the total annual catches of that species by vessels using gillnets (gear codes: GNS, GND, GNC, GTR, GTN) in ICES subarea 8;
 - (o) for anchovy (*Engraulis encrasicolus*), up to a maximum of 5% of the total annual catches of that species by vessels using beam trawls, bottom trawls and seines (OTT, OTB, PTB, OT, PT, TBN, TX, SSC, SPR, TB, TBB, SDN, SX, SV) in ICES subareas 8 and 9;
 - (p) for red seabream (*Pagellus bogaraveo*), up to a maximum of 5% of the total annual catches of that species by vessels using beam trawls, bottom trawls and seines (OTT, OTB, PTB, OT, PT, TBN, TBS, TX, SSC, SPR, TB, TBB, SDN, SX, SV) in the Gulf of Cadiz part of ICES subarea 9a;
 - (q) for sole (*Solea spp.*) up to a maximum of 1% of the total annual catches of sole by vessels using beam trawls, bottom trawls and seines (gear codes: OTT, OTB, PTB, OT, PT, TBN, TBS, TX, SSC, SPR, TB, TBB, SDN, SX, SV) in the Gulf of Cadiz part of ICES subarea 9a.
 - (r) for blue whiting (*Micromesistius poutassou*) up to a maximum of 5% of the total annual catches in the industrial pelagic trawler fishery, which targets blue whiting in ICES subarea 8 using midwater trawls (OTM) and midwater pair trawls (PTM) and processes that species on board to obtain surimi base;
 - (s) for albacore tuna (*Thunnus alalunga*) up to a maximum of 5% of the total annual catches in the albacore tuna directed fisheries using midwater pair trawls (PTM) and midwater trawls (OTM) in ICES subarea 8;
 - (t) for anchovy (*Engraulis encrasicolus*), mackerel (*Scomber scombrus*) and horse mackerel (*Trachurus spp.*) up to a maximum of 4% in of the total annual catches in the pelagic trawl fishery which targets anchovy, mackerel and horse mackerel in ICES subarea 8 using pelagic trawls;
 - (u) for horse mackerel (*Trachurus spp.*) and mackerel (*Scomber scombrus*) up to a maximum of 4 % of the total annual catches and for anchovy (*Engraulis encrasicolus*) up to a maximum of 1 % of the total annual catches using purse seines (PS) in ICES subareas 8, 9 and 10 and CECAF divisions 34.1.1, 34.1.2, 34.2.0.
2. Member States having a direct management interest shall submit, as soon as possible and not later than 1 May every year, additional scientific information supporting the exemptions set out in paragraph 1(e) to (q).
 3. The *de minimis* exemptions laid down in points (m) and (n) of paragraph 1 shall be applicable until 31 December 2022.

Chapter V

Documentation of catches

Article 15
Documentation of catches for pelagic fleets

Quantities of fish released under the exemption provided for in Article 8 and the results of the sampling required under Article 8(5) shall be reported in the logbook.

Chapter VI

Final provisions

Article 16
Repeal

Delegated Regulations (EU) 2019/2239 and (EU) 2019/2237 are repealed.

Article 17
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 2021 until 31 December 2023.

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

Done at Brussels, 21.8.2020

For the Commission
The President
Ursula VON DER LEYEN