

COMMISSION DELEGATED REGULATION (EU) 2016/2374
of 12 October 2016
establishing a discard plan for certain demersal fisheries in South-Western waters

THE EUROPEAN COMMISSION,

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

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

Whereas:

- (1) Regulation (EU) No 1380/2013 aims to progressively eliminate discards in all Union fisheries through the introduction of a landing obligation for catches of species subject to catch limits.
- (2) Article 15(6) of Regulation (EU) No 1380/2013 empowers the Commission to adopt discard plans by means of a delegated act for a period of no more than 3 years on the basis of joint recommendations developed by Member States in consultation with the relevant Advisory Councils.
- (3) By Delegated Regulation (EU) 2015/2439⁽²⁾, the Commission established a discard plan for certain demersal fisheries in South-Western waters for the period 2016-2018 following a joint recommendation submitted by Member States in 2015.
- (4) Belgium, Spain, France, the Netherlands and Portugal have a direct fisheries management interest in the South-Western waters. On 31 May 2016 those Member States submitted a joint recommendation to the Commission after consultation of the South Western Waters Advisory Council. Scientific contributions were obtained from relevant scientific bodies and reviewed by the Scientific, Technical and Economic Committee for Fisheries (STECF). The measures included in the joint recommendation comply with Article 18(3) of Regulation (EU) No 1380/2013, they may be included in this Regulation.
- (5) As regards the South-Western waters, according to Article 15(1)(c) of Regulation (EU) No 1380/2013 the landing obligation applies to the species that define the fisheries at the latest from 1 January 2016.
- (6) Delegated Regulation (EU) 2015/2439 established provisions for introduction of the landing obligation for certain demersal fisheries in South-Western waters for the period 2016-2018.
- (7) In accordance with the new joint recommendation submitted by Member States in 2016, the discard plan from 2017 should cover the fisheries of common sole, hake, anglerfish and Norway lobster (only inside the stocks' distribution areas referred to as 'functional units') in ICES divisions VIIIa, b, d, e, Norway lobster in ICES divisions VIIIc and IXa (only inside functional units), common sole and plaice in ICES division IXa, hake in ICES divisions VIIIc and IXa, anglerfish in ICES divisions VIIIa, b, c, d, e and IXa.
- (8) The joint recommendation suggested that an exemption from the landing obligation be applied to Norway lobster caught by trawls in ICES subareas VIII and IX, as existing scientific evidence indicates possible high survival rates, taking into account the characteristics of the gears targeting this species, the fishing practices and the ecosystem. The STECF in its evaluation concluded that the latest experiments show survival rates in the range of the survival rate observed in the previous work. Further studies are planned and should provide further information on likely survival rates in this fishery. Therefore, this exemption should be included in this Regulation for the year 2017, with a provision asking the Member States concerned to submit further data from ongoing trials to the Commission to allow the STECF to fully assess the justification for the exemption.

⁽¹⁾ OJ L 354, 28.12.2013, p. 22.

⁽²⁾ Commission Delegated Regulation (EU) 2015/2439 of 12 October 2015 establishing a discard plan for certain demersal fisheries in south-western waters (OJ L 336, 23.12.2015, p. 36).

- (9) The joint recommendation includes three *de minimis* exemptions from the landing obligation for certain fisheries and up to certain levels. The evidence provided by the Member States was reviewed by the STECF. The STECF concludes that the joint recommendation contained reasoned arguments related to the difficulty of increasing selectivity combined with disproportionate costs of handling unwanted catches. In light of the above it is appropriate to establish the *de minimis* exemptions in accordance with the percentage level proposed in the joint recommendation and at levels not exceeding those allowed under Article 15(1) of Regulation (EU) No 1380/2013.
- (10) The *de minimis* exemption for common sole, up to a maximum of 5 % of the total annual catches of this species by vessels targeting this species in ICES divisions VIIIa and VIIIb with beam trawls and bottom trawls, is based on the fact that viable increases in selectivity are very difficult to achieve. The STECF concluded that the supporting information is sufficient to justify this exemption. Therefore, this exemption should be included in this Regulation.
- (11) The *de minimis* exemption for common sole, up to a maximum of 3 % of the total annual catches of this species by vessels targeting this species in ICES divisions VIIIa and VIIIb with trammel nets and gillnets, is based on the fact that viable increases in selectivity are very difficult to achieve. The STECF concluded that the supporting information is sufficient to justify the exemption claimed. Therefore, this exemption should be included in this Regulation.
- (12) The *de minimis* exemption for hake, up to a maximum of 7 % in 2017 and 6 % in 2018 of the total annual catches of this species by vessels targeting this species in ICES subareas VIII and IX with trawls, is based on the fact that viable increases in selectivity are very difficult to achieve. The STECF concluded that additional selectivity information provided did not contain additional evidence to demonstrate that selectivity is very difficult to achieve for the métiers involved. Therefore, additional work should be carried out in order to improve the justification for this exemption. This exemption should therefore be included in this Regulation for 2017, i.e. for 1 year only, and under the condition that Member States provide improved information to support this exemption that would be assessed by the STECF.
- (13) Delegated Regulation (EU) 2015/2439 should therefore be repealed and replaced by a new Regulation.
- (14) Since the measures provided for in this Regulation impact directly on the economic activities linked to and the planning of the fishing season of Union vessels, this Regulation should enter into force immediately after its publication. It should apply from 1 January 2017,

HAS ADOPTED THIS REGULATION:

Article 1

Implementation of the landing obligation

The landing obligation provided for in Article 15(1) of Regulation (EU) No 1380/2013 shall apply in ICES subareas VIII, IX, X and CECAF zones 34.1.1, 34.1.2, 34.2.0 to the fisheries set out in the Annex to this Regulation.

Article 2

Survivability exemption

1. The exemption from the landing obligation provided for in Article 15(4)(b) of Regulation (EU) No 1380/2013 for species for which scientific evidence demonstrates high survival rates shall apply to Norway lobster (*Nephrops norvegicus*) caught in ICES subareas VIII and IX with trawls (gear codes ⁽¹⁾): OTB, OTT, PTB, TBN, TBS, TB, OT, PT and TX).
2. Member States having a direct management interest in south-western waters shall submit, before 1 May 2017, additional scientific information supporting the exemption laid down in paragraph 1. The Scientific, Technical and Economic Committee for Fisheries (STECF) shall assess the provided scientific information before 1 September 2017.

⁽¹⁾ Gear codes used in this Regulation are defined by the Food and Agriculture Organisation of the United Nations.

*Article 3***De minimis exemptions**

1. By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, the following quantities may be discarded:
 - (a) for hake (*Merluccius merluccius*), up to a maximum of 7 % in 2017 and up to 6 % in 2018 of the total annual catches of this species by vessels using trawls and seines (gear codes: OTT, OTB, PTB, OT, PT, TBN, TBS, TX, SSC, SPR, TB, SDN, SX and SV) targeting that species in ICES subareas VIII and IX;
 - (b) for common sole (*Solea solea*), up to a maximum of 5 % of the total annual catches of this species by vessels using beam trawl (gear code: TBB) and bottom trawls (gear codes: OTB, OTT, PTB, TBN, TBS, TBB, OT, PT and TX) targeting that species in ICES divisions VIIIA and VIIIB;
 - (c) for common sole (*Solea solea*), up to a maximum of 3 % of the total annual catches of this species by vessels using trammel nets and gillnets (gear codes: GNS, GN, GND, GNC, GTN, GTR and GEN) targeting that species in ICES divisions VIIIA and VIIIB.
2. Before 1 May 2017, Member States having a direct management interest in the South-Western waters shall submit to the Commission additional discard data and any other relevant scientific information supporting the exemption laid down in paragraph 1(a). The Scientific, Technical and Economic Committee for Fisheries (STECF) shall assess those data and that information before 1 September 2017.

*Article 4***Vessels subject to the landing obligation**

Member States shall determine, in accordance with the criteria laid down in the Annex to this Regulation, the vessels subject to the landing obligation for each particular fishery.

Vessels that were subject to the landing obligation in certain fisheries in 2016 shall remain subject to the landing obligation in those fisheries.

Before 31 December 2016, the Member States concerned shall submit to the Commission and other Member States, using the secure Union control website, the lists of vessels determined pursuant the paragraph 1 for each particular fishery set out in Annex. They shall keep those lists updated.

*Article 5***Repeal**

Delegated Regulation (EU) 2015/2439 is repealed.

*Article 6***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 2017 until 31 December 2018.

Article 4 shall apply from the date of entry into force of this Regulation.

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

Done at Brussels, 12 October 2016.

For the Commission

The President

Jean-Claude JUNCKER

ANNEX

Fisheries subject to the landing obligation

(a) Fisheries in ICES divisions VIIIa, b, d and e

Fishery (species)	Gear Code	Fishing gear description	Mesh Size	Species to be landed
Common sole (<i>Solea solea</i>)	OTB, OTT, PTB, TBN, TBS, TB, OT, PT, TX	All Bottom Trawls	Mesh size between 70 mm and 100 mm wide	All catches of com- mon sole
	TBB	All Beam trawls	Mesh size between 70 mm and 100 mm wide	
	GNS, GN, GND, GNC, GTN, GTR, GEN	All Trammel nets & Gill nets	Mesh size larger or equal to 100 mm wide	
Hake (<i>Merluccius merluccius</i>)	OTT, OTB, PTB, SDN, OT, PT, TBN, TBS, TX, SSC, SPR, TB, SX, SV	All Bottom Trawls & Seines	Mesh size larger or equal to 100 mm wide	All catches of hake
	LL, LLS	All Long lines	All	
	GNS, GN, GND, GNC, GTN, GEN	All Gill Nets	Mesh size larger or equal to 100 mm wide	
Anglerfish (<i>Lophiidae</i>)	GNS, GN, GND, GNC, GTN, GEN	All Gill Nets	Mesh size larger of equal to 200 mm wide	All catches of angler- fish
Norway lobster (<i>Nephrops norvegicus</i>) only inside functional units	OTB, OTT, PTB, TBN, TBS, TB, OT, PT, TX	All Bottom Trawls	Mesh size larger or equal to 70 mm	All catches of Norway lobster

(b) Fisheries in ICES divisions VIIIc and IXa

Fishery (species)	Gear Code	Fishing gear description	Mesh Size	Landing Obligation
Anglerfish (<i>Lophiidae</i>)	GNS, GN, GND, GNC, GTN, GEN	All Gill Nets	Mesh size larger of equal to 200 mm wide	All catches of angler- fish
Norway lobster (<i>Nephrops norvegicus</i>) only inside functional units	OTB, PTB, OTT, TBN, TBS, OT, PT, TX TB	All Bottom Trawls	Mesh size larger or equal to 70 mm	All catches of Norway lobster

Fishery (species)	Gear Code	Fishing gear description	Mesh Size	Landing Obligation
Hake (<i>Merluccius merluccius</i>)	OTT, OTB, PTB, OT, PT, TBN, TBS, TX, SSC, SPR, TB, SDN, SX, SV	All Bottom Trawls and Seines	Vessels which fulfils the following cumulative criteria: 1. Use mesh size larger or equal to 70 mm 2. Total hake landings in the period 2014/2015 ⁽¹⁾ con- sist of: more than 5 % of all landed species and more than 5 metric tons.	All catches of hake
	GNS, GN, GND, GNC, GTN, GEN	All Gill Nets	Mesh size between 80 and 99 mm wide	
	LL, LLS	All Long lines	Hook size bigger than 3,85 cm +/-1,15 cm length and 1,6 cm +/-0,4 cm width	

⁽¹⁾ Reference period will be updated in the following years, i.e. in 2018 the reference period will be 2015 and 2016.

(c) Fisheries in ICES division IXa

Fishery (species)	Gear Code	Fishing gear description	Mesh Size	Landing Obligation
Common sole (<i>Solea solea</i>) and plaice (<i>Pleuronectes platessa</i>)	GNS, GN, GND, GNC, GTN, GTR, GEN	All Trammel nets & Gill nets	Mesh size larger or equal to 100 mm	All catches of com- mon sole and plaice