

REGULATIONS

COMMISSION DELEGATED REGULATION (EU) 2015/2438

of 12 October 2015

establishing a discard plan for certain demersal fisheries in north-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 three years on the basis of joint recommendations developed by Member States in consultation with the relevant Advisory Councils.
- (3) Belgium, Ireland, Spain, France, the Netherlands and the United Kingdom have a direct fisheries management interest in the north-western waters. Those Member States have submitted a joint recommendation to the Commission after consultation of the North Western Waters Advisory Council. Scientific contribution was 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 15(6) of Regulation (EU) No 1380/2013 and therefore, in accordance with Article 18(3) of that Regulation, they should be included in this Regulation.
- (4) As regards the north-western waters, according to Article 15(1)(c) of Regulation (EU) No 1380/2013 the landing obligation should apply to the species that define the fisheries which are subject to catch limits at the latest from 1 January 2016. In accordance with the joint recommendation, the discard plan should cover fisheries which define the highly mixed cod, haddock, whiting and saithe fishery, Norway lobster (*Nephrops*) fishery, mixed common sole and plaice fishery, and hake fishery from 1 January 2016.
- (5) The joint recommendation suggested that an exemption for landing obligation be applied to Norway lobster caught by pots, traps or creels in ICES division VIa and subarea VII, as scientific evidence demonstrates high survival rates, taking into account the characteristics of the gear, of the fishing practices and of the ecosystem. STECF concluded that the exemption was grounded. Therefore, the exemption concerned should be included in this Regulation.
- (6) The joint recommendation includes seven *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, which in general concluded that the joint recommendation contained reasoned arguments that further improvements in the selectivity are difficult to achieve and/or regarding disproportionate costs in handling unwanted catches, supported in some cases with a qualitative assessment of the costs. In light of the above and in the absence of differing scientific information, 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.

⁽¹⁾ OJ L 354, 28.1.2013, p. 22.

- (7) The *de minimis* exemption for common sole, up to a maximum of 3 % in 2016-2018 of the total annual catches of this species by vessels using trammel and gill nets to catch common sole in ICES divisions VIId, VIIe, VIIf and VIIg, is based on the fact that increases in selectivity are very difficult to achieve. STECF concluded that the exemption is well defined and therefore, the exemption concerned should be included in this Regulation.
- (8) The *de minimis* exemption for whiting, up to a maximum of 7 % in 2016 and 2017 and up to a maximum of 6 % in 2018 of the total annual catches of this species by vessels using bottom trawls of less than 100 mm to catch whiting in ICES divisions VIId and VIIe, is based on the fact that increases in selectivity are very difficult to achieve. STECF concluded that sufficient evidence is provided to support the exemption, but that additional information should be sought to evaluate the *de minimis* volume. Therefore, this exemption can be included in the Regulation only with a provision asking the Member States concerned to submit further data to the Commission to allow STECF to fully assess the current discard level compared to the volume of the *de minimis* requested.
- (9) The *de minimis* exemption for whiting, up to a maximum of 7 % in 2016 and 2017 and up to a maximum of 6 % in 2018 of the total annual catches of this species by vessels using bottom trawls of not less than 100 mm to catch whiting in ICES divisions VIIb-VIIj, is based on the fact that increases in selectivity are very difficult to achieve. STECF concluded that sufficient evidence is provided to support the exemption, but that additional information should be sought to evaluate the *de minimis* volume. STECF further noted that further selectivity studies were ongoing. Therefore, this exemption is included in the Regulation, with a provision asking the Member States concerned to submit further data to the Commission to allow STECF to fully assess current discard rates in the fisheries concerned.
- (10) The *de minimis* exemption for whiting, up to a maximum of 7 % in 2016 and 2017 and up to a maximum of 6 % in 2018 of the total annual catches of this species by vessels using bottom trawls of less than 100 mm to catch whiting in ICES divisions VII (excluding VIIa, VIId and VIIe), is based on the fact that increases in selectivity are very difficult to achieve. STECF noted that the basis for this exemption has little quantified information on selectivity. STECF concluded that additional information should be sought to evaluate this *de minimis* exemption. Therefore, this exemption can be included in the Regulation only with a provision asking the Member States concerned to submit further data to the Commission to allow STECF to better assess the information supporting this exemption.
- (11) The *de minimis* exemption for Norway lobster, up to a maximum of 7 % in 2016 and 2017 and up to a maximum of 6 % in 2018 of the total annual catches of this species by vessels obliged to land Norway lobster in ICES subarea VII, is based on the fact that increases in selectivity are very difficult to achieve. STECF concluded that the exemption was grounded. Therefore, the exemption concerned should be included in this Regulation.
- (12) The *de minimis* exemption for Norway lobster, up to a maximum of 7 % in 2016 and 2017 and up to a maximum of 6 % in 2018 of the total annual catches of this species by vessels obliged to land Norway lobster in ICES division VIa, is based on the fact that increases in selectivity are very difficult to achieve and there is supporting quantitative information on disproportionate costs of handling unwanted catches. STECF concluded that the exemption was grounded. Therefore, the exemption concerned should be included in this Regulation.
- (13) The *de minimis* exemption for common sole, up to a maximum of 3 % in 2016-2018 of the total annual catches of this species by vessels using gear with increased selectivity in ICES divisions VIId, VIIe, VIIf and VIIg, is based on the fact that increases in selectivity are very difficult to achieve. STECF noted that the exemption is to compensate for the use of a more selective gear and the *de minimis* exemption requested is to cover residual discards. Therefore, the exemption concerned should be included in this 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 2016 in order to comply with the time-frame set out in Article 15 of Regulation (EU) No 1380/2013. In accordance with Article 15(6) of that Regulation, this Regulation should apply for no more than 3 years,

HAS ADOPTED THIS REGULATION:

Article 1

Scope

This Regulation specifies the details for implementing the landing obligation, provided for in Article 15(1) of Regulation (EU) No 1380/2013, and shall apply from 1 January 2016 in the North-Western Waters, as defined in Article 4(2)(c) of that Regulation, in the fisheries set out in the Annex to this Regulation.

Article 2

Survivability exemption

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 pots, traps or creels (Gear codes ⁽¹⁾ FPO and FIX) in ICES division VIa and subarea VII.

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 common sole (*Solea solea*), up to a maximum of 3 % in 2016, 2017 and 2018 of the total annual catches of this species by vessels using trammel and gill nets to catch common sole in ICES divisions VIId, VIIe, VIIf and VIIg;
- (b) for whiting (*Merlangius merlangus*), up to a maximum of 7 % in 2016 and 2017 and up to a maximum of 6 % in 2018 of the total annual catches of this species by vessels using bottom trawls of less than 100 mm to catch whiting in ICES divisions VIId and VIIe;
- (c) for whiting (*Merlangius merlangus*), up to a maximum of 7 % in 2016 and 2017 and up to a maximum of 6 % in 2018 of the total annual catches of this species by vessels using bottom trawls of not less than 100 mm to catch whiting in ICES divisions VIIb-VIIj;
- (d) for whiting (*Merlangius merlangus*), up to a maximum of 7 % in 2016 and 2017 and up to a maximum of 6 % in 2018 of the total annual catches of this species by vessels using bottom trawls of less than 100 mm to catch whiting in ICES subarea VII, except divisions VIIa, d and e.
- (e) for Norway lobster (*Nephrops norvegicus*), up to a maximum of 7 % in 2016 and 2017 and up to a maximum of 6 % in 2018 of the total annual catches of this species by vessels obliged to land Norway lobster in ICES subarea VII;
- (f) for Norway lobster (*Nephrops norvegicus*), up to a maximum of 7 % in 2016 and 2017 and up to a maximum of 6 % in 2018 of the total annual catches of this species by vessels obliged to land Norway lobster in ICES division VIa;
- (g) for common sole (*Solea solea*), up to a maximum of 3 % in 2016, 2017 and 2018 of the total annual catches of this species by vessels using gear with increased selectivity (TBB gear with mesh size of 80-199 mm) in ICES divisions VIId, VIIe, VIIf and VIIg.

2. By 1 May 2016, Member States having a direct management interest in north-western waters shall submit to the Commission additional discard data and any other relevant scientific information supporting the exemptions laid down in paragraph 1(b), (c) and (d). The Scientific, Technical and Economic Committee for Fisheries (STECF) shall assess those data and that information by 1 September 2016 at the latest.

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

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

1. 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.
2. By 31 December 2015, 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 to paragraph 1 for each particular fishery set out in Annex. They shall keep those lists updated.

*Article 5***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 2016 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 2015.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

Fisheries subject to the landing obligation

(a) Fisheries in ICES division VIa and Union waters of ICES division Vb

Fishery	Gear Code	Fishing gear description	Mesh Size	Landing Obligation
Cod (<i>Gadus morhua</i>), Haddock (<i>Melanogrammus aeglefinus</i>), Whiting (<i>Merlangius merlangus</i>) and Saithe (<i>Pollachius virens</i>)	OTB, SSC, OTT, PTB, SDN, SPR, TBN, TBS, TB, SX, SV, OT, PT, TX	Trawls & Seines	All	Where total landings per vessel of all species in 2013 and 2014 consist of more than 10 % of the following gadoids: cod, haddock, whiting and saithe combined, the landing obligation shall apply to haddock.
Norway lobster (<i>Nephrops norvegicus</i>)	OTB, SSC, OTT, PTB, SDN, SPR, FPO, TBN, TB, TBS, SX, SV, FIX, OT, PT, TX	Trawls, Seines, Pots, Traps & Creels	All	Where the total landings per vessel of all species in 2013 and 2014 consist of more than 30 % of Norway lobster, the landing obligation shall apply to Norway lobster.

(b) Fisheries with combined TAC for ICES subareas VI and VII and Union waters of ICES division Vb for hake

Fishery	Gear Code	Fishing gear description	Mesh Size	Landing Obligation
Hake (<i>Merluccius merluccius</i>)	OTB, SSC, OTT, PTB, SDN, SPR, TBN, TBS, TB, SX, SV, OT, PT, TX	Trawls & Seines	All	Where the total landings per vessel of all species in 2013 and 2014 consist of more than 30 % of hake, the landing obligation shall apply to hake.
Hake (<i>Merluccius merluccius</i>)	GNS, GN, GND, GNC, GTN, GTR, GEN	All Gill Nets	All	All catches of hake shall be subject to the landing obligation.
Hake (<i>Merluccius merluccius</i>)	LL, LLS, LLD, LX, LTL, LHP, LHM	All Long lines	All	All catches of hake shall be subject to the landing obligation.

(c) Fisheries with TAC covering ICES subarea VII for Norway lobster

Fishery	Gear Code	Fishing gear description	Mesh Size	Landing Obligation
Norway lobster (<i>Nephrops norvegicus</i>)	OTB SSC, OTT, PTB, SDN, SPR, FPO, TBN, TB, TBS, SX, SV, FIX, OT, PT, TX	Trawls, Seines, Pots, Traps & Creels	All	Where the total landings per vessel of all species in 2013 and 2014 consist of more than 30 % of Norway lobster, the landing obligation shall apply to Norway lobster.

(d) Fisheries in ICES division VIIa

Fishery	Gear Code	Fishing gear	Mesh Size	Landing Obligation
Cod (<i>Gadus morhua</i>), Haddock (<i>Melanogrammus aeglefinus</i>), Whiting (<i>Merlangius merlangus</i>) and Saithe (<i>Pollachius virens</i>)	OTB, SSC, OTT, PTB, SDN, SPR, TBN, TBS, TB, SX, SV, OT, PT, TX	Trawls & Seines	All	Where total landings per vessel of all species in 2013 and 2014 consist of more than 10 % of the following gadoids: cod, haddock, whiting and saithe combined, the landing obligation shall apply to haddock.

(e) Fisheries in ICES division VIId

Fishery	Gear Code	Fishing gear	Mesh Size	Landing Obligation
Common Sole (<i>Solea solea</i>)	TBB	All Beam trawls	All	All catches of common sole are subject to the landing obligation.
Common Sole (<i>Solea solea</i>)	OTT, OTB, TBS, TBN, TB, PTB, OT, PT, TX	Trawls	< 100 mm	Where the total landings per vessel of all species in 2013 and 2014 consist of more than 5 % of common sole, the landing obligation shall apply to common sole.
Common Sole (<i>Solea solea</i>)	GNS, GN, GND, GNC, GTN, GTR, GEN	All Trammel nets & Gill nets	All	All catches of common sole shall be subject to the landing obligation.
Cod (<i>Gadus morhua</i>), Haddock (<i>Melanogrammus aeglefinus</i>), Whiting (<i>Merlangius merlangus</i>) and Saithe (<i>Pollachius virens</i>)	OTB, SSC, OTT, PTB, SDN, SPR, TBN, TBS, TB, SX, SV, OT, PT, TX	Trawls and Seines	All	Where total landings per vessel of all species in 2013 and 2014 consist of more than 25 % of the following gadoids: cod, haddock, whiting and saithe combined, the landing obligation shall apply to whiting.

(f) Fisheries in ICES division VIIe — common sole

Fishery	Gear Code	Fishing gear	Mesh Size	Landing Obligation
Common Sole (<i>Solea solea</i>)	TBB	All Beam trawls	All	Where the total landings per vessel of all species in 2013 and 2014 consist of more than 10 % of common sole, the landing obligation shall apply to common sole.
Common Sole (<i>Solea solea</i>)	GNS, GN, GND, GNC, GTN, GTR, GEN	All Trammel nets & Gill nets	All	All catches of common sole shall be subject to the landing obligation.

(g) Fisheries in ICES divisions VIIb, VIIc and VIIf-VIIk

Fishery	Gear Code	Fishing gear	Mesh Size	Landing Obligation
Common Sole (<i>Solea solea</i>)	TBB	All Beam trawls	All	Where the total landings per vessel of all species in 2013 and 2014 consist of more than 5 % of common sole, the landing obligation shall apply to common sole.
Common Sole (<i>Solea solea</i>)	GNS, GN, GND, GNC, GTN, GTR, GEN	All Trammel nets & Gill nets	All	All catches of common sole shall be subject to the landing obligation.

(h) Fisheries in ICES divisions VIIb, VIIc, VIIe and VIIf-VIIk

Fishery	Gear Code	Fishing gear	Mesh Size	Landing Obligation
Cod (<i>Gadus morhua</i>), Haddock (<i>Melanogrammus aeglefinus</i>), Whiting (<i>Merlangius merlangus</i>) and Saithe (<i>Pollachius virens</i>)	OTB, SSC, OTT, PTB, SDN, SPR, TBN, TBS, TB, SX, SV, OT, PT, TX	Trawls & Seines	All	Where total landings per vessel of all species in 2013 and 2014 consist of more than 25 % of the following gadoids: cod, haddock, whiting and saithe combined, the landing obligation shall apply to whiting.