

**COMMISSION DELEGATED REGULATION (EU) 2020/2014****of 21 August 2020****specifying details of implementation of the landing obligation for certain fisheries in the North Sea 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) 2018/973 of the European Parliament and of the Council of 4 July 2018 establishing a multiannual plan for demersal stocks in the North Sea and the fisheries exploiting those stocks, specifying details of the implementation of the landing obligation in the North Sea and repealing Council Regulations (EC) No 676/2007 and (EC) No 1342/2008 <sup>(1)</sup>, and in particular Article 11 thereof,

Whereas:

- (1) Regulation (EU) No 1380/2013 of the European Parliament and of the Council <sup>(2)</sup> 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. 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.
- (3) Regulation (EU) 2018/973 establishes a multiannual plan for demersal stocks in the North Sea and the fisheries exploiting those stocks. Article 11 of that Regulation empowers the Commission to adopt delegated acts to supplement that Regulation by specifying details of the landing obligation for all stocks of species in the North Sea to which the landing obligation applies under Article 15(1) of Regulation (EU) No 1380/2013, as provided for in points (a) to (e) of Article 15(5) of that Regulation on the basis of joint recommendations developed by Member States.
- (4) As set out in Regulation (EU) 2018/973, the North Sea comprises International Council for the Exploration of the Sea ('ICES') divisions 2a, 3a and subarea 4.
- (5) Commission Delegated Regulation (EU) 2019/2238 <sup>(3)</sup> specifies details of implementation of the landing obligation for certain demersal fisheries in the North Sea for the period 2020-2021, following a joint recommendation submitted by Belgium, Denmark, France, Germany, the Netherlands, Sweden and the United Kingdom <sup>(4)</sup> which have a direct fisheries management interest in the North Sea.
- (6) Belgium, Denmark, France, Germany, the Netherlands and Sweden, after consulting the North Sea Advisory Council and the Pelagic Advisory Council, submitted a joint recommendation to the Commission on 04 May 2020 establishing a discard plan for pelagic and demersal species in the North Sea for the period 2021-2023. The Member States submitted a revised version of the joint recommendation on 23 July 2020.
- (7) Scientific contributions were obtained from relevant scientific bodies and reviewed by the Scientific, Technical and Economic Committee for Fisheries ('STECF') <sup>(5)</sup>. The Commission presented the measures concerned to an expert group consisting of representatives of 27 Member States on 28 July 2020 in a meeting attended by the European Parliament as an observer.

<sup>(1)</sup> OJ L 179, 16.7.2018, p. 1.

<sup>(2)</sup> Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354, 28.12.2013, p. 22).

<sup>(3)</sup> Commission Delegated Regulation (EU) 2019/2238 of 1 October 2019 specifying details of implementation of the landing obligation for certain demersal fisheries in the North Sea for the period 2020-2021 (OJ L 336, 30.12.2019, p. 34).

<sup>(4)</sup> The United Kingdom ceased being a Member State from 1 February 2020.

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

- (8) Under Article 18 of the Regulation (EU) No 1380/2013, the Commission has considered both the STECF assessment and the need for Member States to ensure the full implementation of the landing obligation. The regional group 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 in some of the cases and that improving selectivity should be the priority to reduce the level of unwanted catches. Therefore, in such cases the exemptions will 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.
- (9) Commission Delegated Regulation (EU) 2019/2238 included a survivability exemption, as provided for by Article 15(4)(b) of Regulation (EC) No 1380/2013, for Norway lobster caught with pots in ICES divisions 2a, 3a and ICES subarea 4, based on the scientific evidence which demonstrated high discard survival rates. Member States requested that the exemption be continued. The STECF evaluated the evidence submitted by the Member States in previous years and concluded <sup>(6)</sup> that the exemption is justified. Considering that the circumstances have not changed, that exemption should be maintained.
- (10) Delegated Regulation (EU) 2019/2238 included a survivability exemption for Norway lobster caught in ICES subarea 4 and ICES divisions 2a and 3a using bottom trawls, including some with a selectivity device. The Member States requested that the exemption be continued and provided new evidence. The STECF analysed the new evidence submitted by the Member States and concluded <sup>(7)</sup> that additional information had been provided for the East coast otter-trawl fishery for Nephrops, as required by STECF <sup>(8)</sup>. The STECF concluded in previous years that the supporting information was robust and the validation technique used in the context of the wider fleets was reasonable <sup>(9)</sup>. Considering that the circumstances have not changed, that exemption should be maintained.
- (11) Delegated Regulation (EU) 2019/2238 included a survivability exemption for common sole below minimum conservation reference size ("MCRS") caught by otter trawls in ICES division 4c, based on scientific evidence which demonstrated high discard survival rates. The Member States requested International Council for the Exploration of the Sea that the exemption be continued. The STECF evaluated the evidence in previous years and concluded <sup>(10)</sup> that it was sufficient. Considering that the circumstances have not changed, that exemption should be maintained.
- (12) Delegated Regulation (EU) 2019/2238 included a survivability exemption for the by-catch of species subject to catch limits in the fishery carried out with pots and fyke nets, based on the scientific evidence that demonstrated high discard survival rates. The STECF evaluated the evidence in previous years and concluded <sup>(11)</sup> that the available data indicates that mortality of discarded fish is likely to be low; however, the actual catches in the fishery are negligible. The exemption should continue to apply given that the catches are not significant and considering that the circumstances have not changed.
- (13) Delegated Regulation (EU) 2019/2238 included a survivability exemption for plaice in the fishery carried out with gillnets and trammel nets in ICES division 3a and ICES subarea 4. The Member States requested that the exemption be continued. The STECF assessed the evidence in previous years and concluded <sup>(12)</sup> that the information was reasonable, showing considerably high survivability. Considering that the circumstances have not changed, that exemption should therefore be maintained in this Regulation.
- (14) Delegated Regulation (EU) 2019/2238 included a survivability exemption for plaice in the fishery carried out with Danish seines in ICES division 3a and ICES subarea 4. The Member States requested that the exemption be continued. The STECF assessed the evidence in previous years and concluded <sup>(13)</sup> that the data of the study on the survival rates are reliable. Considering that the circumstances have not changed, that exemption should therefore be maintained.

<sup>(6)</sup> <https://stecf.jrc.ec.europa.eu/documents/43805/1099561/STECF+PLEN+15-02.pdf>

<sup>(7)</sup> <https://stecf.jrc.ec.europa.eu/documents/43805/2694823/STECF+20-04+-+Eval+JRs+LO+and+TM+Reg.pdf>

<sup>(8)</sup> <https://stecf.jrc.ec.europa.eu/documents/43805/2537709/STECF+PLEN+19-02.pdf>

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

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

<sup>(11)</sup> <https://stecf.jrc.ec.europa.eu/documents/43805/1780485/STECF+PLEN+17-02.pdf>

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

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

- (15) Delegated Regulation (EU) 2019/2238 included a survivability exemption for catch and by-catch of plaice in the fishery targeting flatfish or roundfish carried out with trawls with a mesh size of at least 120 mm in ICES division 3a and ICES subarea 4. The Member States requested that the exemption be continued. The joint recommendation also requested a new high survivability exemption for plaice caught with trawls with mesh size of 100 to 119 mm in ICES division 3a and ICES subarea 4. The Member States provided additional scientific evidence in order to demonstrate high discard survival rates for plaice in that fishery. The STECF noted that the supporting studies were performed with a 90 mm mesh size; therefore, it is unlikely that the survival rates are lower with a mesh size of at least 100 mm. Given that the season and air exposure are main factors influencing plaice survival and that survival rates may be lower after 60 minutes of air exposure, the exemptions should be included in this Regulation and the unwanted catches of plaice should be released immediately.
- (16) Delegated Regulation (EU) 2019/2238 included survivability exemptions for:
- plaice caught with trawls with a mesh size of at least 90 to 99 mm equipped with Seltra panel targeting flatfish or roundfish in Union waters of ICES division 3a,
  - plaice caught with trawls with a mesh size of at least 80 to 99 mm targeting flatfish or roundfish in Union waters of ICES subarea 4.
- (17) The Member States requested that the exemption be continued and submitted new scientific evidence resulting from ongoing studies. The STECF observed <sup>(14)</sup> that improvements in the definition to distinguish the flatfish and roundfish fishery from the fishery targeting nephrops are still needed. The Commission noted that Member States committed in the joint recommendation to carry out further work in this regard. This exemption should therefore be maintained.
- (18) Delegated Regulation (EU) 2019/2238 included a survivability exemption for catches of plaice below the MCRS caught with 80 to 119 mm beam trawl gears (BT2) in ICES division 2a and ICES subarea 4:
- for plaice caught with gears equipped with the flip-up rope or Benthos release panel (BRP) and caught by vessels with an engine power of more than 221 kW,
  - for plaice caught by the vessels of Member States implementing the roadmap for the Fully Documented Fisheries,
  - for flatfish caught with beam trawl gears (BT2) and by vessels with an engine power of not more than 221kW or less than 24 m in length overall, which are constructed to fish in the twelve miles zone, if the average trawl duration is less than ninety minutes.
- (19) The Member States requested that the exemption be continued and submitted new evidence. The STECF noted <sup>(15)</sup> that there are substantial research projects ongoing that should provide useful information about this exemption. Therefore, these exemptions should be maintained. Member States should submit relevant data resulting from the ongoing projects as soon as possible and 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 roadmap with the next annual report by 1 May 2021.
- (20) Delegated Regulation (EU) 2019/2238 included a survivability exemption for turbot caught by TBB gears with a codend more than 80 mm in ICES subarea 4. The Member States requested that the exemption be continued and submitted new scientific information. The STECF noted <sup>(16)</sup> that it is unclear whether the survival estimates provided are applicable to this request. The Commission notes that Member States have committed in the joint recommendation to carrying out further research to observe the survival of discarded turbot and to provide more detailed information on survivability in a new scientific project, ongoing until the end of 2021. Therefore, this exemption should be maintained until 31 December 2022. Member States should submit annual reports on the progress of the ongoing work by 1 May every year.

<sup>(14)</sup> <https://stecf.jrc.ec.europa.eu/documents/43805/2694823/STECF+20-04+-+Eval+JRs+LO+and+TM+Reg.pdf>

<sup>(15)</sup> <https://stecf.jrc.ec.europa.eu/documents/43805/2694823/STECF+20-04+-+Eval+JRs+LO+and+TM+Reg.pdf>

<sup>(16)</sup> <https://stecf.jrc.ec.europa.eu/documents/43805/2694823/STECF+20-04+-+Eval+JRs+LO+and+TM+Reg.pdf>

- (21) Delegated Regulation (EU) 2019/2238 included a survivability exemption for skates and rays caught with all fishing gears in ICES divisions 2a and 3a, and ICES subarea 4. The Member States requested that the exemption be continued and submitted new scientific information. The STECF concluded <sup>(17)</sup> that significant efforts have been made in addressing data gaps to meet the objectives of the roadmap. That exemption should therefore be maintained. However, improvements in data collection are required. Member States having a direct management interest should submit additional scientific information by 1 May each year, in particular for cuckoo ray that were found to have a lower survival rate. The Commission notes that following STECF's request, Member States have committed in the joint recommendation to report on the agreed roadmap, including for cuckoo ray.
- (22) Commission Delegated Regulation (EU) No 1395/2014 <sup>(18)</sup> included a survivability exemption for mackerel and herring caught with purse seines under certain conditions following a positive STECF evaluation <sup>(19)</sup>. The studies found that survival rates depend on the crowding time and the density of fish within the net, which are typically limited in these fisheries. The Member States requested that the exemption be continued. Considering that the circumstances have not changed, the exemption should be maintained. Member States having a direct management interest should submit updated data on the fishery not later than 1 May 2022.
- (23) Delegated Regulation (EU) 2019/2238 included *de minimis* exemptions for:
- common sole caught with trammel nets and gillnets in ICES divisions 2a and 3a, ICES subarea 4,
  - common sole caught with certain beam trawls equipped with a Flemish panel in ICES subarea 4,
  - combined catches of common sole, haddock, whiting, cod, saithe and hake made with certain bottom trawls in ICES division 3a,
  - combined catches of common sole, haddock, whiting, cod, saithe, plaice, herring, Norway pout, greater silver smelt and blue whiting made with certain bottom trawls in ICES division 3a,
  - whiting caught with certain bottom trawls in ICES division 3a,
  - plaice caught with certain bottom trawls in ICES subarea 4,
  - all species subject to catch limits caught with certain beam trawls in ICES divisions 4b and 4c,
  - ling caught with certain bottom trawls in ICES subarea 4.
- (24) Member States requested that the exemption be continued. The STECF reviewed that evidence in previous years and concluded <sup>(20)</sup> <sup>(21)</sup> <sup>(22)</sup> that the documents submitted by the Member States contained reasoned arguments demonstrating that further improvements in selectivity are difficult to achieve or imply disproportionate costs in handling unwanted catches. Considering that the circumstances have not changed, it is appropriate to continue the *de minimis* exemptions in accordance with the percentage level and the necessary modifications suggested in the new joint recommendation pursuant to Article 15(5)(c) of Regulation (EU) No 1380/2013.
- (25) Delegated Regulation (EU) 2019/2238 included a *de minimis* exemption for whiting and cod caught with bottom trawls in ICES division 4c. Member States requested that the exemption be continued. The STECF reviewed this exemption in previous years <sup>(23)</sup> and the exemption was granted on the grounds that selectivity was difficult to improve. However, given the current status of cod <sup>(24)</sup>, the STECF noted in its report 20-04 that Member States should take measures to reduce the level of unwanted catches. The exemption should therefore be granted for one year and Member States with an interest in this fishery should submit not later than 1 May 2021 additional information on catch composition for the assessment by the STECF.

<sup>(17)</sup> <https://stecf.jrc.ec.europa.eu/documents/43805/2694823/STECF+20-04+-+Eval+JRs+LO+and+TM+Reg.pdf>

<sup>(18)</sup> Commission Delegated Regulation (EU) No 1395/2014 of 20 October 2014 establishing a discard plan for certain small pelagic fisheries and fisheries for industrial purposes in the North Sea (OJ L 370, 30.12.2014, p. 35).

<sup>(19)</sup> <https://stecf.jrc.ec.europa.eu/documents/43805/812327/STECF+PLEN+14-02.pdf>

<sup>(20)</sup> <https://stecf.jrc.ec.europa.eu/documents/43805/1099561/STECF+PLEN+15-02.pdf>

<sup>(21)</sup> <https://stecf.jrc.ec.europa.eu/documents/43805/2147402/STECF+PLEN+18-02.pdf>

<sup>(22)</sup> <https://stecf.jrc.ec.europa.eu/documents/43805/1710831/STECF+17-08+-+Evaluation+of+LO+joint+recommendations.pdf>

<sup>(23)</sup> <https://stecf.jrc.ec.europa.eu/documents/43805/1710831/STECF+17-08+-+Evaluation+of+LO+joint+recommendations.pdf>

<sup>(24)</sup> <http://ices.dk/sites/pub/Publication%20Reports/Advice/2020/2020/cod.27.47d20.pdf>

- (26) Delegated Regulation (EU) 2019/2238 included a *de minimis* exemption for whiting and cod below the MCRS caught with bottom trawls or seines in ICES subareas 4a and 4b. Member States requested that the exemption be continued and provided new evidence. The STECF reviewed the evidence submitted by the Member States and noted that a new study is ongoing but that improvements in the evidence provided are still needed. Given the current status of cod <sup>(25)</sup>, the STECF noted in its report 20-04 that Member States should take measures to reduce the level of unwanted catches. The exemption should therefore be granted for two years and only for whiting at a reduced percentage.
- (27) Delegated Regulation (EU) 2019/2238 included a *de minimis* exemption for whiting below the minimum conservation reference size caught by vessels using beam trawls with mesh size 80 to 119 mm in ICES subarea 4. Member States requested that the exemption be continued and provided new evidence. The STECF noted <sup>(26)</sup> that there is evidence on increased costs. Member States pointed to a potential choke risk for this fishery, as well as to ongoing studies on the uptake of selectivity measures that should provide useful information about this exemption. However, STECF observed that the information provided is limited and only covers the Dutch fleet. The exemption should therefore be granted for one year. Member States should submit further evidence on disproportionate costs and improvements on selectivity by 1 May 2021.
- (28) Delegated Regulation (EU) No 1395/2014 included a *de minimis* exemption for mackerel, horse mackerel, herring and whiting caught with trawlers up to 25 meters in length overall using mid-water trawls in ICES subareas 4b and 4c South of 54 degrees North. Member States requested that the exemption be continued and provided new evidence. The STECF concluded <sup>(27)</sup> that it is reasonable to assume that achieving additional selectivity improvements would be difficult and that the costs for sorting catches would be high given the nature of the fisheries involved. However, STECF observed that limited new information is provided Member States should provide further quantitative evidence supporting the *de minimis* exemption. The exemption should therefore be granted for two years. Member States should submit additional information for assessment by the STECF not later than 1 May 2022.
- (29) Delegated Regulation (EU) 2019/2238 granted a *de minimis* exemption for a combined quantity of sprat, sandeel, Norway pout and blue whiting in demersal fisheries with trawls in ICES division 3a and ICES subarea 4. Member States requested that the exemption be continued and provided new evidence. The STECF concluded <sup>(28)</sup> that it is reasonable to assume that achieving additional selectivity improvements would be difficult and that the costs for sorting catches would be high given the nature of the fisheries involved. However, STECF noted that further quantitative data was needed to support the exemption. The exemption should therefore be granted for two years. Member States should provide updated scientific data and appropriate supporting information by 1 May 2022.
- (30) Delegated Regulation (EU) 2019/2238 granted a *de minimis* exemption for ling caught with longlines in ICES subarea 4. Member States requested that the exemption be continued and provided new evidence. The STECF reviewed the information submitted by the Member States and concluded <sup>(29)</sup> that although the information presented is limited, the arguments regarding difficulties in improving selectivity are credible. The exemption should therefore be granted for two years. Member States should present additional information underpinning this exemption by 1 May 2022.
- (31) Delegated Regulation (EU) 2019/2238 granted *de minimis* exemptions for mackerel and horse mackerel caught with bottom trawls with a mesh size between 80-99 mm in ICES subarea 4. Member States requested that the exemption be continued and provided new evidence. The STECF reviewed the evidence submitted by the Member States and concluded <sup>(30)</sup> that there is evidence of increased costs associated with handling and storing unwanted catches but that the information provided was limited to certain areas and fleets. The exemption should therefore be granted for two years and it should apply to those areas and fleets. Member States should present additional information underpinning this exemption by 1 May 2022.

<sup>(25)</sup> <http://ices.dk/sites/pub/Publication%20Reports/Advice/2020/2020/cod.27.47d20.pdf>

<sup>(26)</sup> <https://stecf.jrc.ec.europa.eu/documents/43805/2694823/STECF+20-04+-+Eval+JRs+LO+and+TM+Reg.pdf>

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

<sup>(28)</sup> <https://stecf.jrc.ec.europa.eu/documents/43805/2694823/STECF+20-04+-+Eval+JRs+LO+and+TM+Reg.pdf>

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

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

- (32) The joint recommendation included a new *de minimis* exemption for blue whiting in the industrial pelagic trawler fishery. The STECF analysed the evidence provided by the Member States and concluded <sup>(31)</sup> that the information supporting the arguments of selectivity being difficult to achieve and disproportionate costs of handling unwanted catches was limited. However, STECF observed that achieving additional selectivity improvements would be difficult given the technical and sanitary specificities of the factory trawler involved. The exemption should be granted for two years to align to other sea basins and to allow Member States sufficient time to clarify the discrepancies in the data, as identified by the STECF. Member States should present additional information by 1 May 2022.
- (33) To ensure reliable estimations of levels of discarding for the purpose of the setting of the total allowable catches, Member States should, in the cases where the *de minimis* exemption is based on extrapolation of data-limited situations and partial fleet information, ensure provision of accurate and verifiable data for the whole fleet covered by that exemption.
- (34) The measures suggested by the new joint recommendation are in line with Article 15(4), Article 15(5)(c) and Article 18(3) of Regulation (EU) No 1380/2013, and with Regulation (EU) 2018/973, in particular Article 11 thereof, and may thus be included in this Regulation.
- (35) Pursuant to Article 16(2) of Regulation (EU) 2018/973, the power to adopt delegated acts with regards to the landing obligation is conferred on the Commission for a period of five years from 5 August 2018. It is therefore appropriate to revise the impact of the survivability and *de minimis* exemptions from the landing obligation.
- (36) Delegated Regulation (EU) 2019/2238 should be repealed and replaced by a new Regulation. However, Articles 11 and 12 of Delegated Regulation (EU) 2019/2238 provide for technical measures to increase gear selectivity and reduce unwanted catches in the Skagerrak, and to permit the use of SepNep nets. Those measures should remain applicable until the end of 2021, as initially provided for in Delegated Regulation (EU) 2019/2238, or until a new Delegated act to be adopted pursuant to Regulation (EU) 2019/1241 of the European Parliament and of the Council <sup>(32)</sup> provides for those technical measures.
- (37) 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,

HAS ADOPTED THIS REGULATION:

#### Article 1

### Implementation of the landing obligation

In Union waters of the North Sea (ICES divisions 2a, 3a and subarea 4), the landing obligation provided for in Article 15(1) of Regulation (EU) No 1380/2013 shall apply to demersal and pelagic fisheries which are subject to catch limits in accordance with this Regulation for the period 2021-2023.

#### Article 2

### Definitions

For the purpose of this Regulation, the following definitions shall apply:

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

<sup>(32)</sup> Regulation (EU) 2019/1241 of the European Parliament and of the Council of 20 June 2019 on the conservation of fisheries resources and the protection of marine ecosystems through technical measures, amending Council Regulations (EC) No 1967/2006, (EC) No 1224/2009 and Regulations (EU) No 1380/2013, (EU) No 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).

- (1) '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 200 mm, leading to an escape hole in the top of the trawl;
- (2) '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,
  - stretched length is at least 3 m;
- (3) '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;
- (4) 'SepNep' means an otter trawl which:
  - is constructed within the mesh size range of 80 to 99 + $\geq$  100 mm,
  - is fitted with multiple cod-ends of mesh sizes ranging from at least 80 to 120 mm attached to a single extension piece, the uppermost cod-end being constructed with a mesh size of at least 120 mm and fitted with a separation panel with a maximum mesh size of 105 mm, and
  - may furthermore be fitted with an optional selection grid with a bar spacing of at least 17 mm provided it is constructed in such a way so as to allow the escape of small Norway lobster.

#### Article 3

##### Survivability exemptions for Norway lobster

1. The survivability exemption provided for in Article 15(4)(b) of Regulation (EU) No 1380/2013 shall apply in the Union waters of the North Sea (ICES divisions 2a, 3a and subarea 4) to the following catches of Norway lobster (*Nephrops norvegicus*):
  - (a) catches with pots (FPO <sup>(33)</sup>);
  - (b) catches with bottom trawls (OTB, OTT, TBN) fitted with:
    - (i) a cod-end equal or larger than 80 mm; or
    - (ii) a cod-end with a mesh size of at least 70 mm equipped with a species selective grid with a bar spacing of maximum 35 mm.
2. 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 referred to in Article 15(4)(b) of Regulation (EU) No 1380/2013 shall apply to common sole (*Solea solea*) below the minimum conservation reference size caught using otter trawls (OTB) with a cod-end mesh size of 80 to 99 mm in the Union waters of ICES division 4c, within six nautical miles of the coast but outside identified nursery areas.
2. The exemption referred to in paragraph 1 shall only apply to vessels with a maximum length of 10 meters and a maximum engine power of 221 kW, fishing in waters with a depth of 30 meters or less and with tow durations of no more than ninety minutes.
3. When discarding common sole caught in the cases referred to in paragraph 1, the common sole shall be released immediately.

<sup>(33)</sup> Gear codes used in this Regulation are set out 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 Regulation are set out in the FAO gear classification.

*Article 5***Survivability exemption for by-catch of all species subject to catch limits in pots and fyke nets**

1. The survivability exemption referred to in Article 15(4)(b) of Regulation (EU) No 1380/2013 shall apply to all species subject to catch limits caught with pots and fyke nets (FPO, FYK) in the Union waters of ICES division 3a and ICES subarea 4.
2. When discarding fish caught in the cases referred to in paragraph 1, the fish shall be released immediately and below the sea surface.

*Article 6***Survivability exemption for catch and by-catch of plaice**

1. The survivability exemption referred to in Article 15(4)(b) of Regulation (EU) No 1380/2013 shall apply in the Union waters of ICES division 3a and subarea 4 to:
  - (a) plaice (*Pleuronectes platessa*) caught with nets (GNS, GTR, GTN, GEN);
  - (b) plaice caught with Danish seines;
  - (c) plaice caught with bottom trawls (OTB, PTB):
    - (i) with a mesh size of at least 120 mm when targeting flatfish or roundfish in the Union waters of ICES division 3a and subarea 4;
    - (ii) with a mesh size of 90 to 119 mm equipped with Seltra panel with a top panel of 140 mm mesh size (square mesh), 270 mm mesh size (diamond mesh) or 300 mm mesh size (square-mesh), which target flatfish or roundfish in the Union waters of ICES division 3a;
    - (iii) with a mesh size of 80 to 119 mm targeting flatfish or roundfish in the Union waters of ICES subarea 4.
2. When discarding plaice caught in the cases referred to in paragraph 1, the plaice shall be released immediately.

*Article 7***Survivability exemption for plaice below the minimum conservation reference size**

1. The survivability exemption referred to in Article 15(4)(b) of Regulation (EU) No 1380/2013 shall apply in the Union waters of ICES division 2a and ICES subarea 4 and to plaice caught which is below the minimum conservation reference size and caught using 80 to 119 mm beam trawls (BT2) if the plaice is caught:
  - (a) with gears equipped with the flip-up rope or Benthos release panel (BRP) and caught by vessels with an engine power of more than 221 kW; or
  - (b) by the vessels of Member States implementing the roadmap for the Fully Documented Fisheries.
2. The exemption referred to in paragraph 1 shall also apply to flatfish caught with beam trawls (BT2) by vessels with an engine power of not more than 221kw or less than 24m in length overall, which are constructed to fish in the twelve miles zone, if the average trawl duration is less than ninety minutes.
3. Member States having a direct management interest shall submit every year, as soon as possible and not later than 1 May, additional scientific information supporting the exemptions laid down in paragraphs 1 and 2. The Scientific, Technical and Economic Committee for Fisheries ("STECF") shall assess the provided scientific information by 31 July every year.
4. When discarding plaice caught in the cases referred to in paragraphs 1 and 2, the plaice shall be released immediately.



*Article 8***Survivability exemption for turbot**

1. The survivability exemption referred to in Article 15(4)(b) of Regulation (EU) No 1380/2013 shall apply in the Union waters of ICES subarea 4 to catches of turbot (*Scophthalmus maximus*) with beam trawls with a cod-end equal to or larger than 80 mm (TBB).
2. The exemption referred to in paragraph 1 shall be provisionally applicable until 31 December 2022. Member States having a direct management interest shall submit every year, as soon as possible and not later than 1 May, additional scientific information supporting the exemption laid down in paragraph 1. STECF shall assess the provided scientific information by 31 July every year.
3. When discarding turbot caught in the cases referred to in paragraph 1, the turbot shall be released immediately.

*Article 9***Survivability exemption for skates and rays**

1. The survivability exemption referred to in Article 15(4)(b) of Regulation (EU) No 1380/2013 shall apply to skates and rays caught with fishing gear in the Union waters of the North Sea (ICES divisions 2a, 3a and subarea 4).
2. Member States having a direct management interest shall submit every year, as soon as possible and not later than 1 May, additional scientific information, in particular for cuckoo ray, supporting the exemption laid down in paragraph 1. STECF shall assess the provided scientific information by 31 July every year.
3. When discarding skates and rays caught in the cases referred to in paragraph 1, the skates and rays shall be released immediately.

*Article 10***Survivability exemption for catches of mackerel and herring in the purse seine fisheries**

1. The survivability exemption referred to in Article 15(4)(b) of Regulation (EU) No 1380/2013 shall apply to mackerel and herring caught in the purse seine fisheries in the Union waters of the North Sea (ICES divisions 2a, 3a and subarea 4), 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 a visible buoy 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 is 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. Member States having a direct management interest shall submit as soon as possible and not later than 1 May 2022 evidence justifying the need to continue this exemption.

## Article 11

**De minimis exemptions for pelagic and demersal fisheries**

By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, the following quantities may be discarded pursuant to Article 15(4)(c) of that Regulation:

- (1) in fisheries for common sole by vessels using trammel nets and gillnets (GN, GNS, GND, GNC, GTN, GTR, GEN, GNF) in the Union waters of the North Sea (ICES divisions 2a, 3a and subarea 4):

a quantity of common sole below and above the minimum conservation reference size, which shall not exceed 3 % of the total annual catches of that species;

- (2) in fisheries for common sole by vessels using beam trawl (TBB) of mesh size 80-119 mm equipped with a Flemish panel, in the Union waters of ICES subarea 4:

a quantity of common sole below the minimum conservation reference size, which shall not exceed 5 % of the total annual catches of that species;

- (3) in the fishery for Norway lobster by vessels using bottom trawls (OTB, OTT, TBN) with a mesh size equal to or larger than 70 mm equipped with a species-selective grid with a bar spacing of maximum 35 mm in the Union waters of ICES division 3a:

a combined quantity of common sole, haddock, whiting, cod, saithe and hake below the minimum conservation reference size, which shall not exceed 4 % of the total annual catches of Norway lobster, common sole, haddock, whiting and Northern prawn, cod, saithe and hake;

- (4) in the fishery for Northern prawn by vessels using bottom trawls (OTB, OTT) with a mesh size equal to or larger than 35 mm equipped with a species selective grid with a bar spacing of maximum 19 mm, and with unblocked fish outlet, in the Union waters of ICES division 3a:

a combined quantity of common sole, haddock, whiting, cod, plaice, saithe, herring, Norway pout, greater silver smelt and blue whiting below the minimum conservation reference size where it exists, which shall not exceed 5 % of the total annual catches of Norway lobster, common sole, haddock, whiting, cod, saithe, plaice, Northern prawn, hake, Norway pout, greater silver smelt, herring and blue whiting;

- (5) in fisheries by vessels using bottom trawls (OTB, OTT, TBN, PTB) with a mesh size of 90-119 mm, equipped with Seltra panel with a top panel of 140 mm mesh size (square mesh), 270 mm mesh size (diamond mesh) or 300 mm mesh size (square mesh), or bottom trawls (OTB, OTT, TBN, PTB) with a mesh size equal to or larger than 120 mm, in the Union waters of ICES division 3a:

a quantity of whiting below the minimum conservation reference sizes, up to a maximum of 2 % of the total annual catches of Norway lobster, cod, haddock, whiting, saithe, common sole, plaice and hake;

- (6) in the fisheries for Norway lobster by vessels using bottom trawls with a mesh size of 80-99 mm, equipped with a SepNep, in the Union waters of ICES subarea 4:

a quantity of plaice below the minimum conservation reference size, which shall not exceed 3 % of the total annual catches of saithe, plaice, haddock, whiting, cod, Northern prawn, common sole and Norway lobster;

- (7) in the fisheries for brown shrimp by vessels using beam trawls, in the Union waters of ICES divisions 4b and 4c:

a quantity of all species subject to catch limits, which shall not exceed 6 % in 2021 and 2022, and 5 % in 2023 of the total annual catches of all species subject to catch limits made in those fisheries;

- (8) in the demersal fisheries by vessels using bottom trawls (OTB, OTT, PTB) with a mesh size equal to or greater than 120 mm catching ling in Union waters of ICES subarea 4:

a quantity of ling below minimum conservation reference size, which shall not exceed 3 % of the total annual catches of ling in that fishery;

- (9) in the mixed demersal fisheries by vessels using bottom trawls or seines (OTB, OTT, SDN, SSC) with a mesh size of 70-99 mm (TR2) in the Union waters of ICES division 4c:

a combined quantity of whiting and cod below the minimum conservation reference size, which shall not exceed 5 % of the total annual catches of whiting and cod; the maximum amount of cod that may be discarded shall be limited to 2 % of those total annual catches;

the *de minimis* exemption set out in this point shall be provisionally applicable until 31 December 2021. Member States having a direct management interest shall submit, as soon as possible and not later than 1 May 2021, additional scientific information supporting the exemption. The STECF shall assess the provided scientific information by 31 July 2021;

- (10) in the mixed demersal fisheries by vessels using bottom trawls or seines (OTB, OTT, SDN, SSC) with a mesh size of 70-99 mm (TR2) in the Union waters of ICES divisions 4a and 4b:

a quantity of whiting below the minimum conservation reference size, which shall not exceed 4 % of the total annual catches of whiting;

the *de minimis* exemption set out in this point shall be provisionally applicable until 31 December 2022. Member States having a direct management interest shall submit, as soon as possible and not later than 1 May 2022, additional scientific information supporting the exemption. The STECF shall assess the provided scientific information by 31 July 2022;

- (11) in the demersal mixed fishery by vessels using beam trawls with a mesh size of 80-119 mm in Union waters of ICES subarea 4:

a quantity of whiting below the minimum conservation reference size, which shall not exceed 2 % of the total annual catches of plaice and sole;

the *de minimis* exemption set out in this point shall be provisionally applicable until 31 December 2021. Member States having a direct management interest shall submit, as soon as possible and not later than 1 May 2021, additional scientific information supporting the exemption. The STECF shall assess the provided scientific information by 31 July 2021;

- (12) in pelagic fisheries carried out by pelagic trawlers up to 25 meters in length overall, using mid-water trawls (OTM/PTM), and targeting mackerel, horse mackerel and herring in ICES divisions 4b and 4c south of 54 degrees north;

a combined quantity of mackerel, horse mackerel, herring and whiting that shall not exceed 1 % of the total annual catches of mackerel, horse mackerel, herring and whiting;

the *de minimis* exemption set out in this point shall be provisionally applicable until 31 December 2022. Member States having a direct management interest shall submit, as soon as possible and not later than 1 May 2022, additional scientific information supporting the exemption. The STECF shall assess the provided scientific information by 31 July 2022;

- (13) in the demersal mixed fishery with trawls (OTB, OTM, OTT, PTB, PTM, SDN, SPR, SSC, TB, TBN) with mesh sizes above 80 mm in ICES division 3a and ICES subarea 4 and in the fishery for Northern prawn carried out using gears with a sorting grid with a maximum bar spacing of 19 mm or equivalent selectivity device and a fish retention device with mesh sizes above 35 mm in ICES division 3a and 32 mm in ICES subarea 4:

a combined quantity of sprat, sandeel, Norway pout and blue whiting, which shall not exceed 1 % of the total annual catches made in mixed demersal fishery and in the fishery for Northern prawn;

the *de minimis* exemption set out in this point shall be provisionally applicable until 31 December 2022. Member States having a direct management interest shall submit, as soon as possible and not later than 1 May 2022, additional scientific information supporting the exemption. The STECF shall assess the provided scientific information by 31 July 2022;

- (14) in the demersal fishery for hake by vessels using longlines (LLS) in ICES subarea 4:

a quantity of ling (*Molva molva*) below the minimum conservation reference size, which shall not exceed 3 % of the total annual catches of ling made in that demersal fishery;

the *de minimis* exemption set out in this point shall be provisionally applicable until 31 December 2022. Member States having a direct management interest shall submit, as soon as possible and not later than 1 May 2022, additional scientific information supporting the exemption. The STECF shall assess the provided scientific information by 31 July 2022;

- (15) in the demersal mixed fishery with bottom trawls (OTB, OTT, PTB) with a mesh size between 80 and 99 mm (TR2) in ICES divisions 4b and 4c:

a quantity of horse mackerel (*Trachurus spp.*), which shall not exceed 6 % of the total annual catches of horse mackerel made in that fishery;

the *de minimis* exemption set out in this point shall be provisionally applicable until 31 December 2022. Member States having a direct management interest shall submit, as soon as possible and not later than 1 May 2022, additional scientific information supporting the exemption. The STECF shall assess the provided scientific information by 31 July 2022;

- (16) in the demersal mixed fishery with bottom trawls (OTB, OTT, PTB) with a mesh size between 80 and 99 mm (TR2) in ICES divisions 4b and 4c:

a quantity of mackerel (*Scomber scombrus*), which shall not exceed 6 % of the total annual catches of mackerel made in that fishery;

the *de minimis* exemption set out in this point shall be provisionally applicable until 31 December 2022. Member States having a direct management interest shall submit, as soon as possible and not later than 1 May 2022, additional scientific information supporting the exemption. The STECF shall assess the provided scientific information by 31 July 2022;

- (17) in the industrial pelagic trawler fishery targeting blue whiting in ICES subarea 4, and processing that species on board to obtain surimi base:

a quantity of blue whiting (*Micromesistius poutassou*), which shall not exceed 5 % of the total annual catches of blue whiting;

the *de minimis* exemption set out in this point shall be provisionally applicable until 31 December 2022. Member States having a direct management interest shall submit, as soon as possible and not later than 1 May 2022, additional scientific information supporting the exemption. The STECF shall assess the provided scientific information by 31 July 2022.

#### Article 12

##### Repeal and transitional provisions

Delegated Regulation (EU) 2019/2238 is repealed with effect from 1 January 2021.

However, Articles 11 and 12 of Delegated Regulation (EU) 2019/2238 shall continue to apply until 31 December 2021 or until a delegated act, to be adopted pursuant to Article 15(2) of Regulation (EU) 2019/1241 becomes applicable, whichever is the earlier.

#### Article 13

##### Entry into force and application

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

Articles 1 to 11 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 August 2020.

For the Commission  
The President  
Ursula VON DER LEYEN