



2023/2459

6.11.2023

COMMISSION DELEGATED REGULATION (EU) 2023/2459

of 22 August 2023

supplementing Regulation (EU) 2018/973 of the European Parliament and of the Council by specifying details of the landing obligation for certain fisheries in the North Sea for the period 2024-2027

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 ⁽¹⁾, and in particular Article 11 thereof,

Whereas:

- (1) Article 11 of Regulation (EU) 2018/973 empowers the Commission, on the basis of joint recommendations developed by Member States, 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 of the European Parliament and of the Council ⁽²⁾, as provided for in Article 15(5), points (a) to (e), of Regulation (EU) No 1380/2013.
- (2) Commission Delegated Regulation (EU) 2020/2014 ⁽³⁾ specifies the details of implementation of the landing obligation for certain demersal fisheries in the North Sea for the period 2021-2023, following a joint recommendation submitted by Belgium, Denmark, Germany, France, the Netherlands and Sweden (the 'Scheveningen Group'), which have a direct fisheries management interest in the North Sea. Delegated Regulation (EU) 2020/2014 was amended in 2021 ⁽⁴⁾ and 2022 ⁽⁵⁾.
- (3) The Scheveningen Group, after consulting the North Sea Advisory Council and the Pelagic Advisory Council, submitted an initial joint recommendation to the Commission on 1 May 2023.
- (4) The Scientific, Technical and Economic Committee for Fisheries (STECF) assessed the initial joint recommendation during the Plenary of 8-12 May 2023 ⁽⁶⁾.
- (5) On 12 July 2023, the Scheveningen Group submitted an updated version of the joint recommendation.
- (6) The Expert Group for Fisheries and Aquaculture considered the updated joint recommendation on 28 July 2023 in a meeting that the European Parliament attended as an observer.

⁽¹⁾ OJ L 179, 16.7.2018, p. 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).

⁽³⁾ 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 (OJ L 415, 10.12.2020, p. 10).

⁽⁴⁾ Commission Delegated Regulation (EU) 2021/2062 of 23 August 2021 amending Delegated Regulation (EU) 2020/2014 specifying details of implementation of the landing obligation for certain fisheries in the North Sea for the period 2021-2023 (OJ L 421, 26.11.2021, p. 4).

⁽⁵⁾ Commission Delegated Regulation (EU) 2022/2289 of 18 August 2022 amending Delegated Regulation (EU) 2020/2014 as regards exemptions to the landing obligation for certain fisheries in the North Sea for 2023 (OJ L 303, 23.11.2022, p. 6).

⁽⁶⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/61703874/STECF+23-0406+-+Ev+JRs+LO.pdf/5cf75911-6a7f-4aa5-be7d-3f371440b2bd>

- (7) Under Article 11 of Regulation (EU) 2018/973, the Commission has considered the updated joint recommendation in light of the STECF's assessment of the initial joint recommendation to ensure that the updated joint recommendation is compatible with the relevant Union conservation measures, including the landing obligation.
- (8) The Commission has also taken into account that: (i) the upcoming evaluation is expected to provide more information on the effectiveness, efficiency, coherence, relevance and Union added value of the landing obligation; and (ii) the STECF has noted that the current process of evaluating joint recommendations is inefficient, that further reflection is necessary as to how it can be further improved and that such reflection would allow discussion on data issues and on finding new ways to improve the implementation of the landing obligation ⁽⁷⁾.
- (9) Delegated Regulation (EU) 2020/2014 includes a high survivability exemption for Norway lobster using bottom trawls, including some with selectivity devices, in International Council for the Exploration of the Sea (ICES) division 3a and subarea 4. Member States requested that the exemption be continued. The STECF assessed the information submitted as part of the initial joint recommendation and concluded that while no new studies were submitted, previous studies on survivability were conducted in a robust manner ⁽⁸⁾. For that reason and for the reasons set out in recitals 7 and 8 above, the Commission therefore considers that the exemption requested should be granted from 1 January 2024 to 31 December 2027.
- (10) Delegated Regulation (EU) 2020/2014 includes a high survivability exemption for common sole caught with bottom trawls in ICES division 4c. Member States requested that the exemption be continued. The STECF assessed the information submitted as part of the initial joint recommendation and concluded that the evidence provided is robust and supports the requested exemption ⁽⁹⁾. For that reason and for the reasons set out in recitals 7 and 8 above, the Commission therefore considers that the exemption requested should be granted from 1 January 2024 to 31 December 2027.
- (11) Delegated Regulation (EU) 2020/2014 includes a high survivability exemption for by-catch of all species subject to catch limits in pots and fyke nets in ICES division 3a and subarea 4. Member States requested that the exemption be continued. The STECF assessed the information submitted as part of the initial joint recommendation and concluded that the mortality of discarded fish is likely to be low and that the actual catches are negligible ⁽¹⁰⁾. For these reasons and for the reasons set out in recitals 7 and 8 above, the Commission therefore considers that the exemption requested should be granted from 1 January 2024 to 31 December 2027.
- (12) Delegated Regulation (EU) 2020/2014 included a high survivability exemption for catch and by-catch of plaice caught with nets, Danish seines and bottom trawls with diverse mesh size specifications in the Union waters of ICES division 3a and subarea 4. Member States requested that the exemption be continued. The STECF assessed the information submitted as part of the initial joint recommendation and concluded that the estimated level of discards is high and survival rates are variable ⁽¹¹⁾. In previous years ⁽¹²⁾, the STECF indicated that survivability proved to be high for nets and Danish seines, while more variable for different mesh size specifications of bottom trawls. Moreover, in past assessments, the STECF noted that the seasonality and duration of air exposure are the main factors influencing plaice survival rates. For these reasons and for the reasons set out in recitals 7 and 8 above, the Commission therefore considers that the exemption requested should be granted from 1 January 2024 to 31 December 2027, provided that the unwanted catches of plaice are released immediately.

⁽⁷⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/61703874/STECF+23-0406+-+Ev+JRs+LO.pdf/5cf75911-6a7f-4aa5-be7d-3f371440b2bd>

⁽⁸⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/61703874/STECF+23-0406+-+Ev+JRs+LO.pdf/5cf75911-6a7f-4aa5-be7d-3f371440b2bd>

⁽⁹⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/61703874/STECF+23-0406+-+Ev+JRs+LO.pdf/5cf75911-6a7f-4aa5-be7d-3f371440b2bd>

⁽¹⁰⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/61703874/STECF+23-0406+-+Ev+JRs+LO.pdf/5cf75911-6a7f-4aa5-be7d-3f371440b2bd>

⁽¹¹⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/61703874/STECF+23-0406+-+Ev+JRs+LO.pdf/5cf75911-6a7f-4aa5-be7d-3f371440b2bd>

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

- (13) Delegated Regulation (EU) 2020/2014 included a high survivability exemption for plaice below the minimum conservation reference size caught by 80-119 mm beam trawl gears (BT2) in ICES subarea 4, for vessels with diverse engine power specifications, specific selective devices and vessels that implement the roadmap for Fully Documented Fisheries. Member States requested that the exemption be continued. The STECF assessed the information submitted as part of the initial joint recommendation and concluded that discard rates are high and survival rates are variable and lowest in the segments that account for highest catches ⁽¹³⁾. However, work is ongoing in the fisheries concerned to improve selectivity and survival probabilities. To allow this work to continue and for the reasons set out in recitals 7 and 8 above, the Commission therefore considers that the exemption should be granted from 1 January 2024 to 31 December 2027.
- (14) Delegated Regulation (EU) 2020/2014 includes a high survivability exemption for turbot caught with beam trawls in ICES subarea 4. Member States requested that the exemption be continued. The STECF assessed the information submitted as part of the initial joint recommendation and concluded that, given the level of discards and survival rates of turbot, the impact of the exemption is likely to be low. For this reason and for the reasons set out in recitals 7 and 8 above, the Commission therefore considers that the exemption requested should be granted from 1 January 2024 to 31 December 2027.
- (15) Delegated Regulation (EU) 2020/2014 includes a high survivability exemption for skates and rays in ICES division 3a and subarea 4. Member States requested that the exemption be continued. The STECF assessed the information submitted as part of the initial joint recommendation and concluded that while survivability is variable by gear and season, the level of cooperation between Member States is noteworthy and the exemption has been the catalyst for the research carried out on survivability. Moreover, Member States committed in the updated joint recommendation to carrying out a meta-analysis of survival aiming to assess the overall effect of the exemption. For these reasons and for the reasons set out in recitals 7 and 8 above, the Commission therefore considers that the exemption should be granted from 1 January 2024 to 31 December 2027.
- (16) Delegated Regulation (EU) 2020/2014 includes a high survivability exemption for catches of mackerel and herring in the purse seine fisheries in ICES division 3a and subarea 4. Member States requested that the exemption be continued. The STECF assessed the information submitted as part of the initial joint recommendation and concluded that, although it could not verify whether the conditions during the experiments are representative of the conditions experienced under commercial fishing operations, survival estimates of 70 % for mackerel and herring are the best available for purse seine fisheries ⁽¹⁴⁾. For this reason and for the reasons set out in recitals 7 and 8 above, the Commission therefore considers that the exemption requested should be granted from 1 January 2024 to 31 December 2027.
- (17) Delegated Regulation (EU) 2020/2014 includes a *de minimis* exemption for common sole caught with trammel nets and gillnets in ICES division 3a and subarea 4. Member States requested that the exemption be continued. The STECF assessed the information submitted as part of the initial joint recommendation and concluded that the information submitted is limited; however, the STECF indicated that the reasons provided by the Member States about selectivity improvements through increasing mesh sizes would likely result in commercial losses ⁽¹⁵⁾. For this reason and for the reasons set out in recitals 7 and 8 above, the Commission therefore considers that the exemption requested should be granted from 1 January 2024 to 31 December 2027.
- (18) Delegated Regulation (EU) 2020/2014 includes a *de minimis* exemption for common sole below minimum conservation reference size caught by beam trawls of mesh size 80-119 mm and equipped with a Flemish panel in ICES subarea 4. Member States requested that the exemption be continued. The STECF reviewed the information submitted as part of the initial joint recommendation and concluded that the information was limited, but indicated in its report that the exemption is related to the use of a gear modification that has shown to reduce the level of unwanted catches ⁽¹⁶⁾. For this reason and for the reasons set out in recitals 7 and 8 above, the Commission therefore considers that the exemption requested should be granted from 1 January 2024 to 31 December 2027.

⁽¹³⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/61703874/STECF+23-0406+-+Ev+JRs+LO.pdf/5cf75911-6a7f-4aa5-be7d-3f371440b2bd>

⁽¹⁴⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/61703874/STECF+23-0406+-+Ev+JRs+LO.pdf/5cf75911-6a7f-4aa5-be7d-3f371440b2bd>

⁽¹⁵⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/61703874/STECF+23-0406+-+Ev+JRs+LO.pdf/5cf75911-6a7f-4aa5-be7d-3f371440b2bd>

⁽¹⁶⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/61703874/STECF+23-0406+-+Ev+JRs+LO.pdf/5cf75911-6a7f-4aa5-be7d-3f371440b2bd>

- (19) Delegated Regulation (EU) 2020/2014 includes a *de minimis* exemption for common sole, haddock, whiting, cod, saithe and hake in the fishery for Norway lobster by vessels using bottom trawls with a mesh size equal to or larger than 70 mm equipped with selective devices in ICES division 3a. Member States requested that the exemption be continued. The STECF assessed the data submitted as part of the initial joint recommendation and concluded that the exemption was well founded in previous years and linked to the use of a proven selective gear ⁽¹⁷⁾. Considering that these circumstances have not changed and for the reasons set out in recitals 7 and 8 above, the Commission therefore considers that the exemption requested should be granted from 1 January 2024 to 31 December 2027.
- (20) Delegated Regulation (EU) 2020/2014 includes a *de minimis* exemption for catch of common sole, haddock, whiting, cod, plaice, saithe, herring, Norway pout, greater silver smelt and blue whiting in the fishery for Northern prawn in ICES division 3a. Member States requested that the exemption be continued. The STECF assessed the information submitted as part of the initial joint recommendation and concluded that the exemption was well founded in previous years and linked to the mandatory use of a highly selective gear ⁽¹⁸⁾. Considering that these circumstances have not changed and for the reasons set out in recitals 7 and 8 above, the Commission therefore considers that the exemption requested should be granted from 1 January 2024 to 31 December 2027.
- (21) Delegated Regulation (EU) 2020/2014 includes a *de minimis* exemption for whiting below minimum conservation reference size caught with bottom trawls in ICES division 3a. Member States requested that the exemption be continued. The STECF assessed the information submitted as part of the initial joint recommendation and indicated in its report that improving selectivity for whiting in these fisheries would result in disproportionate losses of marketable catches of other species ⁽¹⁹⁾. For this reason and for the reasons set out in recitals 7 and 8 above, the Commission therefore considers that the exemption requested should be granted from 1 January 2024 to 31 December 2027.
- (22) Delegated Regulation (EU) 2020/2014 includes a *de minimis* exemption for plaice below minimum conservation reference size caught with bottom trawls equipped with the SepNep panel in fisheries for Norway lobster in Union waters of ICES subarea 4. Member States requested that the exemption be continued. The STECF assessed the information submitted as part of the initial joint recommendation and concluded that while the new information submitted to support the exemption was limited, the STECF's previous assessments remained relevant because unwanted catches are likely to be reduced when bottom trawls are equipped with the SepNep panel ⁽²⁰⁾. For this reason and for the reasons set out in recitals 7 and 8 above, the Commission therefore considers that the exemption requested should be granted from 1 January 2024 to 31 December 2027.
- (23) Delegated Regulation (EU) 2020/2014 includes a *de minimis* exemption for all species subject to catch limits in the fishery for brown shrimp caught by beam trawls equipped throughout the year with diverse selective devices in accordance with Regulation (EU) 2019/1241 of the European Parliament and of the Council ⁽²¹⁾ in ICES divisions 4b and 4c. Member States requested that the exemption be continued with certain specifications. The STECF assessed the information submitted as part of the initial joint recommendation and concluded that the requested exemption was well founded in previous years because of disproportionate costs and because selectivity is difficult to improve. For these reasons and for the reasons set out in recitals 7 and 8 above, the Commission therefore considers that the exemption requested should be granted from 1 January 2024 to 31 December 2027.

⁽¹⁷⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/61703874/STECF+23-0406+-+Ev+JRs+LO.pdf/5cf75911-6a7f-4aa5-be7d-3f371440b2bd>

⁽¹⁸⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/61703874/STECF+23-0406+-+Ev+JRs+LO.pdf/5cf75911-6a7f-4aa5-be7d-3f371440b2bd>

⁽¹⁹⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/61703874/STECF+23-0406+-+Ev+JRs+LO.pdf/5cf75911-6a7f-4aa5-be7d-3f371440b2bd>

⁽²⁰⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/61703874/STECF+23-0406+-+Ev+JRs+LO.pdf/5cf75911-6a7f-4aa5-be7d-3f371440b2bd>

⁽²¹⁾ 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).

- (24) Delegated Regulation (EU) 2020/2014 includes a *de minimis* exemption for catch of ling below minimum conservation reference size caught by bottom trawls in ICES subarea 4. Member States requested that the exemption be continued. The STECF assessed the data submitted as part of the initial joint recommendation and concluded that while the new information to support the exemption was limited, the level of unwanted catches of ling is low in this fishery and therefore the impact on the stock is likely to be negligible ⁽²²⁾. For this reason and for the reasons set out in recitals 7 and 8 above, the Commission therefore considers that the exemption requested should be granted from 1 January 2024 to 31 December 2027.
- (25) Delegated Regulation (EU) 2020/2014 includes a *de minimis* exemption for whiting below minimum conservation reference size caught with bottom trawls or seines with a mesh size of 70-99 mm (TR2) in the Union waters of ICES division 4a, 4b and 4c. Member States requested that the exemption be continued. The STECF assessed the data submitted as part of the initial joint recommendation and indicated in its report that while the new information is generic and improving selectivity is possible, the selective devices tested in diverse research projects would result in significant commercial losses ⁽²³⁾. For this reason and for the reasons set out in recitals 7 and 8 above, the Commission therefore considers that the exemption requested should be granted from 1 January 2024 to 31 December 2027.
- (26) Delegated Regulation (EU) 2020/2014 includes a *de minimis* exemption for whiting below the minimum conservation reference size caught with beam trawls with a mesh size of 80-119 mm in the Union waters of ICES subarea 4. Member States requested that the exemption be continued. The STECF assessed the information submitted as part of the initial joint recommendation and concluded that the data submitted by the Member States provided reasonable arguments on the disproportionate costs for storing and handling on board and as to why it is difficult to improve selectivity ⁽²⁴⁾. Moreover, Member States committed in the updated joint recommendation to carry out further research on disproportionate costs. For these reasons and for the reasons set out in recitals 7 and 8 above, the Commission therefore considers that the exemption requested should be granted from 1 January 2024 to 31 December 2027.
- (27) Delegated Regulation (EU) 2020/2014 includes a *de minimis* exemption for a combined quantity of mackerel, horse mackerel and whiting caught with pelagic trawls up to 25 metres in length in ICES divisions 4b and 4c south of 54 degrees north. The STECF assessed the data submitted as part of the initial joint recommendation and concluded that while the information to support the exemption was limited, the level of unwanted catches is low and that the results of selectivity trials from other mackerel and herring fisheries demonstrate improvements in selectivity are difficult to achieve ⁽²⁵⁾. For this reason and for the reasons set out in recitals 7 and 8 above, the Commission therefore considers that the exemption requested should be granted from 1 January 2024 to 31 December 2027.
- (28) Delegated Regulation (EU) 2020/2014 includes a *de minimis* exemption for a combined quantity of sprat, sandeel, Norway pout and blue whiting in bottom trawl fisheries in ICES division 3a and subarea 4. Member States requested that the exemption be continued. The STECF assessed the information submitted as part of the initial joint recommendation and concluded that the exemption seems reasonable and well founded, and that the level of unwanted catches is low. In addition, in its report, the STECF indicated that the qualitative information provided in previous years to support disproportionate costs of handling unwanted catches on board are reasonable and that selectivity is difficult to improve ⁽²⁶⁾. For these reasons and for the reasons set out in recitals 7 and 8 above, the Commission therefore considers that the exemption requested should be granted from 1 January 2024 to 31 December 2027.

⁽²²⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/61703874/STECF+23-0406+-+Ev+JRs+LO.pdf/5cf75911-6a7f-4aa5-be7d-3f371440b2bd>

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⁽²⁴⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/61703874/STECF+23-0406+-+Ev+JRs+LO.pdf/5cf75911-6a7f-4aa5-be7d-3f371440b2bd>

⁽²⁵⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/61703874/STECF+23-0406+-+Ev+JRs+LO.pdf/5cf75911-6a7f-4aa5-be7d-3f371440b2bd>

⁽²⁶⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/61703874/STECF+23-0406+-+Ev+JRs+LO.pdf/5cf75911-6a7f-4aa5-be7d-3f371440b2bd>

- (29) Delegated Regulation (EU) 2020/2014 includes a *de minimis* exemption for ling below minimum conservation reference size in the demersal fisheries for hake using longlines in ICES subarea 4. Member States requested that the exemption be continued. The STECF assessed the information submitted as part of the initial joint recommendation and concluded that while the information to support the exemption was limited, the level of unwanted catches appears to be low and that the argument of selectivity difficult to achieve seems reasonable ⁽²⁷⁾. Moreover, in previous assessments, the STECF indicated that arguments regarding difficulties in improving selectivity were credible ⁽²⁸⁾. For these reasons and for the reasons set out in recitals 7 and 8 above, the Commission therefore considers that the exemption requested should be granted from 1 January 2024 to 31 December 2027.
- (30) Delegated Regulation (EU) 2020/2014 includes two *de minimis* exemptions for horse mackerel caught with bottom trawls with a mesh size between 80-99 mm (TR2), and mackerel in the demersal mixed fishery with bottom trawls with a mesh size between 80-99 mm (TR2) in ICES divisions 4b and 4c. Member States requested that these exemptions be continued. The STECF assessed the information submitted as part of the initial joint recommendation and concluded that while limited new data was provided, based on the data submitted, the level of unwanted catches of horse mackerel and mackerel is low. Moreover, the information submitted provided a reasonable justification for this exemption on the grounds of disproportionate costs. For these reasons and for the reasons set out in recitals 7 and 8 above, the Commission therefore considers that the exemption requested should be granted from 1 January 2024 to 31 December 2027.
- (31) Delegated Regulation (EU) 2020/2014 includes a *de minimis* exemption for blue whiting in the industrial pelagic fishery in ICES subarea 4. Member States requested that the exemption be continued. The STECF assessed the data submitted as part of the initial joint recommendation and concluded that while the information supporting the arguments of selectivity being difficult to achieve and disproportionate costs of handling unwanted catches was limited, the volume of unwanted catch of blue whiting compared to the total catch by the industrial vessel availing this exemption is likely to be small and would not have an impact on the overall blue whiting stock ⁽²⁹⁾. For that reason, in order to ensure consistency with the North Western Waters and the South Western Waters and for the reasons set out in recitals 7 and 8 above, the Commission therefore considers that the exemption requested should be granted from 1 January 2024 to 31 December 2027.
- (32) Delegated Regulation (EU) 2020/2014 includes a *de minimis* exemption for Northern prawn in the demersal fishery using trawls with mesh sizes above 70 mm in ICES division 3a and above 80 mm in ICES subarea 4. Member States requested that the exemption be continued. The STECF assessed the information submitted as part of the initial joint recommendation and concluded that the exemption seems reasonable and well founded. Moreover, in its report, the STECF indicated that it is reasonable to assume that improving selectivity further to reduce the small amount of unwanted catch in the fishery would be difficult to achieve ⁽³⁰⁾. For these reasons and for the reasons set out in recitals 7 and 8 above, the Commission therefore considers that the exemption requested should be granted from 1 January 2024 to 31 December 2027.
- (33) The measures in the updated joint recommendation are in line with Article 15(4), Article 15(5), point (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.
- (34) 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 on the day following that of its publication.
- (35) It should apply from 1 January 2024,

⁽²⁷⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/61703874/STECF+23-0406+-+Ev+JRs+LO.pdf/5cf75911-6a7f-4aa5-be7d-3f371440b2bd>

⁽²⁸⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/2694823/STECF+20-04+-+Eval+JRs+LO+and+TM+Reg.pdf/6176f9ad-0855-4985-b7de-64685862b6cb>

⁽²⁹⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/61703874/STECF+23-0406+-+Ev+JRs+LO.pdf/5cf75911-6a7f-4aa5-be7d-3f371440b2bd>

⁽³⁰⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/61703874/STECF+23-0406+-+Ev+JRs+LO.pdf/5cf75911-6a7f-4aa5-be7d-3f371440b2bd>

HAS ADOPTED THIS REGULATION:

Article 1

Definitions

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

- (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;
 - stretched length is at least 3 m;
- (2) '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 cod-end;
- (3) 'SepNep' means an otter trawl which:
 - is constructed within the mesh size range of 80 to 99 + ≥ 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;
 - 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 2

Implementation of the landing obligation

In Union waters of the North Sea (ICES division 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 2024-2027.

Article 3

Survivability exemptions for Norway lobster

1. The survivability exemption provided for in Article 15(4), point (b), of Regulation (EU) No 1380/2013 shall apply in the Union waters of the North Sea (ICES division 3a and subarea 4) to the following catches of Norway lobster (*Nephrops norvegicus*):
 - (a) catches with pots (FPO ⁽³¹⁾);
 - (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.

⁽³¹⁾ Gear codes used in this Regulation are set out in Annex XI to Commission Implementing Regulation (EU) No 404/2011 of 8 April 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 (OJ L 112, 30.4.2011, p. 1). For vessels whose length overall is less than 10 metres, gear codes used in this Regulation are set out in the gear classification of the Food and Agriculture Organization of the United Nations.

Article 4

Survivability exemption for common sole

1. The survivability exemption referred to in Article 15(4), point (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 6 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 metres and a maximum engine power of 221 kW, fishing in waters with a depth of 30 metres or less and with tow durations of no more than 90 minutes.
3. When discarding common sole caught in the cases referred to in paragraph 1, the common sole shall be released immediately.

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), point (b), of Regulation (EU) No 1380/2013 shall apply to all species subject to catch limits caught with pots (FPO) and fyke nets (FYK) in the Union waters of ICES division 3a and 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), point (b), of Regulation (EU) No 1380/2013 shall apply in the Union waters of ICES division 3a and subarea 4 to the following catches of plaice (*Pleuronectes platessa*):
 - (a) catches with nets (GNS, GTR, GTN, GEN);
 - (b) catches with Danish seines;
 - (c) catches with bottom trawls (OTB, PTB):
 - (i) with a mesh size of at least 120 mm, 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 a Seltra panel with a top panel of 140 mm mesh size (square mesh), with a top panel of 270 mm mesh size (diamond mesh) or with a top panel of 300 mm mesh size (square-mesh), or in sub-division Kattegat, a square mesh panel of at least 120 mm in the period from 1 October to 31 December every year 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), point (b), of Regulation (EU) No 1380/2013 shall apply in the Union waters of ICES subarea 4 to catches of plaice (*Pleuronectes platessa*) below the minimum conservation reference size 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 24 m in length overall, which are constructed to fish in the 12 miles zone, if the average trawl duration is less than 90 minutes.
3. When discarding plaice caught in the cases referred to in paragraph 1, the plaice shall be released immediately.

Article 8

Survivability exemption for turbot

1. The survivability exemption referred to in Article 15(4), point (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 (TBB) with a cod-end equal to or larger than 80 mm.
2. 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), point (b), of Regulation (EU) No 1380/2013 shall apply to skates and rays (*Rajiformes*) caught with fishing gear in the Union waters of the North Sea (ICES division 3a and subarea 4).
2. Member States having a direct management interest shall submit not later than 1 May 2027 a meta-analysis of survival to assess the impact of the exemption. The STECF shall assess the provided scientific information by 31 July 2027.
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 purse seine fisheries

1. The survivability exemption referred to in Article 15(4), point (b), of Regulation (EU) No 1380/2013 shall apply to mackerel (*Scomber scombrus*) and herring (*Clupea harengus*) caught in the purse seine fisheries in the Union waters of the North Sea (ICES division 3a and subarea 4), if all of the following conditions are met:
 - (a) the catch is released before the percentages of the purse seine set out in paragraphs 2 and 3 are 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 system that records and documents when, where and to which extent 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 of fish 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.

Article 11

De minimis exemptions for pelagic and demersal fisheries

1. 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), point (c), of that Regulation:
 - (a) In the 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 division 3a and subarea 4):

a quantity of common sole (*Solea solea*) below and above the minimum conservation reference size, which shall not exceed 3 % of the total annual catches of that species;
 - (b) in the fisheries for common sole by vessels using beam trawls (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 (*Solea solea*) below the minimum conservation reference size, which shall not exceed 5 % of the total annual catches of that species;
 - (c) 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 (*Solea solea*), haddock (*Melanogrammus aeglefinus*), whiting (*Merlangius merlangus*), cod (*Gadus morhua*), saithe (*Pollachius virens*) and hake (*Merluccius merluccius*) below the minimum conservation reference size, which shall not exceed 4 % of the total annual catches of Norway lobster (*Nephrops norvegicus*), common sole, haddock, whiting, Northern prawn (*Pandalus borealis*), cod, saithe and hake;
 - (d) in the fishery for Northern prawn (*Pandalus borealis*) 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 (*Solea solea*), haddock (*Melanogrammus aeglefinus*), whiting (*Merlangius merlangus*), cod (*Gadus morhua*), plaice (*Pleuronectes platessa*), saithe (*Pollachius virens*), herring (*Clupea harengus*), Norway pout (*Trisopterus esmarkii*), greater silver smelt (*Argentina silus*) and blue whiting (*Micromesistius poutassou*) below the minimum conservation reference size where it exists, which shall not exceed 5 % of the total annual catches of Norway lobster (*Nephrops norvegicus*), common sole, haddock, whiting, cod, plaice, saithe, herring, Northern prawn (*Pandalus borealis*), hake (*Merluccius merluccius*), Norway pout, greater silver smelt and blue whiting;
 - (e) in the fisheries by vessels using bottom trawls (OTB, OTT, TBN, PTB) with a mesh size of 90-119 mm, equipped with a Seltra panel with a top panel of 140 mm mesh size (square mesh), with a top panel of 270 mm mesh size (diamond mesh) or with a top panel of 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 (*Merlangius merlangus*) below the minimum conservation reference size, up to a maximum of 2 % of the total annual catches of whiting, Norway lobster (*Nephrops norvegicus*), cod (*Gadus morhua*), haddock (*Melanogrammus aeglefinus*), saithe (*Pollachius virens*), common sole (*Solea solea*), plaice (*Pleuronectes platessa*) and hake (*Merluccius merluccius*);

- (f) 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 (*Pleuronectes platessa*) below the minimum conservation reference size, which shall not exceed 3 % of the total annual catches of Norway lobster (*Nephrops norvegicus*), plaice (*Pleuronectes platessa*), saithe (*Pollachius virens*), haddock (*Melanogrammus aeglefinus*), whiting (*Merlangius merlangus*), cod (*Gadus morhua*), Northern prawn (*Pandalus borealis*) and common sole (*Solea solea*);
- (g) in the fisheries for brown shrimp by beam trawls using a mesh size of at least 22 mm and equipped with a sorting grid, sieve net or any other device that is approved by the Commission in accordance with Article 15(2) of Regulation (EU) 2019/1241, in the Union waters of ICES divisions 4b and 4c:
- a quantity of all species subject to catch limits, which shall not exceed 5 % of the total annual catches of all species subject to catch limits made in those fisheries;
- (h) in the demersal fisheries by vessels using bottom trawls (OTB, OTT, PTB) with a mesh size equal to or greater than 120 mm and catching ling in Union waters of ICES subarea 4:
- a quantity of ling (*Molva molva*) below minimum conservation reference size, which shall not exceed 3 % of the total annual catches of ling in that fishery;
- (i) in the mixed demersal fisheries by vessels using bottom trawls (OTB, OTT) or seines (SDN, SSC) with a mesh size of 70-99 mm (TR2) in the Union waters of ICES subarea 4:
- a quantity of whiting (*Merlangius merlangus*) below the minimum conservation reference size, which shall not exceed 4 % of the total annual catches of whiting;
- (j) 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 (*Merlangius merlangus*) below the minimum conservation reference size, which shall not exceed 2 % of the total annual catches of plaice (*Pleuronectes platessa*) and sole (*Solea solea*);
- (k) in pelagic fisheries carried out by pelagic trawlers up to 25 metres 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 (*Scomber scombrus*), horse mackerel (*Trachurus* spp.), and whiting (*Merlangius merlangus*) that shall not exceed 1 % of the total annual catches of mackerel, horse mackerel and whiting;
- (l) in the demersal mixed fishery with trawls (OTB, OTM, OTT, PTB, PTM, SDN, SPR, SSC, TB, TBN, TBS) with mesh sizes above 80 mm in ICES division 3a and subarea 4 and in the fishery for Northern prawn carried out under the conditions set out in Part B of Annex V to Regulation (EU) 2019/1241 and in the Skagerrak (ICES division 3an) fitted with a fish retention device as defined in that annex:
- a combined quantity of sprat (*Sprattus sprattus*), sandeel (*Ammodytes* spp.), Norway pout (*Trisopterus esmarkii*) and blue whiting (*Micromesistius poutassou*), which shall not exceed 0,1 % of the total annual catches of sprat, sandeel, Norway pout and blue whiting;
- (m) 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;
- (n) 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 5 % of the total annual catches of horse mackerel made in that fishery;
- (o) 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 5 % of the total annual catches of mackerel made in that fishery;
- (p) 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;

- (q) in the demersal fishery with trawls (OTB, OTM, OTT, PTB, PTM, SDN, SPR, SSC, TB, TBN) with a mesh size above 70 mm in ICES division 3a and subarea 4 carried out under the conditions set out in Part B of Annex V of Regulation (EU) 2019/1241:

a quantity of Northern prawn (*Pandalus borealis*), which shall not exceed 0,01 % of the total annual catches made in that fishery.

2. Member States having a direct management interest shall submit not later than by 1 May 2027 additional information on disproportionate costs supporting the exemption set out in point 1(j). The STECF shall assess the provided scientific information by 31 July 2027.

Article 12

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*.

It shall apply from 1 January 2024 until 31 December 2027.

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

Done at Brussels, 22 August 2023.

For the Commission

The President

Ursula VON DER LEYEN
