

COMMISSION DELEGATED REGULATION (EU) 2022/2564**of 16 August 2022****amending Delegated Regulation (EU) 2021/2064 supplementing Regulation (EU) No 1380/2013 of the European Parliament and of the Council as regards the establishment of a *de minimis* exemption to the landing obligation for certain demersal fisheries in the Adriatic and south-eastern Mediterranean**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC ⁽¹⁾, and in particular Article 15(7) thereof,

Whereas:

- (1) Commission Delegated Regulation (EU) 2017/86 ⁽²⁾ establishes a discard plan for certain demersal fisheries in the Mediterranean Sea applicable from 1 January 2017 until 31 December 2019.
- (2) In order to avoid the disproportionate costs of handling unwanted catches, Delegated Regulation (EU) 2017/86, established a *de minimis* exemption that applied to demersal species. That Delegated Regulation expired on 31 December 2021. A new *de minimis* exemption was established by Commission Delegated Regulation (EU) 2021/2064 ⁽³⁾. That exemption was established for demersal species until 31 December 2023, whereas for by-catches of small pelagics made in demersal fisheries the exemption was established only until 31 December 2022.
- (3) Croatia, Italy and Slovenia ('Adriatica High-Level Group') and Greece, Italy, Cyprus and Malta ('Sudestmed High-Level Group') have a direct fisheries management interest in the Adriatic Sea and south-eastern Mediterranean Sea respectively. On 1 May 2022 and 6 June 2022, the Adriatica High-Level Group and the Sudestmed High-Level Group requested the extension of the *de minimis* exemption for by-catches of small pelagics made in demersal fisheries laid down in Delegated Regulation (EU) 2021/2064. Both groups also submitted scientific evidence to support their request.
- (4) The scientific evidence was assessed by the Scientific, Technical and Economic Committee for Fisheries ('STECF') between 16 and 20 May 2022 ⁽⁴⁾.
- (5) On the 8 July 2022, the Adriatica High-Level Group and of the Sudestmed High-Level Group submitted an updated Joint Recommendation on the extension of the *de minimis* of the exemption to the landing obligation for one year.
- (6) The Commission notes that in the Adriatic Sea and south-eastern Mediterranean Sea, small pelagic species are caught at the same time, at highly varying quantities, making a single stock approach challenging. Those species are furthermore caught by small-scale fishing vessels and landed in many different landing points spread out geographically along the coast. This results in disproportionate costs of handling unwanted catches.

⁽¹⁾ OJ L 354, 28.12.2013, p. 22.

⁽²⁾ Commission Delegated Regulation (EU) 2017/86 of 20 October 2016 establishing a discard plan for certain demersal fisheries in the Mediterranean Sea (OJ L 14, 18.1.2017, p. 4).

⁽³⁾ Commission Delegated Regulation (EU) 2021/2064 of 25 August 2021 supplementing Regulation (EU) No 1380/2013 of the European Parliament and of the Council as regards the establishment of a *de minimis* exemption to the landing obligation for certain demersal fisheries in the Adriatic and south-eastern Mediterranean Sea (OJ L 421, 26.11.2021, p. 9).

⁽⁴⁾ Scientific, Technical and Economic Committee for Fisheries (STECF) – Evaluation of Joint Recommendations on the landing obligation and on Technical Measures Regulation (STECF-22-05).

- (7) The STECF acknowledged that a general reduction of the fishing effort of bottom trawl and the establishment of Fishing Restricted Areas as permanent closures for demersal fisheries would likely decrease the amount of bycatch of small pelagics.
- (8) The STECF further noted that while the combined *de minimis* approach included in the scientific evidence covers a broad group of species with a wide range of discard rates such broad coverage is a valid approach, given the complexity of the fisheries in the Adriatic Sea and south-eastern Mediterranean Sea.
- (9) In addition, the STECF considered that individual *de minimis* exemptions covering a single species would result in many separate exemptions that would be challenging to monitor.
- (10) The Adriatica High-Level group provided updated scientific evidence on disproportionate costs of handling unwanted catches. Although the STECF noted that estimates of the increase in costs are provided, it stressed the difficulties of evaluating the level at which costs become disproportionate. The STECF also acknowledged that the recent increase in fuel costs has worsened the overall situation. The STECF further noted the new results on the selectivity project and that further investigation on these selectivity devices is needed to find a balance between improving selectivity and minimising economic losses. Finally, the STECF noted that reducing the level of unwanted catches through the use of selective gears or marine protected areas should be prioritised.
- (11) The Commission welcomes the commitment taken by the Adriatica High-Level Group to work further on selectivity and fisheries spatial restrictions as a priority to achieve the reduction of unwanted catches. The Commission therefore considers that the progress on selectivity and the disproportionate costs justify that the exemption should be extended for one year with the proposed percentage levels.
- (12) The updated scientific evidence provided by the Adriatica High-Level group proposed to extend the *de minimis* exemption, for anchovy (*Engraulis encrasicolus*), sardine (*Sardina pilchardus*), mackerel (*Scomber* spp.) and horse mackerel (*Trachurus* spp.), up to a maximum of 5 % for 2023 of the total annual by-catches of those species caught by vessels using bottom trawls (OTB, OTT, PTB, TBN, TBS, TB, OT, PT, TX).
- (13) The STECF considered that while the discard rate is significant for this fishery, selectivity projects are still ongoing.
- (14) The Commission considers the evidence provided is sufficient to extend the exemption for one year, with the proposed percentage levels. The Adriatic High-Level Group should submit additional data, based on the ongoing projects.
- (15) The Sudestmed High-Level Group provided updated scientific evidence on disproportionate costs of handling unwanted catches. Although the STECF noted that estimates of the increase in costs are provided, it stressed the difficulties of evaluating the level at which costs are disproportionate. The STECF also acknowledged that the recent increase in fuel costs has worsened the overall situation. The STECF noted the ongoing studies due to be finalised during 2023. The STECF further noted that reducing the level of unwanted catches through the use of selective gears or marine protected areas should be prioritised.
- (16) The Commission welcomes the commitment taken by the Sudestmed High-Level Group to work further on selectivity and fisheries spatial restrictions as a priority to achieve the reduction of unwanted catches. The Commission therefore considers that the progress on selectivity and the disproportionate costs justify that the exemption should be extended for one year with the proposed percentage levels.
- (17) The updated scientific evidence provided by the Sudestmed High-Level Group' proposed to extend the *de minimis* exemption, for anchovy (*Engraulis encrasicolus*), sardine (*Sardina pilchardus*), mackerel (*Scomber* spp.) and horse mackerel (*Trachurus* spp.), up to a maximum of 5 % in for 2023 of the total annual by-catches of those species caught by vessels using bottom trawls (OTB, OTT, PTB, TBN, TBS, TB, OT, PT, TX).
- (18) The STECF considered that while the discard rate is significant for this fishery, the volume of catches is limited and selectivity projects are ongoing that will reduce the discard rate.

- (19) The Commission considers that the evidence submitted on disproportionate cost is sufficient to extend the exemption for one year, with the proposed percentage levels. The Sudestmed High-Level Group should submit additional data, based on the ongoing studies.
- (20) In their updated scientific evidences, Member States renewed their commitment to increase the selectivity of the fishing gears in accordance with the results of current research programmes in order to reduce and limit unwanted catches and particularly catches below minimum conservation reference sizes.
- (21) The measures requested are in line with Article 15(4), point (c), of Regulation (EU) No 1380/2013. Delegated Regulation (EU) 2021/2064 should therefore be amended accordingly.
- (22) Since the measures provided for in this Regulation impact directly on the planning of the fishing season of Union vessels and on related economic activities, this Regulation should enter into force immediately after its publication. For reasons of legal certainty, this Regulation should however apply from a later date,

HAS ADOPTED THIS REGULATION:

Article 1

De minimis exemption

Article 3 of Delegated Regulation (EU) 2021/2064 is amended as follows:

(1) paragraph 1 is amended as follows:

(i) point (a)(viii) is replaced by the following:

‘(viii) for anchovy (*Engraulis encrasicolus*), sardine (*Sardina pilchardus*), mackerel (*Scomber* spp.) and horse mackerel (*Trachurus* spp.), up to a maximum of 5 % for 2022 and 2023 of the total annual by-catches of those species caught by vessels using bottom trawls.’;

(ii) point (b)(vii) is replaced by the following:

“(vii) for anchovy (*Engraulis encrasicolus*), sardine (*Sardina pilchardus*), mackerel (*Scomber* spp.) and horse mackerel (*Trachurus* spp.), up to a maximum of 5 % for 2022 and 2023 of the total annual by-catches of those species caught by vessels using bottom trawls.”;

(2) paragraph 2 is replaced by the following:

‘2. By 1 May 2022 and 2023 the Member States having a direct management interest in the fisheries in the Adriatic and south-eastern Mediterranean Sea shall submit to the Commission additional data based on the ongoing projects and studies, and any other relevant scientific information supporting the exemption laid down in points (a)(viii) and (b)(vii) of paragraph 1. The STECF shall assess those data and that information by July 2023 at the latest.’

Article 2

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 2023 until 31 December 2023.

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

Done at Brussels, 16 August 2022.

For the Commission
The President
Ursula VON DER LEYEN
