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⁽¹⁾ Text with EEA relevance.

II

(Non-legislative acts)

REGULATIONS

COMMISSION DELEGATED REGULATION (EU) 2018/2033**of 18 October 2018****establishing a discard plan for certain demersal fisheries in South-Western waters for the period 2019-2021**

THE EUROPEAN COMMISSION,

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

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

Whereas:

- (1) Regulation (EU) No 1380/2013 aims to progressively eliminate discards in all Union fisheries through the introduction of a landing obligation for catches of species subject to catch limits.
- (2) Article 15(6) of Regulation (EU) No 1380/2013 empowers the Commission to adopt discard plans by means of a delegated act, for an initial period of no more than three years that may be renewed for a further total period of three years, on the basis of joint recommendations developed by Member States in consultation with the relevant Advisory Councils.
- (3) Belgium, Spain, France, the Netherlands and Portugal have a direct fisheries management interest in the South-Western waters. By Delegated Regulation (EU) 2015/2439 ⁽²⁾, the Commission established a discard plan for certain demersal fisheries in South-Western waters for the period 2016-2018, which was repealed and replaced by Commission Delegated Regulation (EU) 2016/2374 ⁽³⁾, following a joint recommendation submitted by Belgium, Spain, France, the Netherlands and Portugal in 2016. Delegated Regulation (EU) 2016/2374 was amended by Commission Delegated Regulation (EU) 2018/44 ⁽⁴⁾.
- (4) On 31 May 2018 Belgium, Spain, France, the Netherlands and Portugal submitted a new joint recommendation to the Commission after consulting the South Western Waters Advisory Council. Scientific contributions were obtained from relevant scientific bodies and reviewed by the Scientific, Technical and Economic Committee for Fisheries (STECF) ⁽⁵⁾. On 11 September 2018 an expert group meeting attended by representatives of 28 Member States, the Commission as well as the European Parliament as an observer took place and the measures concerned were discussed.
- (5) Delegated Regulation (EU) 2016/2374 included an exemption from the landing obligation for Norway lobster caught by bottom trawls in International Council for the Exploration of the Seas (ICES) subareas 8 and 9,

⁽¹⁾ OJ L 354, 28.12.2013, p. 22.

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

⁽³⁾ Commission Delegated Regulation (EU) 2016/2374 of 12 October 2016 establishing a discard plan for certain demersal fisheries in South-Western waters (OJ L 352, 23.12.2016, p. 33).

⁽⁴⁾ Commission Delegated Regulation (EU) 2018/44 of 20 October 2017 amending Delegated Regulation (EU) 2016/2374 establishing a discard plan for certain demersal fisheries in South-Western waters (OJ L 7, 12.1.2018, p. 1).

⁽⁵⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/2147402/STECF+PLEN+18-02.pdf>

as existing scientific evidence indicated possible high survival rates, taking into account the characteristics of the gears targeting that species, the fishing practices and the ecosystem. The STECF in its evaluation ⁽¹⁾ concluded that the latest experiments and studies completed in 2016-2018 show survival rates in the range of the survival rate observed in the previous work. Therefore, considering that the circumstances have not changed, that survivability exemption should be maintained in the South-Western waters demersal discard plan for the period 2019-2021.

- (6) For skates and rays caught with all gears in ICES subareas 8 and 9, detailed scientific evidence on survival rates is not available for all fleet segment and combinations that benefit from the exemption. However, with a few exceptions, survival rates are considered to be generally robust, but further detail is required. In order to collect this data, fishing would need to continue and as such, the Commission considers that the exemption should be granted but Member States should have the obligation to submit relevant data allowing STECF to fully assess the justification and allowing the Commission to carry out a review. Member States having a direct management interest should submit as soon as possible before 31 May each year: (a) a roadmap developed in order to increase survivability and to fill in the data gaps identified by STECF, to be annually assessed by STECF, (b) annual reports on the progress and any modifications or adjustments made to the survivability programmes.
- (7) When considering the survival rates of skates and rays, cuckoo rays (*Leucoraja naevus*) were found to have a considerably lower survival rate than other species, with less robust scientific understanding. However to exclude this species altogether from the exemption would prevent fishing and continued, accurate data collection. Therefore, the Commission considers this exemption should only be granted for 1 year and that new studies and improved survivability measures should be developed as a matter of urgency and provided to STECF for assessment as soon as possible before 31 May 2019.
- (8) The new joint recommendation also suggests a survivability exemption for red seabream caught with artisanal gear 'voracera' in ICES division 9a. The Member States provided scientific evidence in order to demonstrate discard survival rates of red seabream. The evidence was submitted to STECF which concluded that the exemption is well justified. That exemption should therefore be included in the new discard plan for the years 2019-2021.
- (9) The new joint recommendation also suggests a survivability exemption for red seabream caught with hooks and lines in ICES subarea 10. The Member States provided scientific evidence in order to demonstrate the survival rates of red seabream in that fishery. The evidence was submitted to STECF which concluded that the exemption is well justified. That exemption should therefore be included in the new discard plan for the years 2019-2021.
- (10) Delegated Regulation (EU) 2016/2374 included *de minimis* exemptions from the landing obligation pursuant to Article 15(5)(c) of Regulation (EU) No 1380/2013 for common sole caught with beam trawls and bottom trawls in ICES divisions 8a and 8b and for common sole caught with trammel nets and gillnets in ICES divisions 8a and 8b. The evidence provided by the Member States for those exemptions in the new joint recommendation was reviewed by the STECF ⁽²⁾. The STECF concluded that the joint recommendation contained reasoned arguments related to the difficulty of increasing selectivity combined with disproportionate costs of handling unwanted catches. Therefore, considering that the circumstances have not changed, the *de minimis* exemptions should be maintained in the South-Western waters demersal discard plan for the period 2019-2021.
- (11) Delegated Regulation (EU) 2016/2374 included a *de minimis* exemption from the landing obligation pursuant to Article 15(5)(c) of Regulation (EU) No 1380/2013 for hake caught with trawls and seines in ICES subareas 8 and 9. The evidence provided by the Member States for that exemption was reviewed by the STECF, which concluded ⁽³⁾ that more trials should be performed in order to assess the selectivity improvement. In order to collect this data, fishing would need to continue and as such, the Commission considers that the exemption should be granted provisionally, but Member States should have the obligation to submit relevant data allowing STECF to fully assess the justification and allowing the Commission to carry out a review. Therefore, the *de minimis* exemption should be granted provisionally until 31 December 2019. The Member States concerned should undertake additional trials and provide information as soon as possible before 31 May 2019 for the assessment of the STECF.
- (12) The new joint recommendation contains new *de minimis* exemptions for:
 - alfonsinos caught with hooks and lines in ICES subarea 10,
 - great forkbeard caught with hooks and lines in ICES subarea 10,

⁽¹⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/1099561/STECF+PLEN+15-02.pdf>

⁽²⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/1099561/STECF+PLEN+15-02.pdf>

⁽³⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/2147402/STECF+PLEN+18-02.pdf>

- horse mackerel caught with trawls and seines in ICES subareas 8 and 9,
 - horse mackerel caught with gillnets in ICES subareas 8, 9 and 10 and Fishery Committee for the Eastern Central Atlantic (CECAF) areas 34.1.1, 34.1.2, 34.2.0,
 - mackerel caught with trawls and seines in ICES subareas 8 and 9,
 - mackerel caught with gillnets in ICES subareas 8, 9 and 10 and CECAF areas 34.1.1, 34.1.2, 34.2.0,
 - anchovy caught with trawls and seines in ICES subareas 8 and 9,
 - boarfish caught with trawls and seines in ICES subareas 8 and 9,
 - megrim caught with trawls and seines in ICES subareas 8 and 9,
 - megrim caught with gillnets in ICES subareas 8 and 9,
 - plaice caught with trawls and seines in ICES subareas 8 and 9,
 - plaice caught with gillnets in ICES subareas 8 and 9,
 - anglerfish caught with trawls and seines in ICES subareas 8 and 9,
 - anglerfish caught with gillnets in ICES subareas 8 and 9,
 - whiting caught with trawls and seines in ICES subareas 8 and 9,
 - whiting caught with gillnets in ICES subareas 8 and 9,
 - pollack caught with trawls and seines in ICES subareas 8 and 9,
 - pollack caught with gillnets in ICES subareas 8 and 9,
 - great forkbeard caught with trawls and seines in ICES division 9a,
 - red seabream caught with trawls and seines in ICES division 9a,
 - sole caught with trawls and seines in ICES division 9a.
- (13) Member States provided information for the *de minimis* exemptions for alfonosinos and great forkbeard caught with hooks and lines in ICES subarea 10. STECF reviewed that evidence and concluded that the information provided contained reasoned arguments demonstrating that further improvements in selectivity are difficult to achieve or imply disproportionate costs in handling unwanted catches. It is therefore appropriate to include these *de minimis* exemptions in the new discard plan for the years 2019-2021.
- (14) The information provided by the Member States needs to be completed as regards the new *de minimis* exemptions for these species individually:
- horse mackerel, mackerel, anchovy, boarfish, megrim, plaice, anglerfish, whiting, pollack caught with trawls and seines in ICES subareas 8 and 9;
 - megrim, plaice, anglerfish, whiting and pollack caught with gillnets in ICES subareas 8 and 9;
 - horse mackerel and mackerel caught with gillnets in ICES subareas 8, 9 and 10 and CECAF areas 34.1.1, 34.1.2, 34.2.0; and
 - great forkbeard, red seabream and sole caught with trawls and seines in ICES division 9a.
- Under those circumstances, these individual exemptions for each species should be limited to 1 year and the Member States should have the obligation to submit relevant data allowing STECF to fully assess the justification and allowing the Commission to carry out a review. These *de minimis* exemptions should be granted provisionally until 31 December 2019. The Member States concerned should undertake additional trials and provide information as soon as possible before 31 May 2019 for assessment by STECF.
- (15) To ensure reliable estimations of levels of discarding for the purpose of the setting of the total allowable catches (TACs), Member States should, in 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 this *de minimis* provision.
- (16) 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 may thus be included in this Regulation.

- (17) Under Article 18 of the Regulation (EU) No 1380/2013, the Commission has considered both the STECF's assessment and the need for Member States to ensure the full implementation of the landing obligation on the 1 January 2019. In several cases, exemptions require continued fishing activity and data collection in order to address the comments made by the STECF. In these cases, the Commission considers it to be a pragmatic and prudent approach to fisheries management, to allow exemptions on a temporary basis, on the understanding that not to do so, would prevent necessary data collection indispensable for the proper and informed management of discards in view of full entry into force of the landing obligation.
- (18) Since the measures provided for in this Regulation impact directly on the economic activities linked to and the planning of the fishing season of Union vessels, this Regulation should enter into force immediately after its publication. It should apply from 1 January 2019,

HAS ADOPTED THIS REGULATION:

Article 1

Implementation of the landing obligation

In ICES subareas 8, 9, 10 and Fishery Committee for the Eastern Central Atlantic (CECAF) areas 34.1.1, 34.1.2, 34.2.0 the landing obligation provided for in Article 15(1) of Regulation (EU) No 1380/2013 shall apply to demersal species in accordance with this Regulation for the period 2019-2021.

Article 2

Definitions

'Voracera' means an artisanal fishing gear, locally designed and built mechanized hook line, used by the artisanal fleet targeting red seabream in the South of Spain in ICES division 9a.

Article 3

Survivability exemption for Norway lobster

1. The exemption from the landing obligation for species for which scientific evidence demonstrates high survival rates, as provided for in Article 15(4)(b) of Regulation (EU) No 1380/2013, shall apply to Norway lobster (*Nephrops norvegicus*) caught in ICES subareas 8 and 9 with bottom trawls (gear codes ⁽¹⁾: OTB, OTT, PTB, TBN, TBS, TB, TBB, OT, PT and TX).
2. When discarding Norway lobster caught in 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 skates and rays

1. The exemption from the landing obligation for species for which scientific evidence demonstrates high survival rates, as provided for in Article 15(4)(b) of Regulation (EU) No 1380/2013, shall apply to skates and rays (*Rajiformes*) caught with all gears in ICES subareas 8 and 9. When discarding skates and rays caught in that area, they shall be released immediately.
2. Member States having a direct management interest shall submit yearly additional scientific information supporting the exemption laid down in paragraph 1. The Scientific, Technical and Economic Committee for Fisheries shall assess the provided scientific information before 1 August every year.

⁽¹⁾ Gear codes used in this Regulation refer to those codes 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 table refer to the codes from the FAO gear classification.

3. The exemption referred to in paragraph 1 shall apply to Cuckoo ray until 31 December 2019. Member States having a direct management interest shall submit as soon as possible before 31 May 2019, additional scientific information supporting that exemption. The Scientific, Technical and Economic Committee for Fisheries shall assess the provided scientific information before 1 August 2019.

Article 5

Survivability exemption for red sea bream

1. The exemption from the landing obligation for species for which scientific evidence demonstrates high survival rates, as provided for in Article 15(4)(b) of Regulation (EU) No 1380/2013, shall apply to red seabream (*Pagellus bogaraveo*) caught with the artisanal gear *voracera* used in ICES division 9a and to red seabream (*Pagellus bogaraveo*) caught with hooks and lines in ICES subarea 10.

2. When discarding red sea bream caught in cases referred to in paragraph 1, the red seabream shall be released immediately.

Article 6

De minimis exemptions

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(5)(c) of that Regulation:

- (a) for hake (*Merluccius merluccius*), up to a maximum of 6 % in 2019 of the total annual catches of that species by vessels using trawls and seines (gear codes: OTT, OTB, PTB, OT, PT, TBN, TBS, TX, SSC, SPR, TB, SDN, SX, SV) in ICES subareas 8 and 9;
- (b) for common sole (*Solea solea*), up to a maximum of 5 % of the total annual catches of that species by vessels using beam trawl and bottom trawls (gear codes: OTB, OTT, PTB, TBN, TBS, TBB, OT, PT and TX) in ICES divisions 8a and 8b;
- (c) for common sole (*Solea solea*), up to a maximum of 3 % of the total annual catches of that species by vessels using trammel nets and gillnets (gear codes: GNS, GN, GND, GNC, GTN, GTR and GEN) in ICES divisions 8a and 8b;
- (d) for alfonsinos (*Beryx spp.*), up to a maximum of 5 %, of the total annual catches of that species by vessels using hooks and lines (gear codes: LHP, LHM, LLS, LLD) in ICES subarea 10;
- (e) for great forkbeard (*Phycis blennoides*), up to a maximum of 3 % of the total annual catches of that species by vessels using hooks and lines (gear codes: LHP, LHM, LLS, LLD) in ICES subarea 10;
- (f) for horse mackerel (*Trachurus spp.*), up to a maximum of 7 % in 2019 of the total annual catches of that species by vessels using beam trawl, bottom trawls and seines (gear codes: OTB, OTT, PTB, TBN, TBS, TBB, OT, PT, TX, SSC, SPR, SDN, SX, SV) in ICES subareas 8 and 9;
- (g) for horse mackerel (*Trachurus spp.*), up to a maximum of 3 % in 2019 of the total annual catches of that species by vessels using gillnets (gear codes: GNS, GND, GNC, GTR, GTN) in ICES subareas 8, 9 and 10 and and CECAF areas 34.1.1, 34.1.2, 34.2.0;
- (h) for mackerel (*Scomber scombrus*), up to a maximum of 7 % in 2019 of the total annual catches of that species by vessels using beam trawl, bottom trawls and seines (gear codes: OTB, OTT, PTB, TBN, TBS, TBB, OT, PT, TX, SSC, SPR, SDN, SX, SV) in ICES subareas 8 and 9;
- (i) for mackerel (*Scomber scombrus*), up to a maximum of 3 % in 2019 of the total annual catches of that species by vessels using gillnets (gear codes: GNS, GND, GNC, GTR, GTN) in ICES subareas 8, 9 and 10 and and CECAF areas 34.1.1, 34.1.2, 34.2.0;
- (j) for anchovy (*Engraulis encrasicolus*), up to a maximum of 7 % in 2019 of the total annual catches of that species by vessels using beam trawl, bottom trawls and seines (gear codes: OTB, OTT, PTB, TBN, TBS, TBB, OT, PT, TX, SSC, SPR, SDN, SX, SV) in ICES subareas 8 and 9;

- (k) for boarfish (*Caproidae*), up to a maximum of 7 % in 2019 of the total annual catches of that species by vessels using beam trawl, bottom trawls and seines (gear codes: OTB, OTT, PTB, TBN, TBS, TBB, OT, PT, TX, SSC, SPR, SDN, SX, SV) in ICES subareas 8 and 9;
- (l) for megrim (*Lepidorhombus* spp.), up to a maximum of 5 % in 2019 of the total annual catches of that species by vessels using beam trawl, bottom trawls and seines (gear codes: OTB, OTT, PTB, TBN, TBS, TBB, OT, PT, TX, SSC, SPR, SDN, SX, SV) in ICES subareas 8 and 9;
- (m) for megrim (*Lepidorhombus* spp.), up to a maximum of 4 % in 2019 of the total annual catches of that species by vessels using gillnets (gear codes: GNS, GND, GNC, GTR, GTN) in ICES subareas 8 and 9;
- (n) for plaice (*Pleuronectes platessa*), up to a maximum of 5 % in 2019 of the total annual catches of that species by vessels using beam trawl, bottom trawls and seines (gear codes: OTB, OTT, PTB, TBN, TBS, TBB, OT, PT, TX, SSC, SPR, SDN, SX, SV) in ICES subareas 8 and 9;
- (o) for plaice (*Pleuronectes platessa*), up to a maximum of 4 % in 2019 of the total annual catches of that species by vessels using gillnets (gear codes: GNS, GND, GNC, GTR, GTN) in ICES subareas 8 and 9;
- (p) for anglerfish (*Lophiidae*), up to a maximum of 5 % in 2019 of the total annual catches of that species by vessels using beam trawl, bottom trawls and seines (gear codes: OTB, OTT, PTB, TBN, TBS, TBB, OT, PT, TX, SSC, SPR, SDN, SX, SV) in ICES subareas 8 and 9;
- (q) for anglerfish (*Lophiidae*), up to a maximum of 4 % in 2019 of the total annual catches of that species by vessels using gillnets (gear codes: GNS, GND, GNC, GTR, GTN) in ICES subareas 8 and 9;
- (r) for whiting (*Merlangius merlangus*), up to a maximum of 5 % in 2019 of the total annual catches of that species by vessels using beam trawl, bottom trawls and seines (gear codes: OTB, OTT, PTB, TBN, TBS, TBB, OT, PT, TX, SSC, SPR, SDN, SX, SV) in ICES subareas 8 and 9;
- (s) for whiting (*Merlangius merlangus*), up to a maximum of 4 % in 2019 of the total annual catches of that species by vessels using gillnets (gear codes: GNS, GND, GNC, GTR, GTN) in ICES subareas 8 and 9;
- (t) for pollack (*Pollachius pollachius*), up to a maximum of 5 % in 2019 of the total annual catches of that species by vessels using beam trawl, bottom trawls and seines (gear codes: OTB, OTT, PTB, TBN, TBS, TBB, OT, PT, TX, SSC, SPR, SDN, SX, SV) in ICES subareas 8 and 9;
- (u) for pollack (*Pollachius pollachius*), up to a maximum of 4 % in 2019 of the total annual catches of that species by vessels using gillnets (gear codes: GNS, GND, GNC, GTR, GTN) in ICES subareas 8 and 9;
- (v) for great forkbeard (*Phycis blennoides*), up to a maximum of 7 % in 2019 of the total annual catches of that species by vessels using beam trawl, bottom trawls and seines (gear codes: OTB, OTT, PTB, TB, TBN, TBS, OT, PT, TX, SSC, SPR, SDN, SX, SV) in ICES division 9a;
- (w) for red seabream (*Pagellus bogaraveo*), up to a maximum of 7 % in 2019 of the total annual catches of that species by vessels using beam trawl, bottom trawls and seines (gear codes: OTB, OTT, PTB, TB, TBN, TBS, OT, PT, TX, SSC, SPR, SDN, SX, SV) in ICES division 9a;
- (x) for sole (*Solea* spp.), up to a maximum of 7 % in 2019 of the total annual catches of that species by vessels using beam trawl, bottom trawls and seines (gear codes: OTB, OTT, PTB, TB, TBN, TBS, OT, PT, TX, SSC, SPR, SDN, SX, SV) in ICES division 9a.

2. The *de minimis* exemptions set out in the paragraph 1 points (a) and (f)-(x) shall be provisionally applicable until 31 December 2019. Member States having a direct management interest shall submit as soon as possible before 31 May 2019, additional scientific information supporting the exemption. The Scientific, Technical and Economic Committee for Fisheries shall assess the provided scientific information before 1 August 2019.

Article 7

Entry into force

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

It shall apply from 1 January 2019 until 31 December 2021.

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

Done at Brussels, 18 October 2018.

For the Commission

The President

Jean-Claude JUNKER

COMMISSION DELEGATED REGULATION (EU) 2018/2034
of 18 October 2018
establishing a discard plan for certain demersal fisheries in North-Western waters for the period
2019-2021

THE EUROPEAN COMMISSION,

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

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

Whereas:

- (1) Regulation (EU) No 1380/2013 aims to progressively eliminate discards in all Union fisheries through the introduction of a landing obligation for catches of species subject to catch limits.
- (2) In order to implement the landing obligation, Article 15(6) of Regulation (EU) No 1380/2013 empowers the Commission to adopt discard plans by means of a delegated act for an initial period of no more than three years that might be renewed for a further total period of three years on the basis of joint recommendations developed by Member States in consultation with the relevant Advisory Councils.
- (3) Commission Delegated Regulation (EU) 2015/2438 ⁽²⁾ established a discard plan for certain demersal fisheries in North Western waters for period 2016-2018 following a joint recommendation submitted to the Commission by Belgium, Spain, France, Ireland, the Netherlands and the United Kingdom. That Regulation was repealed and replaced by Commission Delegated Regulation (EU) 2016/2375 ⁽³⁾.
- (4) Delegated Regulation (EU) 2016/2375 established a discard plan for certain demersal fisheries in North Western waters for the period 2017-2018, as suggested in a new joint recommendation submitted by Belgium, Spain, France, Ireland, the Netherlands and the United Kingdom. That Regulation was repealed and replaced by Commission Delegated Regulation (EU) 2018/46 ⁽⁴⁾.
- (5) Commission Delegated Regulation (EU) 2018/46 established a discard plan for certain demersal and deep sea fisheries in the North-Western waters for the year 2018, following a joint recommendation submitted by Belgium, Spain, France, Ireland, the Netherlands and the United Kingdom.
- (6) Belgium, Spain, France, Ireland, the Netherlands and the United Kingdom have a direct fisheries management interest in the North-Western waters. After consulting the North Western Waters Advisory Council and the Pelagic Advisory Council, those Member States submitted on 31 May 2018 a new joint recommendation to the Commission concerning a discard plan for certain demersal fisheries in the North-Western Waters for the period 2019-2021. The joint recommendation was amended on 30 August 2018.
- (7) Scientific contributions were obtained from relevant scientific bodies and reviewed by the Scientific, Technical and Economic Committee for Fisheries (STECF) ⁽⁵⁾. On 11 September 2018 an expert group meeting attended by representatives of 28 Member States, the Commission as well as the European Parliament as an observer took place and the measures concerned were discussed. For some stocks, such as plaice, the STECF identified that survival rates of individual fish may not be as robust as that found in other species. However the Commission had considered the relative impact of this exemption on the overall stock, compared to individual fish, and

⁽¹⁾ OJ L 354, 28.12.2013, p. 22.

⁽²⁾ Commission Delegated Regulation (EU) 2015/2438 of 12 October 2015 establishing a discard plan for certain demersal fisheries in North-Western waters (OJ L 336, 23.12.2015, p. 29).

⁽³⁾ Commission Delegated Regulation (EU) 2016/2375 of 12 October 2016 establishing a discard plan for certain demersal fisheries in North-Western waters (OJ L 352, 23.12.2016, p. 39).

⁽⁴⁾ Commission Delegated Regulation (EU) 2018/46 of 20 October 2017 establishing a discard plan for certain demersal and deep sea fisheries in North-Western waters for the year 2018 (OJ L 7, 12.1.2018, p. 13).

⁽⁵⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/2147402/STECF+PLEN+18-02.pdf>

balanced this against the need to continue fishing activity to provide data collection in order to address the comments made by the STECF. In cases where the relative amount of dead discards are relatively low, the Commission considers it to be a pragmatic and prudent approach to fisheries management, to allow exemptions on a temporary basis, on the understanding that not to do so would prevent necessary data collection indispensable for the proper and informed management of discards in view of full entry into force of the landing obligation.

- (8) Delegated Regulation (EU) 2018/46 included a survivability exemption from the landing obligation, as referred to in Article 15(4)(b) of Regulation (EU) No 1380/2013, for Norway lobster caught by pots, traps or creels in ICES subareas 6 and 7, based on the scientific evidence which demonstrated the survival rates. That evidence has been evaluated in previous years and STECF has concluded ⁽¹⁾ that the exemption is justified. The new joint recommendation suggests the continuation of that exemption. Considering that the circumstances have not changed, that exemption should be therefore continued in the discard plan for 2019-2021.
- (9) Delegated Regulation (EU) 2018/46 included a survivability exemption for common sole below the minimum conservation reference size (MCRS) caught with 80-99 mm otter trawl gears in ICES division 7d within six nautical miles from the coast and outside identified nursery areas, based on scientific evidence which demonstrated discard survival rates. That evidence has been evaluated in previous years and STECF has concluded ⁽²⁾ that the evidence was sufficient. The new joint recommendation suggests the continued application of the exemption. STECF pointed out that no new information on the location of nursery areas was provided ⁽³⁾. Since currently there are no identified nursery areas, the exemption may be included in the new discard plan for the years 2019-2021, but Member States should submit the relevant information as soon as such areas will be identified.
- (10) The new joint recommendation suggests a survivability exemption for Norway lobster caught using bottom trawls with a mesh size equal to or larger than 100 mm and for Norway lobster caught with bottom trawls with a mesh size of 70-99 mm in combination with selective gear options (TR1 and TR2 fisheries) in ICES subarea 7. Member States provided scientific evidence in order to demonstrate discard survival rates for Norway lobster in that fishery. The evidence was submitted to STECF which concluded that the survival study made with Seltra trawl provided a sufficient data, however the overall effect on the extensive fishery of Norway lobster with other fishing gears remains difficult to assess. STECF noted that assuming that a relatively high survival rate applies to all gears, a relatively low discard rate is implied in that fishery. That exemption should therefore be included in the new discard plan for the years 2019-2021.
- (11) The new joint recommendation suggests a survivability exemption for Norway lobster caught in ICES division 6a, within twelve nautical miles of the coast, using otter trawls with a mesh size of 80-110 mm in combination with selective gear options. Member States provided scientific evidence in order to demonstrate discard survival rates for Norway lobster in that fishery. The evidence was submitted to STECF which concluded that the survivability study is robust and indicates a relatively high survival rate. That exemption should therefore be included in the new discard plan for the years 2019-2021.
- (12) For skates and rays caught with any gear in ICES subareas 6 and 7, detailed scientific evidence on survival rates is not available for all fleet segment and combinations that benefit from the exemption. However, with a few exceptions, survival rates are considered to be generally robust, but further detail is required. In order to collect this data, fishing would need to continue and as such, the Commission considers that the exemption should be granted but Member States should have the obligation to submit relevant data allowing STECF to fully assess the justification and allowing the Commission to carry out a review. Member States having a direct management interest should submit as soon as possible before 31 May each year: (a) a roadmap developed in order to increase survivability and to fill in the data gaps identified by STECF, to be annually assessed by STECF, (b) annual reports on the progress and any modifications or adjustments made to the survivability programmes.
- (13) When considering the survival rates of skates and rays, cuckoo rays (*Leucoraja naevus*) were found to have a considerably lower survival rate than other species, with less robust scientific understanding. However to exclude this species altogether from the exemption would prevent fishing and continued, accurate data collection. Therefore the Commission considers this exemption should only be granted for 1 year and that new studies and improved survivability measures should be developed as a matter of urgency and provided to STECF for assessment as soon as possible before 31 May 2019.

⁽¹⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/1099561/STECF+PLEN+15-02.pdf>

⁽²⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/1099561/STECF+PLEN+15-02.pdf>

⁽³⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/2147402/STECF+PLEN+18-02.pdf>

- (14) The new joint recommendation suggests survivability exemptions for plaice caught with trammel nets or otter trawls in ICES divisions 7d, 7e, 7f and 7g. Member States provided the scientific evidence in order to demonstrate the survival rates for plaice in that fishery. The evidence was submitted to STECF which concluded that survivability study is robust and indicates a relatively high survival rate. That exemption should therefore be included in the new discard plan for the years 2019-2021.
- (15) The new joint recommendation suggests survivability exemptions for plaice caught in ICES divisions 7a-7k by vessels using beam trawls, with a maximum engine power of 221 kW, a maximum length of 24 meters, fishing within 12 nautical miles and with tow durations of no more than 1:30 hours and by vessels using beam trawls with an engine power of more than 221 kW, using a flip-up rope or benthic release panel. Member States provided scientific evidence in order to demonstrate the survival rates for plaice in that fishery. The evidence was submitted to STECF which concluded that the scientific information is of good quality. STECF however pointed out that the data do not cover all the Member States concerned and that in those fisheries survivability is affected by many factors and highly variable. STECF further noted that as a consequence of this variability it is not possible to reliably assess what the impact of the exemption is likely to be. Under those circumstances, the exemption should be limited to 1 year to still allow the collection of data and the Member States should have the obligation to submit the relevant data allowing STECF to fully assess the justification and allowing the Commission to carry out a review. That exemption may therefore be included in the discard plan until 31 December 2019 and the Member States concerned should undertake additional trials and provide information as soon as possible before 31 May 2019 for assessment by STECF.
- (16) The new joint recommendation suggests survivability exemption for the species caught in pots, traps and creels in North Western Waters (ICES subareas 5, 6 and 7). Member States provided scientific evidence in order to demonstrate the survival rates for species caught in that fishery. The evidence was submitted to STECF which concluded that the survival of the species discarded from trap and pot fishing is likely to be substantial. That exemption may therefore be included in the new discard plan for the years 2019-2021.
- (17) Delegated Regulation (EU) 2018/46 included *de minimis* exemptions from the landing obligation for certain fisheries. The evidence provided by the Member States was reviewed by the STECF ⁽¹⁾, which concluded that documents submitted by the Member States contained reasoned arguments demonstrating that further improvements in the selectivity are difficult to achieve and/or regarding disproportionate costs in handling unwanted catches, supported in some cases with a qualitative assessment of the costs. In light of the above and considering that the circumstances have not changed, it is appropriate to continue the *de minimis* exemptions, in accordance with the percentages proposed in the new joint recommendation, for:
- whiting caught by vessels using bottom trawls and seines with a mesh size equal to or larger than 80 mm (OTB, OTT, OT, PTB, PT, SSC, SDN, SPR, SX, SV, TBN, TBS, TB, TX), pelagic trawls (OTM, PTM) and beam trawls (BT2) with a mesh size of 80-119 mm in ICES division 7d,
 - whiting caught by vessels using bottom trawls and seines with a mesh size equal to or larger than 80 mm (OTB, OTT, OT, PTB, PT, SSC, SDN, SPR, SX, SV, TBN, TBS, TB, TX), pelagic trawls (OTM, PTM) and beam trawls (BT2) with a mesh size of 80-119 mm in ICES divisions 7b-c and 7e-k,
 - common sole caught by vessels using TBB gear with a mesh size of 80-119 mm and with increased selectivity in ICES divisions 7d, 7e, 7f, 7g and 7h,
 - common sole caught by vessels using trammel and gill nets to catch common sole in ICES divisions 7d, 7e, 7f and 7g.
- (18) The new joint recommendation suggested *de minimis* exemptions from the landing obligation for:
- haddock caught by vessels using bottom trawls, seines and beam trawls with a mesh size equal to or greater than 80 mm in ICES divisions 7b-c and 7e-7k,
 - cod caught by vessels using bottom trawls, seines and beam trawls with a mesh size equal to or larger than 80 mm in ICES divisions 7b-c and 7e-7k,

⁽¹⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/1099561/STECF+PLEN+15-02.pdf>

- horse mackerel caught by vessels using bottom trawls, seines and beam trawls in ICES subarea 6 and ICES divisions 7b-7k,
 - mackerel caught by vessels using bottom trawls, seines and beam trawls in ICES subarea 6 and ICES divisions 7b-7k.
- (19) The evidence by the Member States on the new *de minimis* exemptions regarding haddock, cod, horse mackerel and mackerel caught by vessels using bottom trawls, seines and beam trawls was reviewed by the STECF, which concluded ⁽¹⁾ that further information needs to be provided. Given the need to continue fishing activity and data collection to provide this information, individual exemptions for each species should be limited to 1 year and Member States should have the obligation to submit the relevant data allowing STECF to fully assess the justification and allowing the Commission to carry out a review. The Member States concerned should undertake the additional trials and provide information as soon as possible before 31 May 2019 for assessment by STECF. These exemptions should therefore be applied provisionally until 31 December 2019.
- (20) To ensure reliable estimations of levels of discarding for the purpose of the setting of the total allowable catches (TACs), Member States should, in 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 this *de minimis* provision.
- (21) Pursuant to Article 15(5)(a) of the Regulation (EU) No 1380/2013 the discard plans may also include technical measures for fisheries or species covered by the landing obligation. To increase gear selectivity and reduce unwanted catches in the Celtic Sea and Irish Sea, it is appropriate to include a number of selective measures for demersal fisheries. Based on the information provided by the Member States, STECF concluded that the proposed changes to increase selectivity in North Western Waters is one of very few attempts from regional groups to mitigate issues with unwanted catches. The technical measures should therefore be included in the discard plan for the years 2019-2021.
- (22) 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 may thus be included in this Regulation.
- (23) Under Article 18 of the Regulation (EU) No 1380/2013, the Commission has considered both the STECF's assessment and the need for Member States to ensure the full implementation of the landing obligation on the 1 January 2019. In several cases, exemptions require continued fishing activity and data collection in order to address the comments made by the STECF. In these cases, the Commission considers it to be a pragmatic and prudent approach to fisheries management, to allow exemptions on a temporary basis, on the understanding that not to do so, would prevent necessary data collection indispensable for the proper and informed management of discards in view of full entry into force of the landing obligation.
- (24) Following the new joint recommendation, it is appropriate to repeal Delegated Regulation (EU) 2018/46.
- (25) 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 after its publication. It should apply from 1 January 2019,

HAS ADOPTED THIS REGULATION:

Article 1

Implementation of the landing obligation

In ICES Subareas 5 (excluding 5a and including only Union waters of 5b), 6 and 7, the landing obligation provided for in Article 15(1) of Regulation (EU) No 1380/2013 shall apply in demersal fisheries in accordance with this Regulation for the period 2019-2021.

⁽¹⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/2147402/STECF+PLEN+18-02.pdf>

*Article 2***Definitions**

1. 'Flemish Panel' means the last tapered netting section of a beam trawl, the posterior of which is directly attached to the cod-end. The upper and lower netting sections of the panel must be constructed of at least 120 mm mesh as measured between the knots and the panel must have a stretched length of at least 3 m.
2. 'Seltra panel' means a selectivity device which:
 - (a) consists of a top panel of at least 270 mm mesh size (diamond mesh) placed in a four-panel section and mounted with a joining ratio of three meshes of 90 mm to one mesh of 270 mm, or of a top panel of at least 140 mm mesh size (square mesh);
 - (b) is at least 3 metres long;
 - (c) is positioned no more than 4 metres from the cod line; and
 - (d) is the full width of the top sheet of the trawl (i.e. from selvedge to selvedge);
3. '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;
4. 'CEFAS Netgrid' means a Netgrid selectivity device developed by The Centre for Environment, Fisheries and Aquaculture Science for catches of *Nephrops* in the Irish Sea;
5. 'Flip-flap trawl' means a trawl equipped with a netting grid developed to reduce the capture of cod, haddock and whiting in Norway lobster fisheries;
6. 'Flip-up rope' means a gear modification on demersal beam trawls to help prevent stones and boulders entering the trawl and causing damage to both gear and catches;
7. 'Benthic 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;
8. 'Celtic Sea Protection Zone' means the waters inside ICES divisions 7f, 7g and the part of 7j that lies North of latitude 50° N and East of 11° W.

*Article 3***Survivability exemption for Norway lobster**

1. The survivability exemption provided for in Article 15(4)(b) of Regulation (EU) No 1380/2013 shall apply to:
 - (a) Norway lobster (*Nephrops norvegicus*) caught in pots, traps or creels (gear codes: ⁽¹⁾ FPO and FIX), in ICES subareas 6 and 7;
 - (b) Norway lobster (*Nephrops norvegicus*) caught with bottom trawls with a mesh size equal to or larger than 100 mm in ICES subarea 7;
 - (c) Norway lobster (*Nephrops norvegicus*) caught with bottom trawls with a mesh size of 70-99 mm in combination with highly selective gear options, as set out in Articles 9(2) and 10(2) of this Regulation, in ICES subarea 7;
 - (d) Norway lobster (*Nephrops norvegicus*) caught with otter trawls with a mesh size of 80-110 mm in combination with highly selective gear options, as set out in Articles 9(2) and 10(2) of this Regulation, in ICES division 6a within twelve nautical miles of the coast.
2. When discarding Norway lobster caught in cases referred to in paragraph 1, the Norway lobster shall be released whole, immediately and in the area where it has been caught.

⁽¹⁾ Gear codes used in this Regulation refer to those codes 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 the vessels whose LOA is less than 10 metres gear codes used in this table refer to the codes from the FAO gear classification.

*Article 4***Survivability exemption for common sole**

1. In ICES division 7d, within six nautical miles of the coast but outside identified nursery areas, the survivability exemption provided for in Article 15(4)(b) of Regulation (EU) No 1380/2013 shall apply to catches of common sole (*Solea solea*) below the minimum conservation reference size made using otter trawl gears (gear codes: OTT, OTB, TBS, TBN, TB, PTB, OT, PT, TX) with a cod end mesh size of 80-99 mm, by vessels:

- (a) having a maximum length of 10 meters and a maximum engine power of 221 kW; and
 - (b) fishing in waters with the depth of 30 meters or less and with tow durations of no more than 1:30 hours.
2. When discarding common sole caught in cases referred to in paragraph 1, the common sole shall be released immediately.

*Article 5***Survivability exemption for skates and rays**

1. The survivability exemption provided for in Article 15(4)(b) of Regulation (EU) No 1380/2013 shall apply to total allowable catches of skates and rays (*Rajiformes*) caught by any fishing gear in the North Western Waters (ICES subareas 6 and 7).

2. Member States having a direct management interest shall submit, every year as soon as possible before 31 May, additional scientific information supporting the exemption laid down in paragraph 1. The Scientific, Technical and Economic Committee for Fisheries (STECF) shall assess the provided scientific information before 1 August every year.

3. The exemption set out in paragraph 1 shall apply to Cuckoo ray until 31 December 2019. Member States having a direct management interest shall submit as soon as possible before 31 May 2019, additional scientific information supporting that exemption. The Scientific, Technical and Economic Committee for Fisheries (STECF) shall assess the provided scientific information before 1 August 2019.

4. When discarding skates and rays caught in cases referred to in paragraph 1, the skates and rays shall be released immediately and below the sea surface.

*Article 6***Survivability exemption for plaice**

1. The survivability exemption provided for in Article 15(4)(b) of Regulation (EU) No 1380/2013 shall apply to:

- (a) plaice (*Pleuronectes platessa*) caught in ICES divisions 7d, 7e, 7f and 7g with trammel nets;
- (b) plaice (*Pleuronectes platessa*) caught in ICES divisions 7d, 7e, 7f and 7g with otter trawls;
- (c) plaice (*Pleuronectes platessa*) caught in ICES divisions 7a-7k by vessels having a maximum engine greater than 221 kW, and using beam trawls (BT2) fitted with a flip-up rope or benthic release panel;
- (d) plaice (*Pleuronectes platessa*) caught in ICES divisions 7a-7k by vessels using beam trawls (BT2), having a maximum engine power of 221 kW or a maximum length of 24 meters, which are constructed to fish within 12 nautical miles of the coast and with average tow durations of no more than 1:30 hours.

2. The exemptions referred to in paragraphs 1(c) and (d) shall be provisionally applicable until 31 December 2019. Member States having a direct management interest shall submit as soon as possible before 31 May 2019 additional scientific information supporting those exemptions. The Scientific, Technical and Economic Committee for Fisheries shall assess that information before 1 August 2019.

3. When discarding plaice caught in cases referred to in paragraph 1, the plaice shall be released immediately and below the sea surface.

*Article 7***Survivability exemption for species caught in pots, traps and creels**

1. In ICES subareas 5 (excluding 5a and including only Union waters of 5b), 6 and 7 the survivability exemption provided for in Article 15(4)(b) of Regulation (EU) No 1380/2013 shall apply to species caught with pots, traps and creels.

2. When discarding fish caught in cases referred to in paragraph 1, the fish shall be released immediately.

Article 8

De minimis exemptions

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(5)(c) of that Regulation:

- (a) for whiting (*Merlangius merlangus*), up to a maximum of 6 % in 2019, and up to a 5 % in 2020 and 2021, of the total annual catches of that species by vessels using bottom trawls and seines with a mesh size equal to or greater than 80 mm (OTB, OTT, OT, PTB, PT, SSC, SDN, SPR, SX, SV, TBN, TBS, TB, TX), pelagic trawls (OTM, PTM) and beam trawls (BT2) with a mesh size of 80-119 mm in ICES division 7d;
- (b) for whiting (*Merlangius merlangus*), up to a maximum of 6 % in 2019, and up to a 5 % in 2020 and 2021, of the total annual catches of that species by vessels using bottom trawls and seines with a mesh size equal to or greater than 80 mm (OTB, OTT, OT, PTB, PT, SSC, SDN, SPR, SX, SV, TBN, TBS, TB, TX), pelagic trawls (OTM, PTM) and beam trawls (BT2) with a mesh size of 80-119 mm in ICES divisions 7b-c and 7e-k;
- (c) for common sole (*Solea solea*), up to a maximum of 3 % of the total annual catches of that species by vessels using trammel and gill nets to catch common sole in ICES divisions 7d, 7e, 7f and 7g;
- (d) for common sole (*Solea solea*), up to a maximum of 3 % of the total annual catches of that species by vessels using TBB gear with a mesh size of 80-119 mm equipped with Flemish panel, to catch common sole in ICES divisions 7d, 7e, 7f, 7g and 7h;
- (e) for haddock (*Melanogrammus aeglefinus*), up to a maximum of 7 % in 2019 of the total annual catches of that species by vessels using bottom trawls, seines and beam trawls with a mesh size equal to or greater than 80 mm in ICES divisions 7b-7c and 7e-7k;
- (f) for cod (*Gadus morhua*), 7 % in 2019 of the total annual catches of that species by vessels using bottom trawls, seines and beam trawls with a mesh size equal to or greater than 80 mm in ICES divisions 7b-7c and 7e-7k;
- (g) for horse mackerel (*Trachurus* spp.), up to a maximum of 7 % in 2019 of the total annual catches of that species by vessels using bottom trawls, seines and beam trawls in ICES subarea 6 and ICES divisions 7b-7k;
- (h) for mackerel (*Scomber scombrus*), up to a maximum of 7 % in 2019 of the total annual catches of that species by vessels using bottom trawls, seines and beam trawls in ICES subarea 6 and ICES divisions 7b-7k.

2. The *de minimis* exemptions set out in the paragraph 1 points (e)-(h) shall be applicable until 31 December 2019. Member States having a direct management interest shall submit as soon as possible before 31 May 2019, additional scientific information supporting the exemption. The Scientific, Technical and Economic Committee for Fisheries shall assess the provided scientific information before 1 August 2019.

Article 9

Specific technical measures in the Celtic Sea Protection Zone

1. From 1 July 2019, fishing vessels operating with bottom trawls or seines in the Celtic Sea Protection Zone shall use one of the following gear options:

- (a) 110 mm cod-end with 120 mm squared mesh panel ⁽¹⁾;
- (b) 100 mm T90 cod-end;
- (c) 100 mm cod-end with 160 mm squared mesh panel.

2. By way of derogation from paragraph 1, vessels operating with bottom trawls or seines with catches comprising more than 5 % of Norway lobster shall use one of the following gear options:

- (a) 300 mm squared mesh panel; vessels below 12 meters in length over all may use a 200 mm square mesh panel;
- (b) Seltra panel;

⁽¹⁾ Squared mesh panels shall be fitted in accordance with Article 7 of Council Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms (OJ L 125, 27.4.1998, p. 1).

- (c) Sorting grid with a 35 mm bar spacing as defined in the Annex XIVa to Regulation (EC) No 850/98 ⁽¹⁾ or a similar Netgrid selectivity device;
 - (d) 100 mm cod-end with a 100 mm square mesh panel.
3. By way of derogation from paragraph 1, vessels operating with bottom trawls or seines with catches comprising more than 55 % of whiting or 55 % of anglerfish, hake or megrim combined, shall use one of the following gear options:
- (a) 100 mm cod-end with a 100 mm squared mesh panel;
 - (b) 90 mm T90 cod-end and extension;
 - (c) 80 mm cod-end with a 160 mm squared mesh panel;
 - (d) 80 mm cod-end with a 2 m multiplied by 100 mm squared mesh cylinder.
4. By way of derogation from paragraph 1, vessels operating with bottom trawls or seines with catches comprising less than 10 % of gadoids (*Gadidae*) in ICES division 7f East of 5° West, shall use 80 mm cod-end fitted with a 120 mm square mesh panel.
5. A selective gear or device assessed by the STECF as having the same or higher selectivity characteristics for cod, haddock and whiting may be added as an alternative gear to the above.

Article 10

Specific technical measures in the Irish Sea

1. From 1 January 2019, fishing vessels operating with bottom trawls or seines in ICES division 7a (Irish Sea) shall comply with the technical measures set out in paragraphs 2, 3 and 4.
2. Vessels operating with bottom trawls or seines with a cod-end mesh size equal to or larger than 70 mm and smaller than 100 mm and with catches comprising more than 5 % of Norway lobster shall use one of the following gear options:
 - (a) 300 mm squared mesh panel; vessels below 12 meters in length over all may use a 200 mm squared mesh panel;
 - (b) Seltra panel;
 - (c) Sorting grid with 35 mm bar spacing as defined in the Annex XIVa to Regulation (EC) No 850/98;
 - (d) CEFAS Netgrid;
 - (e) Flip-flap trawl.
3. Vessels operating with bottom trawls or seines with catches comprising more than 10 % of haddock, cod and skates and rays combined, shall use one of the following gear options:
 - (a) 120 mm cod-end;
 - (b) an eliminator trawl with 600 mm large mesh panels and a 100 mm cod-end.
4. Vessels operating with bottom trawls or seines with catches comprising less than 10 % of haddock, cod and skates and rays combined shall apply a cod-end mesh size of 100 mm with a 100 mm squared mesh panel. This provision shall not apply to vessels with catches comprising more than 30 % of Norway lobster.
5. A selective gear or device assessed by the STECF as having the same or higher selectivity characteristics for cod, haddock and whiting may be added as an alternative gear to the above.

Article 11

Entry into force

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

It shall apply from 1 January 2019 until 31 December 2021.

⁽¹⁾ Council Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms (OJ L 125, 27.4.1998, p. 1).

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

Done at Brussels, 18 October 2018.

For the Commission

The President

Jean-Claude JUNKER

COMMISSION DELEGATED REGULATION (EU) 2018/2035**of 18 October 2018****specifying details of implementation of the landing obligation for certain demersal fisheries in the North Sea for the period 2019-2021**

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) Regulation (EU) No 1380/2013 of the European Parliament and of the Council ⁽²⁾ 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.
- (3) 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.
- (4) In the absence of a multiannual plan, Article 15(6) of Regulation (EU) No 1380/2013 empowers the Commission to implement the landing obligation through discard plans on the basis of joint recommendations developed by Member States.
- (5) Belgium, Denmark, France, Germany, the Netherlands, Sweden and the United Kingdom have a direct fisheries management interest in the North Sea. After consulting the North Sea Advisory Council, those Member States submitted on 31 May 2017 a joint recommendation to the Commission concerning a discard plan for demersal fisheries in the North Sea. Based on that joint recommendation, Commission Delegated Regulation (EU) 2018/45 ⁽³⁾ established a discard plan applicable to those fisheries in the year 2018.
- (6) On 4 July 2018, the European Parliament and the Council adopted Regulation (EU) 2018/973 establishing 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 specifying details of the landing obligation on the basis of joint recommendations developed by Member States.
- (7) After consulting the North Sea Advisory Council and the Pelagic Advisory Council, Belgium, Denmark, France, Germany, the Netherlands, Sweden and the United Kingdom submitted on 30 May 2018 a new joint recommendation to the Commission concerning details of the implementation of the landing obligation for demersal fisheries in the North Sea. The joint recommendation was amended on 30 August 2018.
- (8) As set out in Regulation (EU) 2018/973, the North Sea comprises ICES divisions 2a, 3a and subarea 4.

⁽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) 2018/45 of 20 October 2017 establishing a discard plan for certain demersal fisheries in the North Sea and in Union waters of ICES Division IIa for the year 2018 (OJ L 7, 12.1.2018, p. 6).

- (9) Scientific contributions were obtained from relevant scientific bodies and reviewed by the Scientific, Technical and Economic Committee for Fisheries (STECF) ⁽¹⁾. On 11 September 2018 an expert group meeting attended by representatives of 28 Member States, the Commission as well as the European Parliament as an observer took place and the measures concerned were discussed.
- (10) For some stocks, such as plaice, the STECF identified that survival rates of individual fish may not be as robust as that found in other species. However the Commission had considered the relative impact of this exemption on the overall stock, compared to individual fish, and balanced this against the need to continue fishing activity to provide data collection in order to address the comments made by the STECF. In cases where the relative amount of dead discards are relatively low, the Commission considers it to be a pragmatic and prudent approach to fisheries management, to allow exemptions on a temporary basis, on the understanding that not to do so, would prevent necessary data collection indispensable for the proper and informed management of discards in view of full entry into force of the landing obligation
- (11) Delegated Regulation (EU) 2018/45 provided for survivability exemptions for catches of common sole below minimum conservation reference size (MCRS) made by trawls in ICES division 4c, based on scientific evidence which demonstrated discard survival rates. That evidence has been evaluated in previous years and STECF has concluded ⁽²⁾ that the evidence was sufficient. The new joint recommendation suggests the continued application of the exemption. STECF pointed out that no new information on location of nursery areas was provided ⁽³⁾. Since currently there are no identified nursery areas, the exemption may be included in this Regulation, but Member States should submit the relevant information as soon as such areas will be identified.
- (12) Delegated Regulation (EU) 2018/45 included a survivability exemption, as provided for by Article 15(4)(b) of Regulation (EU) No 1380/2013, for catches of Norway lobster made with pots in ICES divisions 2a, 3a and ICES subarea 4, based on the scientific evidence which demonstrated the survival rates. That evidence has been evaluated in previous years and STECF has concluded ⁽⁴⁾ that the evidence is sufficient. The new joint recommendation suggests the continued application of the exemption. Considering the circumstances have not changed, that exemption should therefore be included in this Regulation.
- (13) Delegated Regulation (EU) 2018/45 included a survivability exemption for catches of Norway lobster made in ICES subarea 4 with certain gears on the condition that a netgrid selectivity device was used. That exemption was limited to winter months and certain ICES functional units. The new joint recommendation suggests the continued application of that exemption and its extension to ICES divisions 2a and 3a. The Member States provided updated scientific evidence in 2018 in order to demonstrate survival rates for Norway lobster caught with bottom trawls fitted with a cod-end larger than 80 mm or at least 70 mm and equipped with specific selectivity devices. The evidence was submitted to STECF, which raised concerns ⁽⁵⁾ on the survival estimates covering the west coast of the North Sea and on whether those estimates are representative for the whole area. However, STECF pointed out that the supporting scientific information was based on a robust approach and the validation technique used in the context of the wider fleets is reasonable. Under those circumstances, the exemption may be applied until 31 December 2021, but Member States having a direct management interest should submit data on the fisheries of the west coast of the North Sea.
- (14) Delegated Regulation (EU) 2018/45 included a survivability exemption for the bycatch of species subject to catch limits in the fishery carried out with pots and fyke nets, based on the scientific evidence which demonstrated the survival rates. That evidence has been evaluated in previous years and STECF concluded ⁽⁶⁾ that the available data indicates that mortality of discarded fish is likely to be low, however the actual catches in the fishery are negligible. Since the catches are not significant and considering that the circumstances have not changed, the exemption may be included in this Regulation.
- (15) The new joint recommendation suggests 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 provided scientific evidence in order to demonstrate discard survival rates for plaice in that fishery. The evidence was submitted to STECF which concluded ⁽⁷⁾ that reasonable information was provided showing the considerably high survivability. That exemption should therefore be included in this Regulation.

⁽¹⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/2147402/STECF+PLEN+18-02.pdf>

⁽²⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/1099561/STECF+PLEN+15-02.pdf>

⁽³⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/2147402/STECF+PLEN+18-02.pdf>

⁽⁴⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/1099561/STECF+PLEN+15-02.pdf>

⁽⁵⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/2147402/STECF+PLEN+18-02.pdf>

⁽⁶⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/1780485/STECF+PLEN+17-02.pdf>

⁽⁷⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/2147402/STECF+PLEN+18-02.pdf>

- (16) The new joint recommendation includes a survivability exemption for plaice in the fishery carried out with Danish seines in ICES division 3a and ICES subarea 4. The Member States provided scientific evidence in order to demonstrate discard survival rates for plaice in that fishery. The evidence was submitted to STECF which concluded ⁽¹⁾ that the data of the study on the survival rates are reliable, albeit additional factors could be used in order to enhance survivability, as the decrease of survivability is significant if the sorting time of the plaice is longer than 30 minutes. That exemption may therefore be included in this Regulation.
- (17) The new joint recommendation suggests a survivability exemption for catch and bycatch of plaice in the fishery targeting flatfish or round fish carried out with trawls in ICES division 3a and ICES subarea 4 in winter months. The Member States provided scientific advice in order to demonstrate discard survival rates for plaice in that fishery. The evidence was submitted to STECF, which concluded ⁽²⁾ that the survival rates in the supporting study have decreased if the sorting time was greater than 60 minutes in the summer months, therefore a low survival rate of plaice in summer justifies the exemption being restricted to winter months. That exemption should therefore be included in this Regulation.
- (18) The new joint recommendation suggests a survivability exemption for catches of plaice below MCRS made with beam trawl gears in ICES subarea 4 and ICES division 2a. Member States provided scientific evidence in order to demonstrate discard survival rates in that fishery. The evidence was submitted to STECF which concluded ⁽³⁾ that survivability in that fishery is affected by many factors and is highly variable. STECF also had doubts that given the indicative relatively high discard rates and relatively low survival rates, it is likely that significant quantities of plaice discarded will not survive. In order to collect this data, fishing would need to continue and as such, the Commission considers that the exemption should be granted, but Member States should have the obligation to submit relevant data allowing STECF to fully assess the justification and allowing the Commission to carry out a review. Under those circumstances, the exemption may be applied provisionally until 31 December 2019. Member States having a direct management interest should submit: (a) a roadmap developed in order to increase survivability, to be scientifically assessed by STECF; and (b) annual reports on the progress and modifications/adjustments made to the survivability programme.
- (19) For skates and rays caught with all fishing gears in ICES divisions 2a and 3a, and ICES subarea 4, detailed scientific evidence on survival rates is not available for all fleet segments and combinations that benefit from the exemption. However, with a few exceptions, survival rates are considered to be generally robust, but further detail is required. In order to collect this data, fishing would need to continue and as such, the Commission considers that the exemption should be granted, but Member States should have the obligation to submit relevant data allowing STECF to fully assess the justification and allowing the Commission to carry out a review. Member States having a direct management interest should submit by 31 May each year: (a) a roadmap developed in order to increase survivability and to fill in the data gaps identified by STECF, to be annually assessed by STECF; (b) annual reports on the progress and any modifications or adjustments made to the survivability programmes.
- (20) When considering the survival rates of skates and rays, cuckoo rays (*Leucoraja naevus*) were found to have a considerably lower survival rate than other species, with less robust scientific understanding. However to exclude this species altogether from the exemption would prevent fishing and continued, accurate data collection. Therefore, the Commission considers this exemption should only be granted for 1 year and that new studies and improved survivability measures should be developed as a matter of urgency and provided to STECF for assessment as soon as possible before 31 May 2019.
- (21) Delegated Regulation (EU) 2018/45 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, plaice, herring, Norway pout, greater silver smelt and blue whiting made with certain bottom trawls in ICES division 3a,

⁽¹⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/2147402/STECF+PLEN+18-02.pdf>

⁽²⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/2147402/STECF+PLEN+18-02.pdf>

⁽³⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/2147402/STECF+PLEN+18-02.pdf>

- combined catches of common sole, haddock, whiting, cod, saithe and hake made with creels in ICES division 3a,
 - whiting caught with certain bottom trawls in ICES division 3a,
 - whiting and cod caught with bottom trawls in ICES division 4c.
- (22) Member States provided evidence supporting those *de minimis* exemptions. The STECF ⁽¹⁾ reviewed that evidence and concluded ⁽²⁾ 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 therefore 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.
- (23) The new joint recommendation suggests a *de minimis* exemption for:
- plaice caught with certain bottom trawls in ICES subarea 4,
 - all species subject to catch limits caught with beam trawls in ICES divisions 4b and 4c,
 - whiting and cod caught with bottom trawls in ICES divisions 4a and 4b,
 - ling caught with certain bottom trawls with a mesh size greater than or equal to 120 and ling caught with certain bottom trawls with a mesh size between 100 and 119 mm in ICES subarea 4,
 - whiting caught with certain beam trawls in ICES subarea 4,
 - horse mackerel caught with bottom trawls (OTB, OTT, PTB, TBB) in ICES subarea 4,
 - mackerel caught with bottom trawls (OTB, OTT, PTB, TBB) in ICES subarea 4.
- (24) Member States provided scientific evidence supporting the new *de minimis* exemptions based on difficulties to improve selectivity and disproportionate costs of handling the catches. That evidence was reviewed by STECF during its plenary session on 2-6 July 2018.
- (25) As regards the exemption for whiting and cod caught with bottom trawls in ICES divisions 4a and 4b STECF has concluded that relevant data from certain Member States was missing. In order to collect this data, fishing would need to continue and as such, the Commission considers that the exemption should be granted provisionally until 31 December 2019, but Member States should have the obligation to submit relevant data allowing STECF to fully assess the justification and allowing the Commission to carry out a review. The Member States concerned should undertake additional trials and provide information as soon as possible before 31 May 2019 for assessment by STECF.
- (26) On the basis of evidence provided by Member States, STECF considered that it is appropriate to establish *de minimis* exemptions for plaice caught with certain bottom trawls in ICES subarea 4.
- (27) STECF concluded that reasonable data was provided to grant a *de minimis* exemption in fisheries for brown shrimp with beam trawls in ICES divisions 4b and 4c.
- (28) As regards the *de minimis* exemption for ling caught with certain bottom trawls with a mesh size between 100 and 119 mm in ICES subarea 4, STECF considered it difficult to assess definitely the impact of improving selectivity in the fishery concerned. STECF noted that relevant data from certain Member States was missing. However STECF acknowledged that the gear used in the relevant fishery is already selective and that improving selectivity further will render the fisheries uneconomic. In order to collect this data, fishing would need to continue and as such, the Commission considers that the exemption should be granted provisionally until 31 December 2019, but Member States should have the obligation to submit relevant data allowing STECF to fully assess the justification and allowing the Commission to carry out a review. Member States should submit (a) data showing that improvements in selectivity are very difficult to achieve in the relevant fisheries; and (b) additional catch or fleet information on the fleets of other Member States who may also be active in the fisheries. The Member States concerned should undertake additional trials and provide information as soon as possible before 31 May 2019 for assessment by STECF.

⁽¹⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/1099561/STECF+PLEN+15-02.pdf>

⁽²⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/2147402/STECF+PLEN+18-02.pdf>

- (29) On the basis of evidence provided by the Member States and as concluded by STECF, a *de minimis* exemption should be granted for ling caught with certain bottom trawls with a mesh size greater than or equal to 120 mm in ICES subarea 4.
- (30) STECF noted in its conclusions that detailed information was provided for the *de minimis* exemption for whiting caught with certain beam trawls in ICES subarea 4. However STECF indicated limits in the improvement on selectivity for whiting and noted that the approach used to calculate the *de minimis* may restrain the selectivity of whiting, as all unwanted catches of whiting could potentially be discarded. Under those circumstances the exemption should be applied at the level of the observed discards (2 %) and the Member States should have the obligation to submit relevant data allowing STECF to fully assess the justification and allowing the Commission to carry out a review yearly. The Member States concerned should undertake additional trials and provide information for assessment by STECF as soon as possible before 31 May every year.
- (31) The evidence provided by the Member States on the new *de minimis* exemptions regarding horse mackerel and mackerel caught by vessels using bottom trawls, seines and beam trawls was reviewed by the STECF, which concluded that further information needs to be provided. Given the need to continue fishing activity and data collection to provide this information, individual exemptions for each species should be limited to 1 year and Member States should have the obligation to submit the relevant data allowing STECF to fully assess the justification and allowing the Commission to carry out a review. The Member States concerned should undertake the additional trials and provide information as soon as possible before 31 May 2019 for assessment by STECF. These exemptions should therefore be applied provisionally until 31 December 2019.
- (32) To ensure reliable estimations of levels of discarding for the purpose of the setting of the total allowable catches, Member States should, in 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 this *de minimis* provision.
- (33) According to Article 15(5)(a) of Regulation (EU) No 1380/2013, the details of implementation of the landing obligation may include technical measures referred to in Article 7(2) of that Regulation. To increase gear selectivity and reduce unwanted catches in the Skagerrak, it is appropriate to maintain a number of technical measures, which were agreed between the Union and Norway in 2011 ⁽¹⁾, and 2012 ⁽²⁾ and to authorize the use of the SepNep selectivity device.
- (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 Regulation (EU) 2018/973, in particular Article 11 thereof and may thus be included in this Regulation.
- (35) Under Article 18 of the Regulation (EU) No 1380/2013, the Commission has considered both the STECF's assessment and the need for Member States to ensure the full implementation of the landing obligation on the 1 January 2019. In several cases, exemptions require continued fishing activity and data collection in order to address the comments made by the STECF. In these cases, the Commission considers it to be a pragmatic and prudent approach to fisheries management, to allow exemptions on a temporary basis, on the understanding that not to do so would prevent necessary data collection indispensable for the proper and informed management of discards in view of full entry into force of the landing obligation.
- (36) According 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 in the third year of application of this Regulation.
- (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 after its publication. It should apply from 1 January 2019 until 31 December 2021,

⁽¹⁾ Agreed record of fisheries consultations between Norway and the European Union on the regulation of fisheries in the Skagerrak and the Kattegat for 2012.

⁽²⁾ Agreed record of fisheries consultations between the European Union and Norway on measures for the implementation of a discard ban and control measures in the Skagerrak area, 4 July 2012.

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 fisheries which are subject to catch limits in accordance with this Regulation for the period 2019-2021.

Article 2

Definitions

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

(1) 'Seltra panel' means a selectivity device which:

- consists of a top panel of at least 270 mm mesh size (diamond mesh) placed in a four-panel section and mounted with a joining ratio of three meshes of 90 mm to one mesh of 270 mm, or of a top panel of at least 140 mm mesh size (square mesh),
- is at least 3 metres long,
- is positioned no more than 4 metres from the cod line, and
- is the full width of the top sheet of the trawl (i.e. from selvedge to selvedge);

(2) '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;

(3) '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;

(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 referred to in Article 15(4)(b) of Regulation (EU) No 1380/2013 shall apply in Union waters of the North Sea (ICES divisions 2a, 3a and subarea 4) to the following catches of Norway lobster:

(a) catches with pots (FPO ⁽¹⁾);

⁽¹⁾ Gear codes used in this Regulation refer to those codes 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 the vessels whose LOA is less than 10 metres gear codes used in this table refer to the codes from the FAO gear classification.

- (b) catches with bottom trawls (OTB, TBN) fitted with:
- (1) a cod-end larger than 80 mm; or
 - (2) 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; or
 - (3) a cod-end of at least 35 mm equipped with a species selective grid with a bar spacing of maximum 19 mm.
2. When discarding Norway lobster caught in cases referred to in paragraph 1, the Norway lobster shall be released whole, immediately and in the area where it has been caught.
3. Member States having a direct management interest shall submit, every year as soon as possible before 31 May, additional scientific information supporting the exemption laid down in paragraph 1(b). The Scientific, Technical and Economic Committee for Fisheries (STECF) shall assess the provided scientific information before 1 August every year.

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 in Union waters of ICES division 4c, within six nautical miles of the coast but outside identified nursery areas, to catches of common sole below minimum conservation reference size made using otter trawls (OTB) with a cod-end mesh size of 80-99 mm.
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 1:30 hours.
3. When discarding common sole caught in cases referred to in paragraph 1, the common sole shall be released immediately.

Article 5

Survivability exemption for bycatch 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 in Union waters of ICES division 3a and ICES subarea 4 to catches of all species subject to catch limits made with pots and fyke nets (FPO, FYK).
2. When discarding fish caught in cases referred to in paragraph 1, the fish shall be released immediately and below the sea surface.

Article 6

Survivability exemption for catch and bycatch of plaice

1. The survivability exemption referred to in Article 15(4)(b) of Regulation (EU) No 1380/2013 shall apply in Union waters of ICES division 3a and subarea 4 to:
 - (a) plaice caught with nets (GNS, GTR, GTN, GEN);
 - (b) plaice caught with Danish seines;
 - (c) plaice caught with bottom trawls (OTB, PTB) with a mesh size of at least 120 mm when targeting flatfish or roundfish in winter months (from 1 November to 30 April).
2. When discarding plaice caught in 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 Union waters of ICES division 2a and ICES subarea 4 and to catches of plaice below the minimum conservation reference size made with 80-119 mm beam trawls (BT2).

2. The exemption referred to in paragraph 1 shall be provisionally applicable until 31 December 2019. Member States having a direct management interest shall submit as soon as possible before 31 May 2019 additional scientific information supporting that exemption. The Scientific, Technical and Economic Committee for Fisheries (STECF) shall assess the provided scientific information before 1 August 2019.
3. When discarding plaice caught in cases referred to in paragraph 1, the plaice shall be released immediately and below the sea surface.

Article 8

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 in Union waters of the North Sea (ICES divisions 2a, 3a and subarea 4) to catches of skates and rays with all fishing gears.
2. Member States having a direct management interest shall submit every year as soon as possible before 31 May additional scientific information supporting the exemption laid down in paragraph 1. The Scientific, Technical and Economic Committee for Fisheries (STECF) shall assess the provided scientific information before 1 August every year.
3. The exemption set out in paragraph 1 shall apply to Cuckoo ray until 31 December 2019. Member States having a direct management interest shall submit, as soon as possible before 31 May 2019, additional scientific information supporting that exemption. The Scientific, Technical and Economic Committee for Fisheries (STECF) shall assess the provided scientific information before 1 August 2019.
4. When discarding skates and rays caught in cases referred to in paragraph 1, the skates and rays shall be released immediately and below the sea surface.

Article 9

***De minimis* exemptions**

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:

- (a) in fisheries for common sole by vessels using trammel nets and gill nets (GN, GNS, GND, GNC, GTN, GTR, GEN, GNF) in Union waters of ICES divisions 2a and 3a, and ICES 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;
- (b) in fisheries for common sole by vessels using beam trawl (TBB) of mesh size 80-119 mm equipped with a Flemish panel, in Union waters of ICES subarea 4:
a quantity of common sole below minimum conservation reference sizes, which shall not exceed 6 % of the total annual catches of that species in 2019 and 5 % the rest of the period;
- (c) in the fishery for Norway lobster by vessels using bottom trawls (OTB, 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 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;
- (d) in the fishery for Northern prawn by vessels using bottom trawls (OTB) 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 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 minimum conservation reference size, 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;
- (e) in the mixed demersal fisheries by vessels using bottom trawls or seines (OTB, OTT, SDN, SSC) of mesh size 70-99 mm (TR2) in Union waters of ICES division 4c:
a combined quantity of whiting and cod below minimum conservation reference sizes, which shall not exceed 6 % of the total annual catches in 2019 and 5 % in 2020 and 2021 of species below minimum reference size that would fall under landing obligation; the maximum amount of cod that may be discarded shall be limited to 2 % of those total annual catches;

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

a combined quantity of whiting and cod below minimum conservation reference size, which shall not exceed 6 % of the total annual catches in 2019 of species below minimum reference size that would fall under landing obligation; 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 (f) shall be provisionally applicable until 31 December 2019. Member States having a direct management interest shall submit as soon as possible before 31 May 2019, additional scientific information supporting the exemption. The Scientific, Technical and Economic Committee for Fisheries (STECF) shall assess the provided scientific information before 1 August 2019;

- (g) in fisheries by vessels using bottom trawls (OTB, OTT, TBN) with a mesh size of 90-119 mm, equipped with Seltra panel, or bottom trawls (OTB, OTT, TBN) with a mesh size equal to or larger than 120 mm, in Union waters of ICES division 3a:

a quantity of whiting below 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;

- (h) in the fisheries for Norway lobster by vessels using bottom trawls with a mesh size of 80-99 mm, equipped with a SepNep, in 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;

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

a quantity of all species subject to catch limits, which shall not exceed 7 % in 2019 and 2020, 6 % in 2021 of the total annual catches of all species subject to catch limits;

- (j) in the demersal fisheries by vessels using bottom trawls (OTB, OTT, PTB) with a mesh size between 100 and 119 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;

the *de minimis* exemption set out in this point (j) shall be provisionally applicable until 31 December 2019. Member States having a direct management interest shall submit before 31 May 2019, additional scientific information supporting that exemption. The Scientific, Technical and Economic Committee for Fisheries (STECF) shall assess the provided scientific information before 1 August 2019;

- (k) 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;

- (l) 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 minimum conservation reference size, which shall not exceed 2 % of the total annual catches of plaice and sole;

Member States having a direct management interest shall submit every year, as soon as possible before 31 May, additional scientific information supporting the exemption. The Scientific, Technical and Economic Committee for Fisheries (STECF) shall assess the provided scientific information before 1 August every year;

- (m) in the demersal mixed fishery with bottom trawls (OTB, OTT, PTB, TBB) with a mesh size between 80 and 99 mm in ICES subarea 4:

a quantity of horse mackerel, which shall not exceed 7 % in 2019 of the total annual catches in that fishery of horse mackerel;

the *de minimis* exemption set out in this point (m) shall be provisionally applicable until 31 December 2019. Member States having a direct management interest shall submit as soon as possible before 31 May 2019, additional scientific information supporting the exemption. The Scientific, Technical and Economic Committee for Fisheries (STECF) shall assess the provided scientific information before 1 August 2019;

- (n) in the demersal mixed fishery with bottom trawls (OTB, OTT, PTB, TBB) with a mesh size between 80 and 99 mm in ICES subarea 4:

a quantity of mackerel, which shall not exceed 7 % in 2019 of the total annual catches in that fishery of mackerel;

the *de minimis* exemption set out in this point (n) shall be provisionally applicable until 31 December 2019. Member States having a direct management interest shall submit as soon as possible before 31 May 2019, additional scientific information supporting the exemption. The Scientific, Technical and Economic Committee for Fisheries (STECF) shall assess the provided scientific information before 1 August 2019.

Article 10

Specific technical measures in the Skagerrak

1. The carrying on board or the use of any trawl, Danish seine, beam trawl or similar towed net having a mesh size of less than 120 mm shall be prohibited in the Skagerrak.
2. By way of derogation from paragraph 1, the following trawls may be used:
 - (a) trawls with a cod-end having a mesh size of at least 90 mm, provided they are equipped with a seltra panel or a sorting grid with no more than 35 mm bar spacing.
 - (b) trawls with a cod-end having a mesh size of at least 70 mm (square mesh), equipped with a sorting grid with no more than 35 mm bar spacing;
 - (c) trawls with a minimum mesh sizes of less than 70 mm when fishing for pelagic or industrial species, provided the catch contains more than 80 % of one or more pelagic or industrial species;
 - (d) trawls with a cod-end of at least 35 mm mesh size when fishing for Northern prawn, provided the trawl is equipped with a sorting grid with a maximum bar spacing of 19 mm.
3. A fish retention device may be used when fishing for Northern prawn in accordance with paragraph 2(d), provided there are adequate fishing opportunities to cover by-catch and that the retention device is:
 - (a) constructed with a top panel with a minimum mesh size of 120 mm square mesh;
 - (b) at least 3 metres long; and
 - (c) at least as wide as the sorting grid.

Article 11

SepNep

In accordance with Article 9(1)(a) of Regulation (EU) 2018/973, it shall be permitted to use the SepNep nets.

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 2019 until 31 December 2021.

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

Done at Brussels, 18 October 2018.

For the Commission
The President
Jean-Claude JUNCKER

COMMISSION DELEGATED REGULATION (EU) 2018/2036**of 18 October 2018****amending Delegated Regulation (EU) 2017/86 establishing a discard plan for certain demersal fisheries in the Mediterranean Sea**

THE EUROPEAN COMMISSION,

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

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

Whereas:

- (1) Regulation (EU) No 1380/2013 aims to progressively eliminate discards in Union fisheries through the introduction of a landing obligation for catches of species subject to catch limits and, in the Mediterranean, also catches of species subject to minimum sizes as defined in Annex III to Council Regulation (EC) No 1967/2006 ⁽²⁾.
- (2) According to Article 15(1)(d) of Regulation (EU) No 1380/2013, the landing obligation applies for demersal fisheries in the Mediterranean Sea at the latest from 1 January 2017 to species that define the fisheries and at the latest from 1 January 2019 to all other species.
- (3) In order to implement the landing obligation, Article 15(6) of Regulation (EU) No 1380/2013 empowers the Commission to adopt discard plans by means of a delegated act, for a period of no more than three years that may be renewed for a further total period of three years, on the basis of joint recommendations developed by Member States in consultation with the relevant Advisory Councils.
- (4) Commission Delegated Regulation (EU) 2017/86 ⁽³⁾ established a discard plan for certain demersal fisheries in the Mediterranean Sea applicable from 1 January 2017 until 31 December 2019, following three joint recommendations submitted to the Commission in 2016 by a number of Member States having a direct management interest in the Mediterranean Sea (Greece, Spain, France, Croatia, Italy, Cyprus, Malta and Slovenia). Those three joint recommendations concerned respectively the Western Mediterranean Sea, the Adriatic Sea and the South-eastern Mediterranean Sea.
- (5) Commission Delegated Regulation (EU) 2017/86 was amended by Commission Delegated Regulation (EU) 2018/153 ⁽⁴⁾ following two joint recommendations submitted by the relevant Member States having a direct management interest and concerning the Western Mediterranean Sea and the Adriatic Sea.
- (6) On 4 June 2018, France, Italy and Spain submitted to the Commission a new joint recommendation for a Discard Plan for Demersal Fisheries in the Western Mediterranean ('the new joint recommendation for the Western Mediterranean') after consultations within the regional Pescamed High-Level Group. The joint recommendation was amended on 27 August 2018.
- (7) On 7 June 2018 Cyprus, Greece, Italy and Malta submitted to the Commission a new joint recommendation for a Discard Plan for Demersal Fisheries in the South Eastern Mediterranean ('the new joint recommendation for the South-Eastern Mediterranean') after consultations within the regional Sudestmed High-Level Group. The joint recommendation was amended on 28 August 2018.

⁽¹⁾ OJ L 354, 28.12.2013, p. 22.

⁽²⁾ Regulation (EC) No 1967/2006 of 21 December 2006 concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea, amending Regulation (EEC) No 2847/93 and repealing Regulation (EC) No 1626/94 (OJ L 409, 30.12.2006, p. 11).

⁽³⁾ 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).

⁽⁴⁾ Commission Delegated Regulation (EU) 2018/153 of 23 October 2017 amending Delegated Regulation (EU) 2017/86 establishing a discard plan for certain demersal fisheries in the Mediterranean Sea (OJ L 29, 1.2.2018, p. 1).

- (8) On 8 June 2018, Croatia, Italy and Slovenia submitted to the Commission a new joint recommendation for a Discard Plan for Demersal Fisheries in the Adriatic Sea ('the new joint recommendation for the Adriatic Sea') after consultations within the regional Adriatica High-Level Group. The joint recommendation was amended on 29 August 2018.
- (9) The three new joint recommendations were assessed by the Scientific, Technical and Economic Committee for Fisheries (STECF) during its summer Plenary on 2-6 July 2018 ⁽¹⁾.
- (10) Under Article 18 of Regulation (EU) No 1380/2013, the Commission has considered both the STECF's assessment and the need for Member States to ensure the full implementation of the landing obligation on 1 January 2019. In several cases, exemptions require continued fishing activity and data collection in order to address the comments made by the STECF. In these cases, the Commission considers it to be a pragmatic and prudent approach to fisheries management to allow exemptions on a temporary basis, on the understanding that not to do so would prevent necessary data collection indispensable for the proper and informed management of discards in view of full entry into force of the landing obligation.
- (11) The new joint recommendation for the Western Mediterranean Sea suggests extending until 31 December 2021 the application of the survivability exemptions, as provided for in Article 15(4)b of Regulation (EU) No 1380/2013, for scallop (*Pecten jacobaeus*), carpet clams (*Venerupis* spp.) and Venus shells (*Venus* spp.) caught with mechanised dredges (HMD). Delegated Regulation (EU) 2017/86 introduced that survivability exemption. When assessing the new joint recommendation, the STECF noted that no additional supporting information had been provided. However, there is a body of scientific evidence in the literature demonstrating survival for those species. As high survival rates can occur and taking into account the characteristics of the gear, of the fishing practices and of the ecosystem, the Commission considers that the survivability exemption should therefore be continued, considering that circumstances have not changed.
- (12) The new joint recommendation for the Western Mediterranean Sea suggests extending until 31 December 2021 the application of the survivability exemption for Norway lobster (*Nephrops norvegicus*) caught with bottom trawls (OTB, OTT, PTB, TBN, TBS, TB, OT, PT, TX). Commission Delegated Regulation (EU) 2018/153 introduced that survivability exemption. The new joint recommendation initially suggested applying this exemption except during the months of July, August and September, which would be subject to a new *de minimis* exemption. The STECF considered there was no evidence to support a *de minimis* exemption during the summer months and formulated no further comments. However, there is scientific evidence demonstrating survival for that species in this and other regions. As high survival rates can occur and taking into account the characteristics of the gear, of the fishing practices and of the ecosystem, the Commission considers that the survivability exemption applicable for the whole year should therefore be continued.
- (13) The new joint recommendation for the Adriatic Sea proposes extending the survivability exemption for common sole (*Solea solea*) caught with rapido (TBB). Commission Delegated Regulation (EU) 2017/86 introduced that survivability exemption. The STECF did not assess this new request. However, an ad-hoc study on survivability of that species is ongoing in GSA17 in the Adriatic Sea. The Commission considers therefore that the exemption should be continued for one year only. The Member States concerned should provide the relevant data by 1 May 2019 in order to allow further assessment by the STECF.
- (14) The three new joint recommendations suggest applying the survivability exemption to Norway lobster (*Nephrops norvegicus*) caught with pots and traps (FPO, FIX) in the Western Mediterranean Sea, in the Adriatic Sea and in the South-eastern Mediterranean Sea. The STECF considered that specific information to support this exemption had not been provided. The Commission considers therefore that the exemption should be introduced for one year only. The Member States concerned should provide additional relevant data by 1 May 2019 in order to allow a further assessment by the STECF.
- (15) The three new joint recommendations suggest applying the survivability exemption to red seabream (*Pagellus bogaraveo*) caught with hooks and lines (LHP, LHM, LLS, LLD, LL, LTL, LX) in the Western Mediterranean Sea, in the Adriatic Sea and in the South-eastern Mediterranean Sea. The STECF considered that further evidence should be provided to fully support the exemption proposed. The Commission considers therefore that the exemption should be introduced for one year only. The Member States concerned should provide additional relevant data by 1 May 2019 in order to allow a further assessment by the STECF.

⁽¹⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/2147402/STECF+PLEN+18-02.pdf>

- (16) The three new joint recommendations suggest applying the survivability exemption to lobster (*Homarus gammarus*) and crawfish (*Palinuridae*) caught with nets (GNS, GN, GND, GNC, GTN, GTR, GEN) and pots and traps (FPO, FIX) in the Western Mediterranean Sea, in the Adriatic Sea and in the South-eastern Mediterranean Sea. The STECF considered that the survival study for crawfish provided by the Member States concerned is a reasonably robust study which shows short-term survival rates, noting however that the sample size was small. Further scientific evidence should be provided both for crawfish and for lobster. The Commission considers therefore that the exemption should be introduced for one year only. The Member States concerned should provide additional relevant data by 1 May 2019 in order to allow a further assessment by the STECF.
- (17) The new joint recommendations for the Adriatic Sea and the South-eastern Mediterranean Sea propose applying the survivability exemption to Norway lobster (*Nephrops norvegicus*) caught with bottom trawls (OTB, OTT, PTB, TBN, TBS, TB, OT, PT, TX) in the Adriatic Sea and in the South-eastern Mediterranean Sea. The new joint recommendation initially suggested applying this exemption except during the months of July, August and September, which would be subject to a new *de minimis* exemption. The STECF considered there was no evidence to support a *de minimis* exemption during the summer months and formulated no further comments. However, there is scientific evidence demonstrating survival for that species in other regions. As high survival rates can occur and taking into account the characteristics of the gear, of the fishing practices and of the ecosystem, the Commission considers that the survivability exemption applicable for the whole year should therefore be introduced.
- (18) The three new joint recommendations further propose extending the application of the *de minimis* exemption, as provided for in Article 15(4)(c) of Regulation (EU) No 1380/2013 to hake (*Merluccius merluccius*) and mullets (*Mullus* spp.), up to 6 % in 2019 and 2020 and up to 5 % in 2021 of the total annual catches of those species made by vessels using bottom trawls (OTB, OTT, PTB, TBN, TBS, TB, OT, PT and TX), and up to 1 % in 2019, 2020 and 2021 of the total annual catches of those species made by vessels using gillnets and trammel nets (GNS, GN, GND, GNC, GTN, GTR, GEN), in the Western Mediterranean Sea, in the Adriatic Sea and in the South-eastern Mediterranean Sea. Commission Delegated Regulation (EU) 2017/86 introduced a *de minimis* exemption for those species. Based on the scientific evidences provided at that occasion in the joint recommendation and reviewed by STECF and taking into account the characteristics of the gear, the high number of species in the fishing operations, the fishing patterns and the particularities of the Mediterranean Sea (e.g. predominance of small-scale fisheries), the Commission considered that it was appropriate to establish such *de minimis* exemptions in order to avoid disproportionate costs of handling unwanted catches. The STECF did not assess the new recommendation concerning bottom trawls. When assessing the new joint recommendation for gillnets and trammel nets, the STECF noted that the information provided by the Member States concerned was not complete enough. However, considering that circumstances have not changed, the Commission considers that the *de minimis* exemption should be continued with the percentage levels mentioned above.
- (19) The new joint recommendation for the Adriatic Sea suggests extending the application of the *de minimis* exemption to hake (*Merluccius merluccius*) and mullets (*Mullus* spp.), up to 1 % in 2019, 2020 and 2021 of the total annual catches of those species made by vessels using the 'rapido' gear (TBB) and to common sole (*Solea solea*) up to 3 % in 2019, 2020 and 2021 of the total annual catches of that species made by vessels using bottom trawls (OTB, OTT, PTB, TBN, TBS, TB, OT, PT and TX) in the Adriatic Sea. Commission Delegated Regulation (EU) 2017/86 introduced a *de minimis* exemption for those species. Based on the scientific evidences provided in the joint recommendation at that occasion and reviewed by STECF and taking into account the characteristics of the gear, the high number of species in the fishing operations, the fishing patterns and the particularities of the Mediterranean Sea (e.g. predominance of small-scale fisheries), the Commission considered that it was appropriate to establish such *de minimis* exemptions (up to 1 % for hake and mullets and up to 3 % for common sole) in order to avoid disproportionate costs of handling unwanted catches. When assessing the new joint recommendation, the STECF considered that there was no specific information provided to support a big increase of the percentage levels applied. Considering that circumstances have not changed for applying the current percentage level, the Commission considers that this exemption should be continued with the percentage levels mentioned above.
- (20) The new joint recommendation for the South-eastern Mediterranean suggests extending the application of the *de minimis* exemption to deep-water rose shrimp (*Parapenaeus longirostris*), up to 6 % in 2019 and 2020 and up to 5 % in 2021 of the total annual catches of that species made by vessels using bottom trawls (OTB, OTT, PTB, TBN, TBS, TB, OT, PT and TX) in the South-eastern Mediterranean Sea. Commission Delegated Regulation (EU) 2017/86 introduced a *de minimis* exemption for that species. Based on the scientific evidences provided in the joint recommendation at that occasion and reviewed by STECF and taking into account the characteristics of the gear, the high number of species in the fishing operations, the fishing patterns and the particularities of the Mediterranean Sea (e.g. predominance of small-scale fisheries), the Commission considered that it was appropriate to establish such *de minimis* exemption in order to avoid disproportionate costs of handling

unwanted catches. The STECF did not assess the new recommendation. Considering that circumstances have not changed, the Commission considers that this exemption should be continued with the percentage levels mentioned above.

- (21) The new joint recommendations for the Western Mediterranean suggest applying the *de minimis* exemption to European seabass (*Dicentrarchus labrax*), annular seabream (*Diplodus annularis*), sharpsnout seabream (*Diplodus puntazzo*), white seabream (*Diplodus sargus*), two-banded seabream (*Diplodus vulgaris*), groupers (*Epinephelus* spp.), striped seabream (*Lithognathus mormyrus*), Spanish seabream (*Pagellus acarne*), red seabream (*Pagellus bogaraveo*), common pandora (*Pagellus erythrinus*), common seabream (*Pagrus pagrus*), wreckfish (*Polyprion americanus*), common sole (*Solea solea*), gilthead seabream (*Sparus aurata*) and deep-water rose shrimp (*Parapenaeus longirostris*), up to 5 % in 2019 of the total annual catches of those species made by vessels using bottom trawls (OTB, OTT, PTB, TBN, TBS, TB, OT, PT, TX); up to 3 % in 2019 of the total annual catches of those species, except for deep-water rose shrimp, caught by vessels using gillnets and trammel nets (GNS, GN, GND, GNC, GTN, GTR, GEN); and up to 1 % in 2019 of the total annual catches of those species, except for red sea bream and deep-water rose shrimp, made by vessels using hooks and lines (LHP, LHM, LLS, LLD, LL, LTL, LX).

- (22) The new joint recommendations for the Adriatic Sea suggest applying the *de minimis* exemption to European seabass (*Dicentrarchus labrax*), annular seabream (*Diplodus annularis*), sharpsnout seabream (*Diplodus puntazzo*), white seabream (*Diplodus sargus*), two-banded seabream (*Diplodus vulgaris*), groupers (*Epinephelus* spp.), striped seabream (*Lithognathus mormyrus*), Spanish seabream (*Pagellus acarne*), red seabream (*Pagellus bogaraveo*), common pandora (*Pagellus erythrinus*), common seabream (*Pagrus pagrus*), wreckfish (*Polyprion americanus*), gilthead seabream (*Sparus aurata*) and deep-water rose shrimp (*Parapenaeus longirostris*), up to 5 % in 2019 of the total annual catches of those species made by vessels using bottom trawls (OTB, OTT, PTB, TBN, TBS, TB, OT, PT, TX); up to 3 % in 2019 of the total annual catches of those species, except for deep-water rose shrimp but including common sole, caught by vessels using gillnets and trammel nets (GNS, GN, GND, GNC, GTN, GTR, GEN); and up to 1 % in 2019 of the total annual catches of those species, except for red sea bream and deep-water rose shrimp but including common sole, made by vessels using hooks and lines (LHP, LHM, LLS, LLD, LL, LTL, LX).

- (23) The new joint recommendation for the South-eastern Mediterranean Sea suggests applying the *de minimis* exemption to European seabass (*Dicentrarchus labrax*), annular seabream (*Diplodus annularis*), sharpsnout seabream (*Diplodus puntazzo*), white seabream (*Diplodus sargus*), two-banded seabream (*Diplodus vulgaris*), groupers (*Epinephelus* spp.), striped seabream (*Lithognathus mormyrus*), Spanish seabream (*Pagellus acarne*), red seabream (*Pagellus bogaraveo*), common pandora (*Pagellus erythrinus*), common seabream (*Pagrus pagrus*), wreckfish (*Polyprion americanus*), common sole (*Solea solea*), and gilthead seabream (*Sparus aurata*), up to 5 % in 2019 of the total annual catches of those species caught by vessels using bottom trawls (OTB, OTT, PTB, TBN, TBS, TB, OT, PT, TX); up to 3 % in 2019 of the total annual catches of those species made by vessels using gillnets and trammel nets (GNS, GN, GND, GNC, GTN, GTR, GEN); and up to 1 % in 2019 of the total annual catches of those species, except for red seabream, made by vessels using hooks and lines (LHP, LHM, LLS, LLD, LL, LTL, LX).

- (24) Finally, the three new joint recommendations suggest applying the *de minimis* exemption to anchovy (*Engraulis encrasicolus*), sardine (*Sardina pilchardus*), mackerel (*Scomber* spp.) and horse mackerel (*Trachurus* spp.), up to 5 % in 2019 of the total annual by-catches of those species made by vessels using bottom trawls (OTB, OTT, PTB, TBN, TBS, TB, OT, PT, TX), in the Western Mediterranean Sea, in the Adriatic Sea and in the South-eastern Mediterranean Sea.

- (25) The STECF noted that the exemptions mentioned in recitals (21), (22) and (23) cover a broad group of species with a wide range of discard rates and that specific information to fully support the exemptions requested had not been provided. However, the Commission points out that those exemptions apply to groups of species which cover the rest of species subject to minimum sizes as defined in Annex III to Regulation (EC) No 1967/2006 and which are not, at this stage, subject to catch limits; therefore, Article 15(8) and (9) of Regulation (EU) No 1380/2013 are not applicable. In addition, those species are caught at the same time, at highly varying quantities, which makes a single stock approach challenging. Those species are furthermore caught by small scale fishing vessels and landed at many different landing points spread out geographically along the coast; therefore, there is a high likelihood of disproportionate costs of handling unwanted catches in the first years of full implementation of the landing obligation. It is also to be taken into consideration that the exemptions are in principle below the maximum allowed limits. In this context, the Commission considers that those *de minimis* exemptions should be introduced for one year only. Member States should submit by 1 May 2019 the relevant data to allow STECF to fully assess the justifications for the exemptions and the Commission to carry out a review.

- (26) Finally, the Commission notes that Member States undertake 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.
- (27) The Commission also notes that in line with the joint recommendation for the Western Mediterranean Sea, the concerned Member States encourage the use of cod-end trawls and/or extension fitted with a T90 50 mm mesh size and the continuation of real time closures trials.
- (28) The measures suggested by the new joint recommendations are in line with Article 15(4), Article 15(5)(c) and Article 18(3) of Regulation (EU) No 1380/2013 and may thus be included in the discard plan established by Delegated Regulation (EU) 2017/86.
- (29) The *de minimis* exemptions for small pelagic species in fisheries targeting those species are set out in Commission Delegated Regulation (EU) 2018/161 ⁽¹⁾. By contrast, *de minimis* exemptions for by-catches of small pelagic species made in demersal fisheries should be included in Delegated Regulation (EU) 2017/86.
- (30) Commission Delegated Regulation (EU) 2017/86 should therefore be amended accordingly.
- (31) 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. It should apply from 1 January 2019,

HAS ADOPTED THIS REGULATION:

Article 1

Delegated Regulation (EU) 2017/86 is amended as follows:

- (1) Article 3 is replaced by the following:

‘Article 3

Survivability exemption

1. The exemption from the landing obligation pursuant to Article 15(4)(b) of Regulation (EU) No 1380/2013 for species for which scientific evidence demonstrates high survival rates shall apply to:

- (a) common sole (*Solea solea*) caught with rapido (TBB) (*) in the Adriatic Sea until 31 December 2019;
- (b) scallop (*Pecten jacobaeus*) caught with mechanised dredges (HMD) in the Western Mediterranean Sea;
- (c) carpet clams (*Venerupis* spp.) caught with mechanised dredges (HMD) in the Western Mediterranean Sea;
- (d) Venus shells (*Venus* spp.) caught with mechanised dredges (HMD) in the Western Mediterranean Sea;
- (e) Norway lobster (*Nephrops norvegicus*) caught with all bottom trawls (OTB, OTT, PTB, TBN, TBS, TB, OT, PT, TX) in the Western Mediterranean Sea, in the Adriatic Sea and in the South-eastern Mediterranean Sea;
- (f) Norway lobster (*Nephrops norvegicus*) caught with pots and traps (FPO, FIX), in the Western Mediterranean, in the Adriatic Sea and in the South-eastern Mediterranean until 31 December 2019;
- (g) red sea bream (*Pagellus bogaraveo*) caught with hooks and lines (LHP, LHM, LLS, LLD, LL, LTL, LX) in the Western Mediterranean sea, in the Adriatic Sea and in the South-eastern Mediterranean Sea until 31 December 2019;
- (h) lobster (*Homarus gammarus*) caught with nets (GNS, GN, GND, GNC, GTN, GTR, GEN) and with pots and traps (FPO, FIX) in the Western Mediterranean Sea, in the Adriatic Sea and in the South-eastern Mediterranean Sea until 31 December 2019;
- (i) crawfish (Palinuridae) caught with nets (GNS, GN, GND, GNC, GTN, GTR, GEN) and with pots and traps (FPO, FIX) in the Western Mediterranean Sea, in the Adriatic Sea and in the South-eastern Mediterranean Sea until 31 December 2019.

⁽¹⁾ Commission Delegated Regulation (EU) 2018/161 of 23 October 2017 establishing a *de minimis* exemption to the landing obligation for certain small pelagic fisheries in the Mediterranean Sea (OJ L 30, 2.2.2018, p. 1).

2. Common sole (*Solea solea*), scallop (*Pecten jacobaeus*), carpet clams (*Venerupis* spp.), Venus shells (*Venus* spp.), Norway lobster (*Nephrops norvegicus*), red sea bream (*Pagellus bogaraveo*), lobster (*Homarus gammarus*) and crawfish (*Palinuridae*) caught in the circumstances referred to in paragraph 1 shall be released immediately in the area where they have been caught.

3. By 1 May 2019, the Member States having a direct management interest in the fisheries in the Mediterranean Sea shall submit to the Commission additional discard data to those provided in the joint recommendations of June 2018 as amended in August 2018, and any other relevant scientific information supporting the exemption laid down in paragraphs 1(a), 1(f), 1(g), 1(h) and 1(i). The Scientific, Technical and Economic Committee for Fisheries (STECF) shall assess those data and that information by July 2019 at the latest.

(*) Gear codes used in this Regulation refer to the codes 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 122, 30.4.2011, p. 1). For the vessels whose LOA is less than 10 metres, gear codes used in this Regulation refer to the codes from the FAO gear classification.'

(2) Article 4 is replaced by the following:

'Article 4

De minimis exemption

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

(a) in the Western Mediterranean Sea (point 1 of the Annex):

- (i) for hake (*Merluccius merluccius*) and mullets (*Mullus* spp.), up to a maximum of 6 % for 2019 and 2020 and up to a maximum of 5 % in 2021 of the total annual catches of those species by vessels using bottom trawls;
- (ii) for hake (*Merluccius merluccius*) and mullets (*Mullus* spp.), up to a maximum of 1 % of the total annual catches of those species by vessels using gillnets and trammel nets;
- (iii) for European seabass (*Dicentrarchus labrax*), annular seabream (*Diplodus annularis*), sharpsnout seabream (*Diplodus puntazzo*), white seabream (*Diplodus sargus*), two-banded seabream (*Diplodus vulgaris*), groupers (*Epinephelus* spp.), striped seabream (*Lithognathus mormyrus*), Spanish seabream (*Pagellus acarne*), red seabream (*Pagellus bogaraveo*), common pandora (*Pagellus erythrinus*), common seabream (*Pagrus pagrus*), wreckfish (*Polyprion americanus*), common sole (*Solea solea*), gilthead seabream (*Sparus aurata*) and deep-water rose shrimp (*Parapenaeus longirostris*), up to a maximum of 5 % in 2019 of the total annual catches of those species made by vessels using bottom trawls;
- (iv) for European seabass (*Dicentrarchus labrax*), annular seabream (*Diplodus annularis*), sharpsnout seabream (*Diplodus puntazzo*), white seabream (*Diplodus sargus*), two-banded seabream (*Diplodus vulgaris*), groupers (*Epinephelus* spp.), striped seabream (*Lithognathus mormyrus*), Spanish seabream (*Pagellus acarne*), red seabream (*Pagellus bogaraveo*), common pandora (*Pagellus erythrinus*), common seabream (*Pagrus pagrus*), wreckfish (*Polyprion americanus*), common sole (*Solea solea*) and gilthead seabream (*Sparus aurata*), up to a maximum of 3 % in 2019 of the total annual catches of those species made by vessels using gillnets and trammel nets;
- (v) for European seabass (*Dicentrarchus labrax*), annular seabream (*Diplodus annularis*), sharpsnout seabream (*Diplodus puntazzo*), white seabream (*Diplodus sargus*), two-banded seabream (*Diplodus vulgaris*), groupers (*Epinephelus* spp.), striped seabream (*Lithognathus mormyrus*), Spanish seabream (*Pagellus acarne*), common pandora (*Pagellus erythrinus*), common seabream (*Pagrus pagrus*), wreckfish (*Polyprion americanus*), common sole (*Solea solea*) and gilthead seabream (*Sparus aurata*), up to a maximum of 1 % in 2019 of the total annual catches of those species made by vessels using hooks and lines;
- (vi) for anchovy (*Engraulis encrasicolus*), sardine (*Sardina pilchardus*), mackerel (*Scomber* spp.) and horse mackerel (*Trachurus* spp.), up to a maximum of 5 % in 2019 of the total annual by-catches of those species by vessels using bottom trawls;

(b) in the Adriatic Sea (point 2 of the Annex):

- (i) for hake (*Merluccius merluccius*) and mullets (*Mullus* spp.), up to a maximum of 6 % in 2019 and 2020 and up to a maximum of 5 % in 2021 of the total annual catches of those species by vessels using bottom trawls;
- (ii) for hake (*Merluccius merluccius*) and mullets (*Mullus* spp.), up to a maximum of 1 % of the total annual catches of those species by vessels using gillnets and trammel nets;

- (iii) for hake (*Merluccius merluccius*) and mullets (*Mullus* spp.), up to a maximum of 1 % of the total annual catches of those species by vessels using rapido (TBB);
 - (iv) for common sole (*Solea solea*), up to 3 % of the total annual catches of those species by vessels using bottom trawls;
 - (v) for European seabass (*Dicentrarchus labrax*), annular seabream (*Diplodus annularis*), sharpsnout seabream (*Diplodus puntazzo*), white seabream (*Diplodus sargus*), two-banded seabream (*Diplodus vulgaris*), groupers (*Epinephelus* spp.), striped seabream (*Lithognathus mormyrus*), Spanish seabream (*Pagellus acarne*), red seabream (*Pagellus bogaraveo*), common pandora (*Pagellus erythrinus*), common seabream (*Pagrus pagrus*), wreckfish (*Polyprion americanus*), gilthead seabream (*Sparus aurata*) and deep-water rose shrimp (*Parapenaeus longirostris*), up to a maximum of 5 % in 2019 of the total annual catches of those species made by vessels using bottom trawls;
 - (vi) for European seabass (*Dicentrarchus labrax*), annular seabream (*Diplodus annularis*), sharpsnout seabream (*Diplodus puntazzo*), white seabream (*Diplodus sargus*), two-banded seabream (*Diplodus vulgaris*), groupers (*Epinephelus* spp.), striped seabream (*Lithognathus mormyrus*), Spanish seabream (*Pagellus acarne*), red seabream (*Pagellus bogaraveo*), common pandora (*Pagellus erythrinus*), common seabream (*Pagrus pagrus*), wreckfish (*Polyprion americanus*), common sole (*Solea solea*) and gilthead seabream (*Sparus aurata*), up to a maximum of 3 % in 2019 of the total annual catches of those species made by vessels using gillnets and trammel nets;
 - (vii) for European seabass (*Dicentrarchus labrax*), annular seabream (*Diplodus annularis*), sharpsnout seabream (*Diplodus puntazzo*), white seabream (*Diplodus sargus*), two-banded seabream (*Diplodus vulgaris*), groupers (*Epinephelus* spp.), striped seabream (*Lithognathus mormyrus*), Spanish seabream (*Pagellus acarne*), common pandora (*Pagellus erythrinus*), common seabream (*Pagrus pagrus*), wreckfish (*Polyprion americanus*), common sole (*Solea solea*) and gilthead seabream (*Sparus aurata*), up to a maximum of 1 % in 2019 of the total annual catches of those species made by vessels using hooks and lines;
 - (viii) for anchovy (*Engraulis encrasicolus*), sardine (*Sardina pilchardus*), mackerel (*Scomber* spp.) and horse mackerel (*Trachurus* spp.), up to a maximum of 5 % in 2019 of the total annual by-catches of those species by vessels using bottom trawls;
- (c) in the South-eastern Mediterranean Sea (point 3 of the Annex):
- (i) for hake (*Merluccius merluccius*) and mullets (*Mullus* spp.), up to a maximum of 6 % for 2019 and 2020 and up to a maximum of 5 % in 2021 of the total annual catches of those species by vessels using bottom trawls;
 - (ii) for hake (*Merluccius merluccius*) and mullets (*Mullus* spp.), up to a maximum of 1 % of the total annual catches of those species by vessels using gillnets and trammel nets;
 - (iii) for deep-water rose shrimp (*Parapenaeus longirostris*), up to a maximum of 6 % for 2019 and 2020 and up to a maximum of 5 % for 2021 of the total annual catches of that species by vessels using bottom trawls;
 - (iv) for European seabass (*Dicentrarchus labrax*), annular seabream (*Diplodus annularis*), sharpsnout seabream (*Diplodus puntazzo*), white seabream (*Diplodus sargus*), two-banded seabream (*Diplodus vulgaris*), groupers (*Epinephelus* spp.), striped seabream (*Lithognathus mormyrus*), Spanish seabream (*Pagellus acarne*), red seabream (*Pagellus bogaraveo*), common pandora (*Pagellus erythrinus*), common seabream (*Pagrus pagrus*), wreckfish (*Polyprion americanus*), common sole (*Solea solea*) and gilthead seabream (*Sparus aurata*), up to a maximum of 5 % in 2019 of the total annual catches of those species made by vessels using bottom trawls;
 - (v) for European seabass (*Dicentrarchus labrax*), annular seabream (*Diplodus annularis*), sharpsnout seabream (*Diplodus puntazzo*), white seabream (*Diplodus sargus*), two-banded seabream (*Diplodus vulgaris*), groupers (*Epinephelus* spp.), striped seabream (*Lithognathus mormyrus*), Spanish seabream (*Pagellus acarne*), red seabream (*Pagellus bogaraveo*), common pandora (*Pagellus erythrinus*), common seabream (*Pagrus pagrus*), wreckfish (*Polyprion americanus*), common sole (*Solea solea*) and gilthead seabream (*Sparus aurata*), up to a maximum of 3 % in 2019 of the total annual catches of those species made by vessels using gillnets and trammel nets;
 - (vi) for European seabass (*Dicentrarchus labrax*), annular seabream (*Diplodus annularis*), sharpsnout seabream (*Diplodus puntazzo*), white seabream (*Diplodus sargus*), two-banded seabream (*Diplodus vulgaris*), groupers (*Epinephelus* spp.), striped seabream (*Lithognathus mormyrus*), Spanish seabream (*Pagellus acarne*), common pandora (*Pagellus erythrinus*), common seabream (*Pagrus pagrus*), wreckfish (*Polyprion americanus*), common sole (*Solea solea*) and gilthead seabream (*Sparus aurata*), up to a maximum of 1 % in 2019 of the total annual catches of those species made by vessels using hooks and lines;
 - (vii) for anchovy (*Engraulis encrasicolus*), sardine (*Sardina pilchardus*), mackerel (*Scomber* spp.) and horse mackerel (*Trachurus* spp.), up to a maximum of 5 % in 2019 of the total annual by-catches of those species by vessels using bottom trawls.

2. By 1 May 2019, the Member States having a direct management interest in the fisheries in the Mediterranean Sea shall submit to the Commission additional discard data to those provided in the joint recommendations of June 2018 as amended in August 2018 and any other relevant scientific information supporting the exemptions laid down in paragraphs 1(a)(iii) to (vi), 1(b)(v) to (viii) and 1(c)(iv) to (vii). The STECF shall assess those data and that information by July 2019 at the latest.'

(3) In Article 6, the second paragraph is replaced by the following:

'It shall apply from 1 January 2017 to 31 December 2021'.

(4) The Annex is replaced by the text in the Annex to this Regulation.

Article 2

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 2019.

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

Done at Brussels, 18 October 2018.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

1. Western Mediterranean Sea

Fisheries	Gear code	Fishing gear description	Landing obligation
Hake (<i>Merluccius merluccius</i>) Sur and Red Mulletts (<i>Mullus</i> spp) FAO codes: MUT, MUR, MUX Norway lobster (<i>Nephrops norvegicus</i>) Deep water rose shrimp (<i>Parapaneus longirostris</i>) Sea bass (<i>Dicentrarchus labrax</i>) Annular sea bream (<i>Diplodus annularis</i>) Sharpsnout sea bream (<i>Diplodus puntazzo</i>) White sea bream (<i>Diplodus sargus</i>) Two-banded sea bream (<i>Diplodus vulgaris</i>) Groupers (<i>Epinephelus</i> spp.) Stripped sea bream (<i>Lithognathus mormyrus</i>) Spanish sea bream (<i>Pagellus acarne</i>) Red sea bream (<i>Pagellus bogaraveo</i>) Common pandora (<i>Pagellus erythrinus</i>) Common sea bream (<i>Pagrus pagrus</i>) Wreckfish (<i>Polyprion americanus</i>) Common sole (<i>Solea vulgaris</i>) Gilt-head sea bream (<i>Sparus aurata</i>) <u>By-catches of:</u> European anchovy (<i>Engraulis encrasicolus</i>) European sardine (<i>Sardina pilchardus</i>) Mackerel (<i>Scomber</i> spp.) Horse mackerel (<i>Trachurus</i> spp.)	OTB, OTT, PTB, TBN, TBS, TB, OT, PT, TX	All bottom trawls	All catches are subject to the landing obligation
Hake (<i>Merluccius merluccius</i>) Sur and Red Mulletts (<i>Mullus</i> spp.) FAO codes: MUT, MUR, MUX Sea bass (<i>Dicentrarchus labrax</i>) Annular sea bream (<i>Diplodus annularis</i>) Sharpsnout sea bream (<i>Diplodus puntazzo</i>) White sea bream (<i>Diplodus sargus</i>) Two-banded sea bream (<i>Diplodus vulgaris</i>) Groupers (<i>Epinephelus</i> spp.) Stripped sea bream (<i>Lithognathus mormyrus</i>) Spanish sea bream (<i>Pagellus acarne</i>) Red sea bream (<i>Pagellus bogaraveo</i>) Common pandora (<i>Pagellus erythrinus</i>) Common sea bream (<i>Pagrus pagrus</i>) Wreckfish (<i>Polyprion americanus</i>) Common sole (<i>Solea vulgaris</i>) Gilt-head sea bream (<i>Sparus aurata</i>)	LL, LLS, LLD, LX, LTL, LHP, LHM	All long lines	All catches are subject to the landing obligation

Fisheries	Gear code	Fishing gear description	Landing obligation
Hake (<i>Merluccius merluccius</i>) Sur and Red Mulletts (<i>Mullus</i> spp.) FAO codes: MUT, MUR, MUX Lobster (<i>Homarus gammarus</i>) Crawfish (<i>Palinuridae</i>) Sea bass (<i>Dicentrarchus labrax</i>) Annular sea bream (<i>Diplodus annularis</i>) Sharpsnout sea bream (<i>Diplodus puntazzo</i>) White sea bream (<i>Diplodus sargus</i>) Two-banded sea bream (<i>Diplodus vulgaris</i>) Groupers (<i>Epinephelus</i> spp.) Stripped sea bream (<i>Lithognathus mormyrus</i>) Spanish sea bream (<i>Pagellus acarne</i>) Red sea bream (<i>Pagellus bogaraveo</i>) Common pandora (<i>Pagellus erythrinus</i>) Common sea bream (<i>Pagrus pagrus</i>) Wreckfish (<i>Polyprion americanus</i>) Common sole (<i>Solea vulgaris</i>) Gilt-head sea bream (<i>Sparus aurata</i>)	GNS, GN, GND, GNC, GTN, GTR, GEN	All trammel nets and gill nets	All catches are subject to the landing obligation
Scallop (<i>Pecten jacobaeus</i>) Carpet clams (<i>Venerupis</i> spp.) Venus shells (<i>Venus</i> spp.)	HMD	All mechanised dredges	All catches are subject to the landing obligation
Norway lobster (<i>Nephrops norvegicus</i>) Lobster (<i>Homarus gammarus</i>) Crawfish (<i>Palinuridae</i>)	FPO, FIX	All pots and traps	All catches are subject to the landing obligation

2. Adriatic Sea

Fisheries	Gear code	Fishing gear description	Landing obligation
Hake (<i>Merluccius merluccius</i>) Sur and Red Mulletts (<i>Mullus</i> spp.) FAO codes: MUT, MUR, MUX Norway lobster (<i>Nephrops norvegicus</i>) Deep water rose shrimp (<i>Parapaneus longirostris</i>) Sea bass (<i>Dicentrarchus labrax</i>) Annular sea bream (<i>Diplodus annularis</i>) Sharpsnout sea bream (<i>Diplodus puntazzo</i>) White sea bream (<i>Diplodus sargus</i>), Two-banded sea bream (<i>Diplodus vulgaris</i>) Groupers (<i>Epinephelus</i> spp.) Stripped sea bream (<i>Lithognathus mormyrus</i>)	OTB, OTT, PTB, TBN, TBS, TB, OT, PT, TX	All bottom trawls	All catches are subject to the landing obligation

Fisheries	Gear code	Fishing gear description	Landing obligation
Spanish sea bream (<i>Pagellus acarne</i>), Red sea bream (<i>Pagellus bogaraveo</i>), Common pandora (<i>Pagellus erythrinus</i>) Common sea bream (<i>Pagrus pagrus</i>) Wreckfish (<i>Polyprion americanus</i>) Common sole (<i>Solea vulgaris</i>) Gilt-head sea bream (<i>Sparus aurata</i>) <u>By-catches of:</u> European anchovy (<i>Engraulis encrasicolus</i>) European sardine (<i>Sardina pilchardus</i>) Mackerel (<i>Scomber</i> spp.) Horse mackerel (<i>Trachurus</i> spp.)			
Hake (<i>Merluccius merluccius</i>) Sea bass (<i>Dicentrarchus labrax</i>) Annular sea bream (<i>Diplodus annularis</i>) Sharpsnout sea bream (<i>Diplodus puntazzo</i>) White sea bream (<i>Diplodus sargus</i>), Two-banded sea bream (<i>Diplodus vulgaris</i>) Groupers (<i>Epinephelus</i> spp.) Stripped sea bream (<i>Lithognathus mormyrus</i>) Spanish sea bream (<i>Pagellus acarne</i>), Red sea bream (<i>Pagellus bogaraveo</i>), Common pandora (<i>Pagellus erythrinus</i>) Common sea bream (<i>Pagrus pagrus</i>) Wreckfish (<i>Polyprion americanus</i>) Common sole (<i>Solea vulgaris</i>) Gilt-head sea bream (<i>Sparus aurata</i>)	LL, LLS, LLD, LX, LTL, LHP, LHM	All long lines	All catches are subject to the landing obligation
Hake (<i>Merluccius merluccius</i>) Sur and Red Mullet (<i>Mullus</i> spp.) FAO codes: MUT, MUR, MUX Common sole (<i>Solea vulgaris</i>) Lobster (<i>Homarus gammarus</i>) Crawfish (<i>Palinuridae</i>) Sea bass (<i>Dicentrarchus labrax</i>) Annular sea bream (<i>Diplodus annularis</i>), Sharpsnout sea bream (<i>Diplodus puntazzo</i>), White sea bream (<i>Diplodus sargus</i>), Two-banded sea bream (<i>Diplodus vulgaris</i>) Groupers (<i>Epinephelus</i> spp.) Stripped sea bream (<i>Lithognathus mormyrus</i>) Spanish sea bream (<i>Pagellus acarne</i>), Red sea bream (<i>Pagellus bogaraveo</i>), Common pandora (<i>Pagellus erythrinus</i>), Common sea bream (<i>Pagrus pagrus</i>)	GNS, GN, GND, GNC, GTN, GTR, GEN	All trammel nets and gill nets	All catches are subject to the landing obligation

Fisheries	Gear code	Fishing gear description	Landing obligation
Wreckfish (<i>Polyprion americanus</i>) Common sole (<i>Solea vulgaris</i>) Gilt-head sea bream (<i>Sparus aurata</i>)			
Scallop (<i>Pecten jacobaeus</i>) Carpet clams (<i>Venerupis</i> spp.) Venus shells (<i>Venus</i> spp.)	HMD	All mechanised dredges	All catches are subject to the landing obligation
Norway lobster (<i>Nephrops norvegicus</i>) Lobster (<i>Homarus gammarus</i>) Crawfish (<i>Palinuridae</i>) Spanish sea bream (<i>Pagellus acarne</i>), Red sea bream (<i>Pagellus bogaraveo</i>), Common pandora (<i>Pagellus erythrinus</i>), Common sea bream (<i>Pagrus pagrus</i>) Annular sea bream (<i>Diplodus annularis</i>), Sharpshnout sea bream (<i>Diplodus puntazzo</i>), White sea bream (<i>Diplodus sargus</i>), Two-banded sea bream (<i>Diplodus vulgaris</i>)	FPO, FIX, FYK	All pots and traps, fyke nets	All catches are subject to the landing obligation

3. South-eastern Mediterranean Sea

Fisheries	Gear code	Fishing gear description	Landing obligation
Hake (<i>Merluccius merluccius</i>) Sur and Red Mulletts (<i>Mullus</i> spp.) FAO codes: MUT, MUR, MUX Norway lobster (<i>Nephrops norvegicus</i>) Deep water rose shrimp (<i>Parapaneus longirostris</i>) Sea bass (<i>Dicentrarchus labrax</i>) Annular sea bream (<i>Diplodus annularis</i>) Sharpshnout sea bream (<i>Diplodus puntazzo</i>) White sea bream (<i>Diplodus sargus</i>) Two-banded sea bream (<i>Diplodus vulgaris</i>) Groupers (<i>Epinephelus</i> spp.) Stripped sea bream (<i>Lithognathus mormyrus</i>) Spanish sea bream (<i>Pagellus acarne</i>), Red sea bream (<i>Pagellus bogaraveo</i>), Common pandora (<i>Pagellus erythrinus</i>) Common sea bream (<i>Pagrus pagrus</i>) Wreckfish (<i>Polyprion americanus</i>) Common sole (<i>Solea vulgaris</i>) Gilt-head sea bream (<i>Sparus aurata</i>) <u>By-catches of:</u> European anchovy (<i>Engraulis encrasicolus</i>) European sardine (<i>Sardina pilchardus</i>) Mackerel (<i>Scomber</i> spp.) Horse mackerel (<i>Trachurus</i> spp.)	OTB, OTT, PTB, TBN, TBS, TB, OT, PT, TX	All bottom trawls	All catches are subject to the landing obligation

Fisheries	Gear code	Fishing gear description	Landing obligation
Hake (<i>Merluccius merluccius</i>) Sea bass (<i>Dicentrarchus labrax</i>) Annular sea bream (<i>Diplodus annularis</i>), Sharpshout sea bream (<i>Diplodus puntazzo</i>) White sea bream (<i>Diplodus sargus</i>), Two-banded sea bream (<i>Diplodus vulgaris</i>) Groupers (<i>Epinephelus</i> spp.) Stripped sea bream (<i>Lithognathus mormyrus</i>) Spanish sea bream (<i>Pagellus acarne</i>), Red sea bream (<i>Pagellus bogaraveo</i>), Common pandora (<i>Pagellus erythrinus</i>) Common sea bream (<i>Pagrus pagrus</i>) Wreckfish (<i>Polyprius americanus</i>) Common sole (<i>Solea vulgaris</i>) Gilt-head sea bream (<i>Sparus aurata</i>)	LL, LLS, LLD, LX, LTL, LHP, LHM	All long lines	All catches are subject to the landing obligation
Hake (<i>Merluccius merluccius</i>) Sur and Red Mulllets (<i>Mullus</i> spp.) FAO codes: MUT, MUR, MUX Common sole (<i>Solea vulgaris</i>) Lobster (<i>Homarus gammarus</i>) Crawfish (<i>Palinuridae</i>) Sea bass (<i>Dicentrarchus labrax</i>) Annular sea bream (<i>Diplodus annularis</i>) Sharpshout sea bream (<i>Diplodus puntazzo</i>) White sea bream (<i>Diplodus sargus</i>), Two-banded sea bream (<i>Diplodus vulgaris</i>) Groupers (<i>Epinephelus</i> spp.) Stripped sea bream (<i>Lithognathus mormyrus</i>) Spanish sea bream (<i>Pagellus acarne</i>), Red sea bream (<i>Pagellus bogaraveo</i>), Common pandora (<i>Pagellus erythrinus</i>) Common sea bream (<i>Pagrus pagrus</i>) Wreckfish (<i>Polyprius americanus</i>) Common sole (<i>Solea vulgaris</i>) Gilt-head sea bream (<i>Sparus aurata</i>)	GNS, GN, GND, GNC, GTN, GTR, GEN	All trammel nets and gill nets	All catches are subject to the landing obligation
Norway lobster (<i>Nephrops norvegicus</i>) Lobster (<i>Homarus gammarus</i>) Crawfish (<i>Palinuridae</i>) Spanish sea bream (<i>Pagellus acarne</i>), Red sea bream (<i>Pagellus bogaraveo</i>), Common pandora (<i>Pagellus erythrinus</i>) Common sea bream (<i>Pagrus pagrus</i>)	FPO, FIX, FYK	All pots and traps, fyke nets	All catches are subject to the landing obligation

Fisheries	Gear code	Fishing gear description	Landing obligation
Annular sea bream (<i>Diplodus annularis</i>) Sharpsnout sea bream (<i>Diplodus puntazzo</i>) White sea bream (<i>Diplodus sargus</i>), Two-banded sea bream (<i>Diplodus vulgaris</i>)			

COMMISSION REGULATION (EU) 2018/2037**of 17 December 2018****establishing a prohibition of fishing for herring in Union and international waters of 5b, 6b and 6aN by vessels flying the flag of France**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy ⁽¹⁾, and in particular Article 36(2) thereof,

Whereas:

- (1) Council Regulation (EU) 2018/120 ⁽²⁾ lays down quotas for 2018.
- (2) According to the information received by the Commission, catches of the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein have exhausted the quota allocated for 2018.
- (3) It is therefore necessary to prohibit fishing activities for that stock,

HAS ADOPTED THIS REGULATION:

*Article 1***Quota exhaustion**

The fishing quota allocated to the Member State referred to in the Annex to this Regulation for the stock referred to therein for 2018 shall be deemed to be exhausted from the date set out in that Annex.

*Article 2***Prohibitions**

Fishing activities for the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein shall be prohibited from the date set out in that Annex. In particular it shall be prohibited to retain on board, relocate, tranship or land fish from that stock caught by those vessels after that date.

*Article 3***Entry into force**

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

⁽¹⁾ OJ L 343, 22.12.2009, p. 1.

⁽²⁾ Council Regulation (EU) 2018/120 of 23 January 2018 fixing for 2018 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters, and amending Regulation (EU) 2017/127 (OJ L 27, 31.1.2018, p. 1).

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

Done at Brussels, 17 December 2018.

*For the Commission,
On behalf of the President,
João AGUIAR MACHADO
Director-General
Directorate-General for Maritime Affairs and Fisheries*

ANNEX

No	50/TQ120
Member State	France
Stock	HER/5B6ANB
Species	Herring (<i>Clupea harengus</i>)
Zone	Union and international waters of 5b, 6b and 6aN
Closing date	26.11.2018

COMMISSION REGULATION (EU) 2018/2038**of 17 December 2018****establishing a prohibition of fishing for saithe in Norwegian waters of 1 and 2 by vessels flying the flag of France**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy ⁽¹⁾, and in particular Article 36(2) thereof,

Whereas:

- (1) Council Regulation (EU) 2018/120 ⁽²⁾ lays down quotas for 2018.
- (2) According to the information received by the Commission, catches of the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein have exhausted the quota allocated for 2018.
- (3) It is therefore necessary to prohibit fishing activities for that stock,

HAS ADOPTED THIS REGULATION:

*Article 1***Quota exhaustion**

The fishing quota allocated to the Member State referred to in the Annex to this Regulation for the stock referred to therein for 2018 shall be deemed to be exhausted from the date set out in that Annex.

*Article 2***Prohibitions**

Fishing activities for the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein shall be prohibited from the date set out in that Annex. In particular it shall be prohibited to retain on board, relocate, tranship or land fish from that stock caught by those vessels after that date.

*Article 3***Entry into force**

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

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

Done at Brussels, 17 December 2018.

*For the Commission,
On behalf of the President,
João AGUIAR MACHADO*

*Director-General
Directorate-General for Maritime Affairs and Fisheries*

⁽¹⁾ OJ L 343, 22.12.2009, p. 1.

⁽²⁾ Council Regulation (EU) 2018/120 of 23 January 2018 fixing for 2018 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters, and amending Regulation (EU) 2017/127 (OJ L 27, 31.1.2018, p. 1).

ANNEX

No	49/TQ120
Member State	France
Stock	POK/1N2AB.
Species	Saithe (<i>Pollachius virens</i>)
Zone	Norwegian waters of 1 and 2
Closing date	26.11.2018

COMMISSION REGULATION (EU) 2018/2039**of 17 December 2018****establishing a prohibition of fishing for ling in Union and international waters of 1 and 2 by vessels flying the flag of France**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy ⁽¹⁾, and in particular Article 36(2) thereof,

Whereas:

- (1) Council Regulation (EU) 2018/120 ⁽²⁾ lays down quotas for 2018.
- (2) According to the information received by the Commission, catches of the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein have exhausted the quota allocated for 2018.
- (3) It is therefore necessary to prohibit fishing activities for that stock,

HAS ADOPTED THIS REGULATION:

*Article 1***Quota exhaustion**

The fishing quota allocated to the Member State referred to in the Annex to this Regulation for the stock referred to therein for 2018 shall be deemed to be exhausted from the date set out in that Annex.

*Article 2***Prohibitions**

Fishing activities for the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein shall be prohibited from the date set out in that Annex. In particular it shall be prohibited to retain on board, relocate, tranship or land fish from that stock caught by those vessels after that date.

*Article 3***Entry into force**

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

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

Done at Brussels, 17 December 2018.

*For the Commission,
On behalf of the President,
João AGUIAR MACHADO*

*Director-General
Directorate-General for Maritime Affairs and Fisheries*

⁽¹⁾ OJ L 343, 22.12.2009, p. 1.

⁽²⁾ Council Regulation (EU) 2018/120 of 23 January 2018 fixing for 2018 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters, and amending Regulation (EU) 2017/127 (OJ L 27, 31.1.2018, p. 1).

ANNEX

No	48/TQ120
Member State	France
Stock	LIN/1/2.
Species	Ling (<i>molva molva</i>)
Zone	Union and international waters of 1 and 2
Closing date	26.11.2018

COMMISSION REGULATION (EU) 2018/2040**of 17 December 2018****establishing a prohibition of fishing for Northern albacore in the Atlantic Ocean, north of 5° N by vessels flying the flag of France**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy ⁽¹⁾, and in particular Article 36(2) thereof,

Whereas:

- (1) Council Regulation (EU) 2018/120 ⁽²⁾ lays down quotas for 2018.
- (2) According to the information received by the Commission, catches of the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein have exhausted the quota allocated for 2018.
- (3) It is therefore necessary to prohibit fishing activities for that stock,

HAS ADOPTED THIS REGULATION:

*Article 1***Quota exhaustion**

The fishing quota allocated to the Member State referred to in the Annex to this Regulation for the stock referred to therein for 2018 shall be deemed to be exhausted from the date set out in that Annex.

*Article 2***Prohibitions**

Fishing activities for the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein shall be prohibited from the date set out in that Annex. In particular it shall be prohibited to retain on board, relocate, tranship or land fish from that stock caught by those vessels after that date.

*Article 3***Entry into force**

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

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

Done at Brussels, 17 December 2018.

*For the Commission,
On behalf of the President,
João AGUIAR MACHADO*

*Director-General
Directorate-General for Maritime Affairs and Fisheries*

⁽¹⁾ OJ L 343, 22.12.2009, p. 1.

⁽²⁾ Council Regulation (EU) 2018/120 of 23 January 2018 fixing for 2018 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters, and amending Regulation (EU) 2017/127 (OJ L 27, 31.1.2018, p. 1).

ANNEX

No	47/TQ120
Member State	France
Stock	ALB/AN05N
Species	Northern albacore (<i>Thunnus alalunga</i>)
Zone	Atlantic Ocean, north of 5° N
Closing date	26.11.2018

COMMISSION IMPLEMENTING REGULATION (EU) 2018/2041
of 17 December 2018
concerning the classification of certain goods in the Combined Nomenclature

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code ⁽¹⁾, and in particular Article 57(4) and Article 58(2) thereof,

Whereas:

- (1) In order to ensure uniform application of the Combined Nomenclature annexed to Council Regulation (EEC) No 2658/87 ⁽²⁾, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.
- (2) Regulation (EEC) No 2658/87 has laid down the general rules for the interpretation of the Combined Nomenclature. Those rules apply also to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific provisions of the Union, with a view to the application of tariff and other measures relating to trade in goods.
- (3) Pursuant to those general rules, the goods described in column (1) of the table set out in the Annex should be classified under the CN code indicated in column (2), by virtue of the reasons set out in column (3) of that table.
- (4) It is appropriate to provide that binding tariff information issued in respect of the goods concerned by this Regulation which does not conform to this Regulation may, for a certain period, continue to be invoked by the holder in accordance with Article 34(9) of Regulation (EU) No 952/2013. That period should be set at three months.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The goods described in column (1) of the table set out in the Annex shall be classified within the Combined Nomenclature under the CN code indicated in column (2) of that table.

Article 2

Binding tariff information which does not conform to this Regulation may continue to be invoked in accordance with Article 34(9) of Regulation (EU) No 952/2013 for a period of three months from the date of entry into force of this Regulation.

Article 3

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

⁽¹⁾ OJ L 269, 10.10.2013, p. 1.

⁽²⁾ Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

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

Done at Brussels, 17 December 2018.

*For the Commission,
On behalf of the President,
Stephen QUEST
Director-General
Directorate-General for Taxation and Customs Union*

ANNEX

Description of the goods	Classification (CN-code)	Reasons
(1)	(2)	(3)
<p>Cable connectors ('male or female type') for a voltage not exceeding 1 000 V, made of copper.</p> <p>The article has either a plug (so-called male type connector) or a socket (so-called female type connector) on one side and on the other side a contact device in the form of a clip shielded with a layer of insulating material.</p> <p>The article is used to connect wires or cables other than coaxial cables.</p> <p>The article makes the connection by plugging the 'male connector' into the 'female connector' without using any tools.</p> <p>See the image (*)</p>	8536 69 90	<p>Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 8536, 8536 69 and 8536 69 90.</p> <p>The article presents the objective characteristics of a plug ('male type connector') or a socket ('female type connector') fitted with another contact device (see also Harmonized System Explanatory Notes to heading 8536 group (III) letter (A), point (1), and also Explanatory Notes to the Combined Nomenclature to subheadings 8536 69 10 to 8536 69 90). Therefore its classification as other connections and contact elements for wire and cables under subheading 8536 90 10 is excluded.</p> <p>Consequently, it is to be classified under CN code 8536 69 90 as other plugs and sockets.</p>

(*) The image is purely for information.



COMMISSION IMPLEMENTING REGULATION (EU) 2018/2042**of 18 December 2018****amending Implementing Regulation (EU) 2017/1152 to clarify the WLTP test conditions and provide for the monitoring of type approval data****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 510/2011 of the European Parliament and of the Council of 11 May 2011 setting emission performance standards for new light commercial vehicles as part of the Union's integrated approach to reduce CO₂ emissions from light-duty vehicles ⁽¹⁾, and in particular the third subparagraph of Article 13(6) thereof,

Whereas:

- (1) In order to take into account the difference in the level of CO₂ emissions determined under the New European Test Cycle (NEDC) and those determined under the new Worldwide Harmonised Light Vehicle Test Procedure (WLTP), a methodology for correlating the CO₂ emission values has been put in place through Commission Implementing Regulation (EU) 2017/1152 ⁽²⁾ with regard to light commercial vehicles.
- (2) The correlation methodology is to deliver results that ensure that the reduction requirements set out in Regulation (EU) No 510/2011 are of comparable stringency under the old and the new test procedures. Approval authorities and technical services should therefore, together with manufacturers, strive to ensure that WLTP and NEDC tests that are carried out for the purpose of this Regulation are performed under test conditions that are comparable and coherent with the objectives of this Regulation.
- (3) For that purpose, it is necessary to clarify certain aspects of the WLTP test conditions that should apply for the correlations performed in view of providing WLTP and NEDC monitoring CO₂ emissions data for vehicles newly registered in 2020. Those clarifications should apply without prejudice to the procedure and requirements set out in Commission Regulation (EU) 2017/1151 ⁽³⁾ and without affecting the validity of any type approvals granted on that basis.
- (4) It is also necessary to determine the difference in 2020 between the CO₂ emission values declared by the manufacturers for the purpose of the WLTP type approval with those measured pursuant to Regulation (EU) 2017/1151. Manufacturers should therefore be required to calculate and report to the Commission the WLTP CO₂ values for all new light commercial vehicles registered in the calendar year 2020 using the measurement values for vehicle H and L as input to the interpolation method.
- (5) For a limited number of interpolation families, only vehicle H measurement values will be available in 2020. The number of those families should be closely monitored and the Commission should consider excluding those families from the calculation of the 2020 reference data, should there be a significant increase in the number of such families as compared to the 2018 situation.
- (6) The transparency in the emissions testing should be improved, and data on the WLTP tests as well as on the correlation results should therefore be made available to the Commission. This will allow the Commission to swiftly identify and address issues and possible inconsistencies relating to the implementation of the procedures. For that reason, the input data matrix should be completed for each WLTP test performed and be transmitted to the Commission in its entirety as part of the correlation tool data exchange. To ensure confidentiality, the input data file should be encrypted in view of its transmission.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the Climate Change Committee,

⁽¹⁾ OJ L 145, 31.5.2011, p. 1.

⁽²⁾ Commission Implementing Regulation (EU) 2017/1152 of 2 June 2017 setting out a methodology for determining the correlation parameters necessary for reflecting the change in the regulatory test procedure with regard to light commercial vehicles and amending Implementing Regulation (EU) No 293/2012 (OJ L 175, 7.7.2017, p. 644).

⁽³⁾ Commission Regulation (EU) 2017/1151 of 1 June 2017 supplementing Regulation (EC) No 715/2007 of the European Parliament and of the Council on type-approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information, amending Directive 2007/46/EC of the European Parliament and of the Council, Commission Regulation (EC) No 692/2008 and Commission Regulation (EU) No 1230/2012 and repealing Commission Regulation (EC) No 692/2008 (OJ L 175, 7.7.2017, p. 1).

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) 2017/1152 is amended as follows:

(1) the following Article 6a is added:

‘Article 6a

Reporting of WLTP measurement results

1. Manufacturers shall calculate the combined CO₂ value for each new light commercial vehicle registered in 2020 in accordance with the formula set out in the second subparagraph of paragraph 3.2.3.2.4. of Sub-Annex 7 to Annex XXI to Regulation (EU) 2017/1151, where the terms M_{CO_2-H} and M_{CO_2-L} shall, for the interpolation family concerned, be replaced by the values $M_{CO_2,C,5}$ taken from the entries 2.5.1.1.3 (vehicle H) and 2.5.1.2.3 (vehicle L) of the EC type-approval certificate, as indicated in the model set out in appendix 4 to Annex I to Regulation (EU) 2017/1151.

Where the combined CO₂ emissions of the individual vehicle are determined by reference to vehicle H only, the manufacturers shall provide the $M_{CO_2,C,5}$ value taken from the entry 2.5.1.1.3 (vehicle H) of the EC type approval certificate.

The manufacturer shall submit those CO₂ emission values, together with the $M_{CO_2,C,5}$ values used for the calculation, to the Commission at the latest three months following receipt of the notification by the Commission of the provisional data for 2020 by uploading that data on the manufacturer's account in the Business Data Repository of the European Environment Agency.

2. Where the data referred to in paragraph 1 is not submitted within the deadline indicated, the Commission shall take the value recorded in entry 2.5.1.2.3 of the EC type-approval certificate and consider that value as the combined CO₂ emissions for the purposes of paragraph 1 for all new registered vehicles in the interpolation family for which the type approval certificate was issued, and where applicable for those families where only vehicle H measurements are available.’;

(2) Annex I is amended as follows:

(a) the following points 2.2a. and 2.2b. are inserted:

‘2.2a. WLTP test conditions

In order for the WLTP test to be considered relevant in accordance with point 2.2 of Annex I to this Regulation and for the purpose of determining the input data set out in point 2.4, the test conditions set out in Annex XXI to Regulation (EU) 2017/1151 shall apply with the following precisions:

- (a) The correction of the WLTP test results for CO₂ mass emissions in accordance with Appendix 2 to Sub-Annex 6 to Annex XXI to Regulation (EU) 2017/1151 shall apply to all such test results notwithstanding the provisions in point 3.4.4.(a) of that Appendix;
- (b) Without prejudice to the requirements of Regulation (EU) 2017/1151, if the test vehicle is fitted with technologies that influence its CO₂ performance, including but not limited to those referred to in entries 42 to 50 of the input data matrix set out in point 2.4, and which are intended to function during the test, those technologies shall be operating during the vehicle test, regardless of the test procedure applied, i.e. NEDC or WLTP;
- (c) If the test vehicle is equipped with automated transmissions the same driver-selectable mode shall be used, regardless of the test procedure applied. Where the best-case and worst-case modes are used for the WLTP test in accordance with point 1.2(c) of Appendix 6 to Sub-Annex 8 to Annex XXI to Regulation (EU) 2017/1151, the worst case mode shall be used as input to the correlation tool as well as for any NEDC physical test;

- (d) If the test vehicle is equipped with manual transmissions, the term $n_{\min_drive_set}$ shall be as defined by the formula set out in point (k) (3) of paragraph 2 of Sub-Annex 2 to Annex XXI to Regulation (EU) 2017/1151.

With the approval of the approval authority or, where applicable, the technical service, the manufacturer may calculate the gear shifting points differently, provided that this is justified in view of the drivability of the vehicle, and that the additional power safety margin applied in accordance with point 3.4 of Sub-Annex 2 to Annex XXI to Regulation (EU) 2017/1151 does not exceed 20 %.

The conditions referred to in points (a) to (d) shall apply for the purpose of the correlation performed pursuant to this Regulation, and shall be without prejudice to the provisions laid down in Regulation (EU) 2017/1151 and to the type approvals granted pursuant to that Regulation.

2.2b. Applicability of the WLTP test conditions

The precisions referred to in point 2.2a.(a) to (d) shall apply in accordance with the following:

- (a) For new vehicle types, from the entry into force of this Regulation;
- (b) For existing vehicle types, manufacturers shall, with regard to those vehicle types that cover vehicles placed on the market in 2020, provide the approval authority with evidence on the basis of which the approval authority shall confirm whether the test conditions referred to in points (a) to (d) of point 2.2a. have been met in the WLTP approval tests.

The confirmation shall indicate the interpolation family identifier, and the confirmation with regard to each of the test conditions referred to in points (a) to (d). The approval authority shall issue the confirmation to the manufacturer and shall ensure that the confirmation is recorded and can be made available without delay at the request of the Commission.

Where the approval authority cannot confirm that one or more of the test conditions referred to have been complied with, the manufacturer shall ensure that a new WLTP test, or, where applicable, test series, in accordance with Sub-Annex 6 to Annex XXI to Regulation (EU) 2017/1151 are performed under the supervision of an approval authority or, where applicable, technical service, applying the test conditions set out in point 2.2a.(a) to (d), for the interpolation family in question, including a new correlation in accordance with this Regulation.

The manufacturer may, in the case where only the test condition referred to in point 2.2a.(a) is not met, correct that value in the input matrix without the need for a new WLTP test.

The approval authority or, where applicable, the designated technical service shall record the results of the re-testing or correction and the correlation in accordance with paragraph 5 of Annex I, and the complete correlation file based on the re-testing in-put data shall be transmitted to the Commission in accordance with point 3.1.1.2 by 30 April 2021 at the latest.;

- (b) point 2.4 is amended as follows:

- (i) the following sentence is added to the first paragraph:

‘The in-put data matrix shall be filled in for each WLTP test performed.’;

- (ii) Table 1 is amended as follows:

- in entry 56, the text in the column ‘Remarks’ is replaced by the following:

‘Array: OBD and chassis dynamometer data, 1Hz for OBD and 10Hz for the chassis dynamometer, resolution 0,1 km/h’,

- in entry 57, the text in column ‘Remarks’ is replaced by the following:

‘Array: 1Hz. Theoretical calculated gear shift to be provided for vehicle H and L (if applicable),’

- in entry 61, the text in the column ‘Remarks’ is replaced by the following:

‘Array: 1Hz (sampling frequency of the instrument 20Hz), 0,1 A resolution, external measurement device synchronised with the chassis dynamometer’,

- entry 67 is replaced by the following:

‘67	K_i Regenerative Factor multiplicative/additive for vehicle H and L	—	Appendix 1 to Sub-Annex 6 to Annex XXI to Regulation (EU) 2017/1151	<i>For vehicles without periodically regenerating systems this value is equal to 1.’</i>
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— the following new entries are added:

‘69	Fuel heating value	kWh/l	Appendix 2 to Sub-Annex 6 to Annex XXI to Regulation (EU) 2017/1151	Value according to the Table A6. App2/1 in Regulation (EU) 2017/1151
70	Fuel consumption of WLTP test for vehicle H and L	l/100km	Paragraph 6 of Sub-Annex 7 to Annex XXI to Regulation (EU) 2017/1151	Non-balanced fuel consumption of Type 1 test
71	Nominal REESS voltage	V	According to DIN EN 60050-482	For low voltage battery as described in Appendix 2 to Sub-Annex 6 to Annex XXI to Regulation (EU) 2017/1151
72	ATCT family correction factor	—	Sub-Annex 6a to Annex XXI to Regulation (EU) 2017/1151	ATCT Family correction factor (14 °C correction)
73	Speed and distance correction of WLTP test	—	Regulation (EU) 2017/1151	Correction performed? 0 = No 1 = Yes
74	RCB correction of WLTP test	—	Appendix 2 to Sub-Annex 6 to Annex XXI to Regulation (EU) 2017/1151	Correction performed? 0 = No 1 = Yes
75	Number of the WLTP test	1, 2 or 3		Indicate whether the test data is taken from the first, second or third WLTP test
76	WLTP declared value for vehicle H and L	g/km	Manufacturer declaration	Declared value for WLTP vehicle H and L. Value to include all corrections (if applicable)
77	WLTP CO ₂ measured corrected for vehicle H and/or L	g/km	MCO _{2,C5} values from appendix 4 to Annex I to Regulation (EU) 2017/1151	Combined measured CO ₂ emissions for vehicle H and L after all applicable corrections. In case of 2 and 3 WLTP tests all measured results shall be provided.
78	WLTP re-test	—	Point 2.2b.(b) of Annex I	Indicate which test conditions as referred to in point 2.2a.(a) to (d) of Annex I have been subject to re-testing’

(c) point 3.1.1.1. is amended as follows:

(i) point (a) is deleted;

(ii) in point (c), point (iii) is replaced by the following:

‘(iii) the input data as specified in point 2.4.’;

(iii) the following subparagraph is added:

‘The summary file referred to in point (c) shall be encrypted to ensure confidentiality.’;

(d) point 3.1.1.2. is replaced by the following:

‘3.1.1.2. Complete correlation file

Where the original correlation output report has been issued in accordance with point 3.1.1.1., the type approval authority, or where applicable the designated technical service shall upload the summary file referred to in point 3.1.1.1.(c) to a Commission server from which a reply is returned to the sender (with the relevant services of the Commission in copy), including a randomly generated integer number between 0 and 99, a hash code of the summary file unequivocally linking that number to the original output report digitally signed by the Commission server.

A complete correlation file shall be created by the type approval authority, or where applicable the designated technical service, which shall include the original correlation output report referred to in point 3.1.1.1. and the reply from the Commission server. The file shall be maintained by the type approval authority as a test report in accordance with Annex VIII of Directive 2007/46/EC.’

Article 2

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

Point 2(c) and (d) of Article 1 shall apply from 1 February 2019.

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

Done at Brussels, 18 December 2018.

For the Commission

The President

Jean-Claude JUNCKER

COMMISSION IMPLEMENTING REGULATION (EU) 2018/2043**of 18 December 2018****amending Implementing Regulation (EU) 2017/1153 to clarify the WLTP test conditions and provide for the monitoring of type approval data****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 443/2009 of the European Parliament and of the Council of 23 April 2009 setting emission performance standards for new passenger cars as part of the Community's integrated approach to reduce CO₂ emissions from light-duty vehicles ⁽¹⁾, and in particular the first subparagraph of Article 13(7) thereof,

Whereas:

- (1) In order to take into account the difference in the level of CO₂ emissions determined under the New European Test Cycle (NEDC) and those determined under the new Worldwide Harmonised Light Vehicle Test Procedure (WLTP), a methodology for correlating the CO₂ emission values has been put in place through Commission Implementing Regulation (EU) 2017/1153 ⁽²⁾ with regard to passenger cars.
- (2) The correlation methodology is to deliver results that ensure that the reduction requirements set out in Regulation (EC) No 443/2009 are of comparable stringency under the old and the new test procedures. Approval authorities and technical services should therefore, together with manufacturers, strive to ensure that WLTP and NEDC tests that are carried out for the purpose of this Regulation are performed under test conditions that are comparable and coherent with the objective of this Regulation.
- (3) For that purpose, it is necessary to clarify certain aspects of the WLTP test conditions that should apply for the correlations performed in view of providing WLTP and NEDC monitoring CO₂ emissions data for vehicles newly registered in 2020. Those clarifications should apply without prejudice to the procedure and requirements set out in Commission Regulation (EU) 2017/1151 ⁽³⁾ and without affecting the validity of any type approvals granted on that basis.
- (4) It is also necessary to determine the difference in 2020 between CO₂ emission values declared by the manufacturers for the purpose of the emissions type approval and those measured pursuant to Regulation (EU) 2017/1151. Manufacturers should therefore be required to calculate and report to the Commission the WLTP CO₂ emission values for all new passenger cars registered in the calendar year 2020 using the measurement values for vehicle H and L as input to the interpolation method.
- (5) For a limited number of interpolation families, only vehicle H measurement values will be available in 2020. The number of those families should be closely monitored and the Commission should consider excluding those families from the calculation of the 2020 reference data, should there be a significant increase in the number of such families as compared to the 2018 situation.
- (6) The transparency in the emissions testing should be improved, and data on the WLTP tests as well as on the correlation results should therefore be made available to the Commission. This will allow the Commission to swiftly identify and address issues and possible inconsistencies relating to the implementation of the procedures. For that reason, the input data matrix should be completed for each WLTP test performed and be transmitted to the Commission in its entirety as part of the correlation tool data exchange. To ensure confidentiality, the input data file should be encrypted in view of the transmission.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the Climate Change Committee,

⁽¹⁾ OJ L 140, 5.6.2009, p. 1.

⁽²⁾ Commission Implementing Regulation (EU) 2017/1153 of 2 June 2017 setting out a methodology for determining the correlation parameters necessary for reflecting the change in the regulatory test procedure and amending Regulation (EU) No 1014/2010 (OJ L 175, 7.7.2017, p. 679).

⁽³⁾ Commission Regulation (EU) 2017/1151 of 1 June 2017 supplementing Regulation (EC) No 715/2007 of the European Parliament and of the Council on type-approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information, amending Directive 2007/46/EC of the European Parliament and of the Council, Commission Regulation (EC) No 692/2008 and Commission Regulation (EU) No 1230/2012 and repealing Commission Regulation (EC) No 692/2008 (OJ L 175, 7.7.2017, p. 1).

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) 2017/1153 is amended as follows:

(1) The following Article 7a is added:

'Article 7a

Reporting of WLTP measurement results

1. Manufacturers shall calculate the combined CO₂ value for each new passenger car registered in 2020 in accordance with the formula set out in the second subparagraph of paragraph 3.2.3.2.4 of Sub-Annex 7 to Annex XXI to Regulation (EU) 2017/1151, where the terms M_{CO_2-H} and M_{CO_2-L} shall, for the interpolation family concerned, be replaced by the values $M_{CO_2,C,5}$ taken from the entries 2.5.1.1.3 (vehicle H) and 2.5.1.2.3. (vehicle L) of the EC type-approval certificate as indicated in the model set out in appendix 4 to Annex I to Regulation (EU) 2017/1151.

Where the combined CO₂ emissions of the individual vehicle are determined by reference to vehicle H only, the manufacturers shall provide the $M_{CO_2,C,5}$ value taken from the entry 2.5.1.1.3 (vehicle H) of the EC type approval certificate.

The manufacturers shall submit those CO₂ emission values, together with the $M_{CO_2,C,5}$ values used for the calculation, to the Commission at the latest three months following receipt of the notification by the Commission of the provisional data for 2020 by uploading that data on the manufacturer's account in the Business Data Repository of the European Environment Agency.

2. Where the data referred to in paragraph 1 is not submitted within the deadline indicated, the Commission shall take the value recorded in entry 2.5.1.2.3. of the EC type-approval certificate and consider that value as the combined CO₂ emissions for the purposes of paragraph 1 for all new registered vehicles in the interpolation family for which the type approval certificate was issued, and, where applicable, the value indicated in entry 2.5.1.1.3 for those families where only vehicle H measurements are available.

3. The Commission shall monitor the number of interpolation families for which the CO₂ emissions are determined by reference to vehicle H only for each manufacturer, and shall, in the case of an increase in the number of such families as compared to the situation in 2018, assess the impact of that increase on the calculation referred to in paragraph 1, and where appropriate, exclude those families from that calculation.'

(2) Annex I is amended as follows:

(a) The following points 2.2a. and 2.2.b. are inserted:

'2.2a. WLTP test conditions

In order for the WLTP test to be considered relevant in accordance with point 2.2 and for the purpose of determining the input data set out in point 2.4, the test conditions set out in Annex XXI to Regulation (EC) No 2017/1151 shall apply, with the following precisions:

- (a) The correction of the WLTP test results for CO₂ mass emissions in accordance with Appendix 2 to Sub-Annex 6 to Annex XXI to Regulation (EU) 2017/1151 shall apply to all such test results notwithstanding the provisions in point 3.4.4.(a) of that Appendix;
- (b) Without prejudice to the requirements of Regulation (EU) 2017/1151, if the test vehicle is fitted with technologies that influence its CO₂ performance, including but not limited to those referred to in entries 42 to 50 of the input data matrix set out in point 2.4, and which are intended to function during the test, those technologies shall be operating during the vehicle test, regardless of the test procedure applied, i.e. NEDC or WLTP;
- (c) If the test vehicle is equipped with automated transmissions, the same driver-selectable mode shall be used, regardless of the test procedure applied. Where the best-case and worst-case modes are used for the WLTP tests in accordance with point 1.2(c) of Appendix 6 to Sub-Annex 8 to Annex XXI to Regulation (EU) 2017/1151, the worst-case mode shall be used as input to the correlation tool as well as for any NEDC physical test;
- (d) If the test vehicle is equipped with manual transmissions, the term $n_{min_drive_set}$ shall be as defined by the formula set out in point (k) (3) of paragraph 2 of Sub-Annex 2 to Annex XXI to Regulation (EU) 2017/1151.

With the approval of the approval authority or, where applicable, the technical service, the manufacturer may calculate the gear shifting points differently, provided that this is justified in view of the drivability of the vehicle, and that the additional power safety margin applied in accordance with point 3.4 of Sub-Annex 2 to Annex XXI to Regulation (EU) 2017/1151 does not exceed 20 %.

The conditions referred to in points (a) to (d) shall apply for the purpose of the correlation performed pursuant to this Regulation, and shall be without prejudice to the provisions laid down in Regulation (EU) 2017/1151 and to type approvals granted pursuant to that Regulation.

2.2b. Applicability of the WLTP test conditions

The precisions referred to in point 2.2a.(a) to (d) shall apply in accordance with the following:

- (a) For new vehicle types, from the entry into force of this Regulation;
- (b) For existing vehicle types, manufacturers shall, with regard to those vehicle types that cover vehicles placed on the market in 2020, provide the approval authority with evidence on the basis of which the approval authority shall confirm whether the test conditions referred to in points (a) to (d) of point 2.2a. have been met in the WLTP approval tests.

The confirmation shall indicate the interpolation family identifier, and the confirmation with regard to each of the test conditions referred to in points (a) to (d). The approval authority shall issue the confirmation to the manufacturer and shall ensure that the confirmation is recorded and can be made available without delay at the request of the Commission.

Where the approval authority cannot confirm that one or more of the test conditions referred to have been complied with, the manufacturer shall ensure that a new WLTP test, or, where applicable, test series, in accordance with Sub-Annex 6 to Annex XXI to Regulation (EU) 2017/1151 are performed under the supervision of an approval authority or, where applicable, technical service, applying the test conditions set out in point 2.2a.(a) to (d), for the interpolation family in question, including a new correlation in accordance with this Regulation.

The manufacturer may, in the case where only the test condition referred to in point 2.2a.(a) is not met, correct that value in the input matrix without the need for a new WLTP test.

The approval authority or, where applicable, the designated technical service shall record the results of the re-testing or correction and the correlation in accordance with paragraph 5 of Annex I, and the complete correlation file based on the re-testing in-put data shall be transmitted to the Commission in accordance with point 3.1.1.2 by 30 April 2021 at the latest.'

(b) point 2.4 is amended as follows:

- (i) the following sentence is added to the first paragraph:

'The input data matrix shall be filled in for each WLTP test performed.'

- (ii) Table 1 is amended as follows:

— in entry 56, the text in the column 'Remarks' is replaced by the following:

'Array: OBD and chassis dynamometer data, 1Hz for OBD and 10Hz for the chassis dynamometer, resolution 0.1 km/h'

— in entry 57, the text in column 'Remarks' is replaced by the following:

'Array: 1Hz. Theoretical calculated gear shift to be provided for vehicle H and L (if applicable)'

— in entry 61, the text in the column 'Remarks' is replaced by the following:

'Array: 1Hz (sampling frequency of the instrument 20Hz), 0.1 A resolution, external measurement device synchronised with the chassis dynamometer'

— Entry 67 is replaced by the following:

'67	K _i Regenerative Factor multiplicative/additive for vehicle H and L	—	Appendix 1 to Sub-Annex 6 to Annex XXI to Regulation (EU) 2017/1151	<i>For vehicles without periodically regenerating systems this value is equal to 1.'</i>
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— The following new entries are added:

'69	Fuel heating value	kWh/l	Appendix 2 to Sub-Annex 6 to Annex XXI to Regulation (EU) 2017/1151	Value according to the Table A6.App2/1 in Regulation (EU) 2017/1151
70	Fuel consumption of WLTP test for vehicle H and L	l/100km	Paragraph 6 of Sub-Annex 7 to Annex XXI to Regulation (EU) 2017/1151	Non-balanced fuel consumption of Type 1 test
71	Nominal REESS voltage	V	According to DIN EN 60050-482	For low voltage battery as described in Appendix 2 to Sub-Annex 6 to Annex XXI to Regulation (EU) 2017/1151
72	ATCT family correction factor	—	Sub-Annex 6a to Annex XXI to Regulation (EU) 2017/1151	ATCT Family correction factor (14 °C correction)
73	Speed and distance correction of WLTP test	—	Regulation (EU) 2017/1151	Correction performed? 0 = No 1 = Yes
74	RCB correction of WLTP test	—	Appendix 2 to Sub-Annex 6 to Annex XXI to Regulation (EU) 2017/1151	Correction performed? 0 = No 1 = Yes
75	Number of the WLTP tests	1, 2 or 3		Indicate whether the test data is taken from the first, second or third WLTP test
76	WLTP CO ₂ declared value for vehicle H and/or L	g/km	Manufacturer declaration	Declared value for WLTP vehicle H and L. Value to include all corrections (if applicable)
77	WLTP CO ₂ measured corrected for vehicle H and/or L	g/km	MCO _{2,C5} values from appendix 4 to Annex I to Regulation (EU) 2017/1151	Combined measured CO ₂ emissions for vehicle H and L after all applicable corrections. In case of 2 and 3 WLTP tests all measured results shall be provided.
78	WLTP re-test	—	Point 2.2b.(b) of Annex I	Indicate which test conditions as referred to in point 2.2a.(a) to (d) of Annex I have been subject to re-testing'

(c) Point 3.1.1.1. is amended as follows:

- (i) Point (a) is deleted;
- (ii) In point (c), point (iii) is replaced by the following:
 - '(iii) the input data as specified in point 2.4.';
- (iii) The following subparagraph is added:

'The summary file referred to in point (c) shall be encrypted to ensure confidentiality.'

(d) point 3.1.1.2. is replaced by the following:

‘3.1.1.2. Complete correlation file

Where the original correlation output report has been issued in accordance with point 3.1.1.1., the type approval authority, or where applicable the designated technical service shall upload the summary file referred to in point 3.1.1.1.(c) to a Commission server from which a reply is returned to the sender (with the relevant services of the Commission in copy), including a randomly generated integer number between 0 and 99, a hash code of the summary file unequivocally linking that number to the original output report digitally signed by the Commission server.

A complete correlation file shall be created by the type approval authority, or where applicable the designated technical service, which shall include the original correlation output report referred to in point 3.1.1.1. and the reply from the Commission server. The file shall be maintained by the type approval authority as a test report in accordance with Annex VIII of Directive 2007/46/EC.’

Article 2

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

Point 2(c) and (d) of Article 1 shall apply from 1 February 2019.

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

Done at Brussels, 18 December 2018.

For the Commission

The President

Jean-Claude JUNCKER

COMMISSION IMPLEMENTING REGULATION (EU) 2018/2044**of 19 December 2018****amending Regulation (EC) No 1484/95 as regards fixing representative prices in the poultrymeat and egg sectors and for egg albumin**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 ⁽¹⁾, and in particular Article 183(b) thereof,

Having regard to Regulation (EU) No 510/2014 of the European Parliament and of the Council of 16 April 2014 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products and repealing Council Regulations (EC) No 1216/2009 and (EC) No 614/2009 ⁽²⁾, and in particular Article 5(6)(a) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1484/95 ⁽³⁾ lays down detailed rules for implementing the system of additional import duties and fixes representative prices in the poultrymeat and egg sectors and for egg albumin.
- (2) Regular monitoring of the data used to determine representative prices for poultrymeat and egg products and for egg albumin shows that the representative import prices for certain products should be amended to take account of variations in price according to origin.
- (3) Regulation (EC) No 1484/95 should therefore be amended accordingly.
- (4) Given the need to ensure that this measure applies as soon as possible after the updated data have been made available, this Regulation should enter into force on the day of its publication,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 1484/95 is replaced by the text set out in the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 19 December 2018.

*For the Commission,
On behalf of the President,
Jerzy PLEWA
Director-General*

Directorate-General for Agriculture and Rural Development

⁽¹⁾ OJ L 347, 20.12.2013, p. 671.

⁽²⁾ OJ L 150, 20.5.2014, p. 1.

⁽³⁾ Commission Regulation (EC) No 1484/95 of 28 June 1995 laying down detailed rules for implementing the system of additional import duties and fixing representative prices in the poultrymeat and egg sectors and for egg albumin, and repealing Regulation No 163/67/EEC (OJ L 145, 29.6.1995, p. 47).

ANNEX

'ANNEX I

CN code	Description	Representative price (EUR/100 kg)	Security under Article 3 (EUR/100 kg)	Origin ⁽¹⁾
0207 12 90	Fowls of the species <i>Gallus domesticus</i> , not cut in pieces, presented as "65 % chickens", frozen	113,4	1	AR
0207 14 10	Fowls of the species <i>Gallus domesticus</i> , boneless cuts, frozen	271,2	9	AR
		219,7	24	BR
		333,0	0	CL
		246,1	16	TH
0207 27 10	Turkeys, boneless cuts, frozen	340,2	0	BR
		362,7	0	CL
1602 32 11	Preparations of fowls of the species <i>Gallus domesticus</i> , uncooked	308,2	0	BR

⁽¹⁾ Nomenclature of countries laid down by Commission Regulation (EU) No 1106/2012 of 27 November 2012 implementing Regulation (EC) No 471/2009 of the European Parliament and of the Council on Community statistics relating to external trade with non-member countries, as regards the update of the nomenclature of countries and territories (OJ L 328, 28.11.2012, p. 7).'

DECISIONS

COMMISSION IMPLEMENTING DECISION (EU) 2018/2045

of 19 December 2018

renewing the authorisation for the placing on the market of products containing, consisting of or produced from genetically modified maize NK603 × MON 810 (MON-ØØ6Ø3-6 × MON-ØØ81Ø-6) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council

(notified under document C(2018) 8239)

(Only the Dutch and French texts are authentic)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed ⁽¹⁾, and in particular to Article 11(3) and Article 23(3) thereof,

Whereas:

- (1) Commission Decision 2007/701/EC ⁽²⁾ authorised the placing on the market of food and feed containing, consisting of, or produced from genetically modified maize NK603 × MON 810 (hereinafter 'maize NK603 × MON 810'). The scope of that authorisation also covers the placing on the market of products, other than food and feed, containing or consisting of maize NK603 × MON 810 for the same uses as any other maize with the exception of cultivation.
- (2) On 20 October 2016, Monsanto Europe N.V./S.A. submitted to the Commission an application, in accordance with Article 11 and Article 23 of Regulation (EC) No 1829/2003, for the renewal of that authorisation.
- (3) On 26 February 2018, the European Food Safety Authority ('the Authority') issued a favourable opinion ⁽³⁾ in accordance with Articles 6 and 18 of Regulation (EC) No 1829/2003. It concluded that the renewal application did not contain evidence for new hazards, modified exposure or scientific uncertainties that would change the conclusions of the original risk assessment on maize NK603 × MON 810, adopted by the Authority in 2005 ⁽⁴⁾.
- (4) In its opinion of 26 February 2018, the Authority considered all the questions and concerns raised by the Member States in the context of the consultation of the national competent authorities as provided for by Article 6(4) and Article 18(4) of Regulation (EC) No 1829/2003.
- (5) The Authority also concluded that the monitoring plan for environmental effects, consisting of a general surveillance plan, submitted by the applicant, is in line with the intended uses of the products.
- (6) Taking into account those considerations, the authorisation for the placing on the market of foods and food ingredients containing, consisting of, or produced from maize NK603 × MON 810, feed containing, consisting of, or produced from maize NK603 × MON 810 and products, other than food and feed, containing or consisting of maize NK603 × MON 810 for the same uses as any other maize with the exception of cultivation should be renewed.

⁽¹⁾ OJ L 268, 18.10.2003, p. 1.

⁽²⁾ Commission Decision 2007/701/EC of 24 October 2007 authorising the placing on the market of products containing, consisting of, or produced from genetically modified maize NK603 × MON810 (MON-ØØ6Ø3-6 × MON-ØØ81Ø-6) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (OJ L 285, 31.10.2007, p. 37).

⁽³⁾ Scientific Opinion on assessment of genetically modified maize NK603 × MON 810 for renewal of authorisation under Regulation (EC) No 1829/2003 (application EFSA-GMO-RX-007). EFSA Journal 2018;16(2):5163.

⁽⁴⁾ Opinion of the Scientific Panel on Genetically Modified Organisms on an application (Reference EFSA-GMO-UK-2004-01) for the placing on the market of glyphosate-tolerant and insect-resistant genetically modified maize NK603 × MON 810, for food and feed uses under Regulation (EC) No 1829/2003 from Monsanto. EFSA Journal (2005) 309, 1–22.

- (7) A unique identifier has been assigned to maize NK603 × MON 810, in accordance with Commission Regulation (EC) No 65/2004 ⁽¹⁾, in the context of the initial authorisation of maize NK603 × MON 810. That unique identifier should continue to be used.
- (8) On the basis of the opinion of the Authority, no specific labelling requirements, other than those provided for in Article 13(1) and Article 25(2) of Regulation (EC) No 1829/2003 and in Article 4(6) of Regulation (EC) No 1830/2003 of the European Parliament and of the Council ⁽²⁾, appear to be necessary for the products covered by this Decision. However, in order to ensure that the use of products containing or consisting of maize NK603 × MON 810 remains within the limits of the authorisation granted by this Decision, the labelling of such products, with the exception of those intended for food uses, should contain a clear indication that they are not intended for cultivation.
- (9) In order to account for the implementation and the results of the activities set out in the monitoring plan for environmental effects, the authorisation holder should submit annual reports, presented in accordance with the standard reporting format requirements laid down in Commission Decision 2009/770/EC ⁽³⁾.
- (10) The opinion of the Authority does not justify the imposition of specific conditions or restrictions for the placing on the market and/or for the use and handling of the food and feed, including post-market monitoring requirements regarding the use for human and animal consumption.
- (11) All relevant information on the authorisation of the products should be entered in the Community register of genetically modified food and feed referred to in Article 28(1) of Regulation (EC) No 1829/2003.
- (12) This Decision is to be notified through the Biosafety Clearing-House to the Parties to the Cartagena Protocol on Biosafety to the Convention on Biological Diversity, pursuant to Article 9(1) and Article 15(2)(c) of Regulation (EC) No 1946/2003 of the European Parliament and of the Council ⁽⁴⁾.
- (13) The Standing Committee on Plants, Animals, Food and Feed has not delivered an opinion within the time limit laid down by its Chairman. This implementing act was deemed to be necessary and the chair submitted it to the appeal committee for further deliberation. The appeal committee did not deliver an opinion,

HAS ADOPTED THIS DECISION:

Article 1

Genetically modified organism and unique identifier

Genetically modified maize (*Zea mays* L.) NK603 × MON 810 produced by crosses between maize containing MONØ6Ø3-6 and MON-ØØ81Ø-6 events, as specified in point (b) of the Annex to this Decision, is assigned the unique identifier MON-ØØ6Ø3-6 × MON-ØØ81Ø-6, in accordance with Regulation (EC) No 65/2004.

Article 2

Renewal of the authorisation

The authorisation for the placing on the market of the following products is renewed in accordance with the conditions set out in this Decision:

- (a) foods and food ingredients containing, consisting of, or produced from maize NK603 × MON 810;
- (b) feed containing, consisting of, or produced from maize NK603 × MON 810;
- (c) products, other than food and feed, containing or consisting of maize NK603 × MON 810 for the same uses as any other maize with the exception of cultivation.

⁽¹⁾ Commission Regulation (EC) No 65/2004 of 14 January 2004 establishing a system for the development and assignment of unique identifiers for genetically modified organisms (OJ L 10, 16.1.2004, p. 5).

⁽²⁾ Regulation (EC) No 1830/2003 of the European Parliament and of the Council of 22 September 2003 concerning the traceability and labelling of genetically modified organisms and the traceability of food and feed products produced from genetically modified organisms and amending Directive 2001/18/EC (OJ L 268, 18.10.2003, p. 24).

⁽³⁾ Commission Decision 2009/770/EC of 13 October 2009 establishing standard reporting formats for presenting the monitoring results of the deliberate release into the environment of genetically modified organisms, as or in products, for the purpose of placing on the market, pursuant to Directive 2001/18/EC of the European Parliament and of the Council (OJ L 275, 21.10.2009, p. 9).

⁽⁴⁾ Regulation (EC) No 1946/2003 of the European Parliament and of the Council of 15 July 2003 on transboundary movements of genetically modified organisms (OJ L 287, 5.11.2003, p. 1).

*Article 3***Labelling**

1. For the purposes of the labelling requirements laid down in Article 13(1) and Article 25(2) of Regulation (EC) No 1829/2003 and in Article 4(6) of Regulation (EC) No 1830/2003, the 'name of the organism' shall be 'maize'.
2. The words 'not for cultivation' shall appear on the label of and in the documents accompanying the products containing or consisting of maize NK603 × MON 810, with the exception of food and food ingredients.

*Article 4***Method for detection**

The method set out in point (d) of the Annex shall apply for the detection of maize NK603 × MON 810.

*Article 5***Monitoring plan for environmental effects**

1. The authorisation holder shall ensure that the monitoring plan for environmental effects, as set out in point (h) of the Annex, is put in place and implemented.
2. The authorisation holder shall submit to the Commission annual reports on the implementation and the results of the activities set out in the monitoring plan in accordance with the format set out in Decision 2009/770/EC.

*Article 6***Community register**

The information set out in the Annex to this Decision shall be entered in the Community register of genetically modified food and feed as referred to in Article 28 of Regulation (EC) No 1829/2003.

*Article 7***Authorisation holder**

The authorisation holder shall be Monsanto Company, United States of America, represented by Monsanto Europe S.A./N.V., Belgium.

*Article 8***Validity**

This Decision shall apply for a period of 10 years from the date of its notification.

*Article 9***Addressee**

This Decision is addressed to Monsanto Europe S.A./N.V., Scheldelaan 460, 2040 Antwerp, Belgium.

Done at Brussels, 19 December 2018.

For the Commission
Vytenis ANDRIUKAITIS
Member of the Commission

ANNEX

(a) Applicant and Authorisation holder:

Name: Monsanto Company

Address: 800 N. Lindbergh Boulevard, St. Louis, Missouri 63167, United States of America

Represented by Monsanto Europe S.A./N.V., Scheldelaan 460, Haven 627, B-2040 Antwerp, Belgium.

(b) Designation and specification of the products:

- (1) foods and food ingredients containing, consisting of or produced from maize MON-ØØ6Ø3-6 × MON-ØØ81Ø-6;
- (2) feed containing, consisting of or produced from maize MON-ØØ6Ø3-6 × MON-ØØ81Ø-6;
- (3) products, other than food and feed, containing or consisting of maize MON-ØØ6Ø3-6 × MON-ØØ81Ø-6 for the same uses as any other maize with the exception of cultivation.

The genetically modified maize MON-ØØ6Ø3-6 × MON-ØØ81Ø-6 expresses the CP4 EPSPS protein, which confers tolerance to glyphosate herbicides, and the Cry1Ab protein, which confers protection against certain lepidopteran insect pests (*Ostrinia nubilalis*, *Sesamia* spp.).

(c) Labelling:

- (1) For the purposes of the labelling requirements laid down in Article 13(1) and Article 25(2) of Regulation (EC) No 1829/2003, and in Article 4(6) of Regulation (EC) No 1830/2003, the 'name of the organism' shall be 'maize'.
- (2) The words 'not for cultivation' shall appear on the label of and in documents accompanying the products containing or consisting of maize MON-ØØ6Ø3-6 × MON-ØØ81Ø-6, with the exception of foods and food ingredients.

(d) Method for detection:

- (1) Event specific real-time quantitative PCR based methods for genetically modified maize MON-ØØ6Ø3-6 and maize MON-ØØ81Ø-6 validated on maize MON-ØØ6Ø3-6 × MON-ØØ81Ø-6.
- (2) Validated by the EU reference laboratory established under Regulation (EC) No 1829/2003, published at <http://gmo-crl.jrc.ec.europa.eu/StatusOfDossiers.aspx>
- (3) Reference Material: ERM®-BF413 (for MON-ØØ81Ø-6) and ERM®-BF415 (for MON-ØØ6Ø3-6) accessible via the Joint Research Centre (JRC) of the European Commission at <https://ec.europa.eu/jrc/en/reference-materials/catalogue/>

(e) Unique identifier:

MON-ØØ6Ø3-6 × MON-ØØ81Ø-6

(f) Information required under Annex II to the Cartagena Protocol on Biosafety to the Convention on Biological Diversity:

[Biosafety Clearing-House, Record ID number: *published in the register of genetically modified food and feed when notified*].

(g) Conditions or restrictions on the placing on the market, use or handling of the products:

Not required.

(h) **Monitoring plan for environmental effects:**

Monitoring plan for environmental effects conforming with Annex VII to Directive 2001/18/EC.

[Link: *plan published in the register of genetically modified food and feed*]

(i) **Post-market monitoring requirements for the use of the food for human consumption:**

Not required.

Note: links to relevant documents may need to be modified over the time. Those modifications will be made available to the public via the updating of the register of genetically modified food and feed.

COMMISSION IMPLEMENTING DECISION (EU) 2018/2046**of 19 December 2018**

authorising the placing on the market of products containing, consisting of or produced from genetically modified maize MON 87427 × MON 89034 × 1507 × MON 88017 × 59122, and genetically modified maize combining two, three or four of the single events MON 87427, MON 89034, 1507, MON 88017 and 59122 and repealing Decision 2011/366/EU

(notified under document C(2018) 8238)

(Only the Dutch and French texts are authentic)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed ⁽¹⁾, and in particular Article 7(3) and Article 19(3) thereof,

Whereas:

- (1) On 26 November 2013, Monsanto Europe SA/NV submitted, on behalf of Monsanto Company, an application, in accordance with Articles 5 and 17 of Regulation (EC) No 1829/2003, for the placing on the market of foods, food ingredients and feed containing, consisting of or produced from genetically modified maize MON 87427 × MON 89034 × 1507 × MON 88017 × 59122 ('the application') to the national competent authority of Belgium. The application also covered the placing on the market of products containing or consisting of genetically modified maize MON 87427 × MON 89034 × 1507 × MON 88017 × 59122 for uses other than food and feed, with the exception of cultivation.
- (2) In addition, the application covered the placing on the market of products containing, consisting of or produced from 25 sub-combinations of the single transformation events constituting maize MON 87427 × MON 89034 × 1507 × MON 88017 × 59122. Twelve of those sub-combinations are already authorised: 1507 × 59122, authorised by Commission Implementing Decision (EU) 2018/1110 ⁽²⁾; MON 89034 × MON 88017, authorised by Commission Decision 2011/366/EU ⁽³⁾; MON 87427 × MON 89034 authorised by Commission Decision (EU) 2018/1111 ⁽⁴⁾; and MON 89034 × 1507 × MON 88017 × 59122, MON 89034 × 1507 × MON 88017, MON 89034 × 1507 × 59122, MON 89034 × MON 88017 × 59122, 1507 × MON 88017 × 59122, MON 89034 × 1507, MON 89034 × 59122, 1507 × MON 88017, MON 88017 × 59122, authorised by Commission Implementing Decision 2013/650/EU ⁽⁵⁾.

⁽¹⁾ OJ L 268, 18.10.2003, p. 1.

⁽²⁾ Commission Implementing Decision (EU) 2018/1110 of 3 August 2018 authorising the placing on the market of products containing, consisting of, or produced from genetically modified maize 1507 × 59122 × MON 810 × NK603, and genetically modified maize combining two or three of the single events 1507, 59122, MON 810 and NK603, and repealing Decisions 2009/815/EC, 2010/428/EU and 2010/432/EU (OJ L 203, 10.8.2018, p. 13).

⁽³⁾ Commission Decision 2011/366/EU of 17 June 2011 authorising the placing on the market of products containing, consisting of, or produced from genetically modified maize MON 89034 × MON 88017 (MON-89034-3 × MON-88017-3) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (OJ L 163, 23.6.2011, p. 55).

⁽⁴⁾ Commission Implementing Decision (EU) 2018/1111 of 3 August 2018 authorising the placing on the market of products containing, consisting of, or produced from genetically modified maize MON 87427 × MON 89034 × NK603 (MON-87427-7 × MON-89034-3 × MON-00603-6) and genetically modified maize combining two of the events MON 87427, MON 89034 and NK603, and repealing Decision 2010/420/EU (OJ L 203, 10.8.2018, p. 20).

⁽⁵⁾ Commission Implementing Decision 2013/650/EU of 6 November 2013 authorising the placing on the market of products containing, consisting of, or produced from genetically modified (GM) maize MON 89034 × 1507 × MON88017 × 59122 (MON-89034-3 × DAS-01507-1 × MON-88017-3 × DAS-59122-7), four related GM maizes combining three different single GM events (MON89034 × 1507 × MON88017 (MON-89034-3 × DAS-01507-1 × MON-88017-3), MON89034 × 1507 × 59122 (MON-89034-3 × DAS-01507-1 × DAS-59122-7), MON89034 × MON88017 × 59122 (MON-89034-3 × MON-88017-3 × DAS-59122-7), 1507 × MON 88017 × 59122 (DAS-01507-1 × MON-88017-3 × DAS-59122-7)) and four related GM maizes combining two different single GM events (MON89034 × 1507 (MON-89034-3 × DAS-01507-1), MON89034 × 59122 (MON-89034-3 × DAS-59122-7), 1507 × MON88017 (DAS-01507-1 × MON-88017-3), MON 88017 × 59122 (MON-88017-3 × DAS-59122-7)) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (OJ L 302, 13.11.2013, p. 47).

- (3) Monsanto Europe SA/NV, the authorisation holder for one of those 12 sub-combinations already authorised, sub-combination MON 89034 × MON 88017, requested the Commission to repeal Decision 2011/366/EU and to incorporate that Decision in the scope of the present Decision.
- (4) This Decision covers fourteen sub-combinations: four sub-combinations of four events (MON 87427 × MON 89034 × 1507 × MON 88017, MON 87427 × MON 89034 × 1507 × 59122, MON 87427 × MON 89034 × MON 88017 × 59122 and MON 87427 × 1507 × MON 88017 × 59122); six sub-combinations of three events (MON 87427 × MON 89034 × 1507, MON 87427 × MON 89034 × MON 88017, MON 87427 × MON 89034 × 59122, MON 87427 × 1507 × MON 88017, MON 87427 × 1507 × 59122 and MON 87427 × MON 88017 × 59122); and four sub-combinations of two events (MON 87427 × 1507, MON 87427 × MON 88017, MON 87427 × 59122 and MON 89034 × MON 88017).
- (5) In accordance with Article 5(5) and Article 17(5) of Regulation (EC) No 1829/2003, the application included information and conclusions about the risk assessment carried out in accordance with the principles set out in Annex II to Directive 2001/18/EC of the European Parliament and of the Council ⁽¹⁾ and the information required by Annexes III and IV to that Directive. It also included a monitoring plan for environmental effects in accordance with Annex VII to Directive 2001/18/EC.
- (6) On 5 September 2017, the European Food Safety Authority ('the Authority') issued a favourable opinion in accordance with Articles 6 and 18 of Regulation (EC) No 1829/2003 ⁽²⁾. The Authority concluded that genetically modified maize MON 87427 × MON 89034 × 1507 × MON 88017 × 59122 is as safe and nutritious as the non-genetically modified comparator and the tested non-genetically modified reference varieties in the context of the scope of the application. No new safety concerns were identified for the previously assessed sub-combinations and therefore previous conclusions on those sub-combinations remain valid. As regards the remaining sub-combinations, the Authority concluded that they are expected to be as safe as the single transformation events MON 87427, MON 89034, 1507, MON 88017 and 59122, the previously assessed sub-combinations and the five-event stack maize MON 87427 × MON 89034 × 1507 × MON 88017 × 59122.
- (7) In its opinion, the Authority considered the questions and concerns raised by the Member States in the context of the consultation of the national competent authorities as provided for by Article 6(4) and Article 18(4) of Regulation (EC) No 1829/2003.
- (8) The Authority also concluded that the monitoring plan for environmental effects submitted by the applicant, consisting of a general surveillance plan, was in line with the intended uses of the products. However, the monitoring plan has been revised by the Commission, as recommended by the Authority, to cover also the sub-combinations governed by this Decision.
- (9) Taking those considerations into account, the placing on the market of products containing, consisting of or produced from genetically modified maize MON 87427 × MON 89034 × 1507 × MON 88017 × 59122, and of the 14 sub-combinations indicated in recital 4 and listed in the application should be authorised.
- (10) In the interest of simplification, Decision 2011/366/EU should be repealed.
- (11) A unique identifier should be assigned to each genetically modified organism covered by this Decision, in accordance with Commission Regulation (EC) No 65/2004 ⁽³⁾. The unique identifier assigned by Decision 2011/366/EU should continue to be used.
- (12) On the basis of the Authority's opinion, no specific labelling requirements, other than those provided for in Article 13(1) and Article 25(2) of Regulation (EC) No 1829/2003 and in Article 4(6) of Regulation (EC) No 1830/2003 of the European Parliament and of the Council ⁽⁴⁾, appear to be necessary for the products covered by this Decision. However, in order to ensure that the use of those products remains within the limits of the authorisation granted by this Decision, the labelling of such products, with the exception of those intended for food uses, should contain a clear indication that they are not intended for cultivation.

⁽¹⁾ Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC (OJ L 106, 17.4.2001, p. 1).

⁽²⁾ EFSA GMO Panel (EFSA Panel on Genetically Modified Organisms), 2017. Scientific Opinion on application EFSA-GMO-BE-2013-118 for authorisation of genetically modified maize MON 87427 × MON 89034 × 1507 × MON 88017 × 59122 and subcombinations independently of their origin, for food and feed uses, import and processing submitted under Regulation (EC) No 1829/2003 by Monsanto Company. *EFSA Journal* 2017;15(8):4921, 32 pp. <https://doi.org/10.2903/j.efsa.2017.4921>

⁽³⁾ Commission Regulation (EC) No 65/2004 of 14 January 2004 establishing a system for the development and assignment of unique identifiers for genetically modified organisms (OJ L 10, 16.1.2004, p. 5).

⁽⁴⁾ Regulation (EC) No 1830/2003 of the European Parliament and of the Council of 22 September 2003 concerning the traceability and labelling of genetically modified organisms and the traceability of food and feed products produced from genetically modified organisms and amending Directive 2001/18/EC (OJ L 268, 18.10.2003, p. 24).

- (13) The authorisation holder must submit annual reports on the implementation and on the results of the activities set out in the monitoring plan for environmental effects. Those results should be presented in accordance with the standard reporting format requirements laid down in Commission Decision 2009/770/EC ⁽¹⁾.
- (14) The opinion of the Authority does not justify the imposition of specific conditions or restrictions for the placing on the market and/or specific conditions or restrictions for the use and handling, including post-market monitoring requirements regarding the consumption of the food and feed, or of specific conditions for the protection of particular ecosystems/environment and/or geographical areas, as provided for in Article 6(5)(e) and Article 18(5)(e) of Regulation (EC) No 1829/2003.
- (15) All relevant information on the authorisation of the products should be entered in the Community register of genetically modified food and feed referred to in Article 28(1) of Regulation (EC) No 1829/2003.
- (16) This Decision is to be notified through the Biosafety Clearing-House to the Parties to the Cartagena Protocol on Biosafety to the Convention on Biological Diversity, pursuant to Article 9(1) and Article 15(2)(c) of Regulation (EC) No 1946/2003 of the European Parliament and of the Council ⁽²⁾.
- (17) The Standing Committee on Plants, Animals, Food and Feed has not delivered an opinion within the time limit laid down by its Chairman. This implementing act was deemed to be necessary and the chair submitted it to the appeal committee for further deliberation. The appeal committee did not deliver an opinion,

HAS ADOPTED THIS DECISION:

Article 1

Genetically modified organisms and unique identifiers

The following unique identifiers are assigned to genetically modified maize as specified in point (b) of the Annex to this Decision, in accordance with Regulation (EC) No 65/2004:

- (a) the unique identifier MON-87427-7 × MON-89Ø34-3 × DAS-Ø15Ø7-1 × MON-88Ø17-3 × DAS-59122-7 for genetically modified maize (*Zea mays* L.) MON 87427 × MON 89034 × 1507 × MON 88017 × 59122;
- (b) the unique identifier MON-87427-7 × MON-89Ø34-3 × DAS-Ø15Ø7-1 × MON-88Ø17-3 for genetically modified maize (*Zea mays* L.) MON 87427 × MON 89034 × 1507 × MON 88017;
- (c) the unique identifier MON-87427-7 × MON-89Ø34-3 × DAS-Ø15Ø7-1 × DAS-59122-7 for genetically modified maize (*Zea mays* L.) MON 87427 × MON 89034 × 1507 × 59122;
- (d) the unique identifier MON-87427-7 × MON-89Ø34-3 × MON-88Ø17-3 × DAS-59122-7 for genetically modified maize (*Zea mays* L.) MON 87427 × MON 89034 × MON 88017 × 59122;
- (e) the unique identifier MON-87427-7 × DAS-Ø15Ø7-1 × MON-88Ø17-3 × DAS-59122-7 for genetically modified maize (*Zea mays* L.) MON 87427 × 1507 × MON 88017 × 59122;
- (f) the unique identifier MON-87427-7 × MON-89Ø34-3 × DAS-Ø15Ø7-1 for genetically modified maize (*Zea mays* L.) MON 87427 × MON 89034 × 1507;
- (g) the unique identifier MON-87427-7 × MON-89Ø34-3 × MON-88Ø17-3 for genetically modified maize (*Zea mays* L.) MON 87427 × MON 89034 × MON 88017;
- (h) the unique identifier MON-87427-7 × MON-89Ø34-3 × DAS-59122-7 for genetically modified maize (*Zea mays* L.) MON 87427 × MON 89034 × 59122;
- (i) the unique identifier MON-87427-7 × DAS-Ø15Ø7-1 × MON-88Ø17-3 for genetically modified maize (*Zea mays* L.) MON 87427 × 1507 × MON 88017;
- (j) the unique identifier MON-87427-7 × DAS-Ø15Ø7-1 × DAS-59122-7 for genetically modified maize (*Zea mays* L.) MON 87427 × 1507 × 59122;

⁽¹⁾ Commission Decision 2009/770/EC of 13 October 2009 establishing standard reporting formats for presenting the monitoring results of the deliberate release into the environment of genetically modified organisms, as or in products, for the purpose of placing on the market, pursuant to Directive 2001/18/EC of the European Parliament and of the Council (OJ L 275, 21.10.2009, p. 9).

⁽²⁾ Regulation (EC) No 1946/2003 of the European Parliament and of the Council of 15 July 2003 on transboundary movements of genetically modified organisms (OJ L 287, 5.11.2003, p. 1).

- (k) the unique identifier MON-87427-7 × MON-88Ø17-3 × DAS-59122-7 for genetically modified maize (*Zea mays* L.) MON 87427 × MON 88017 × 59122;
- (l) the unique identifier MON-87427-7 × DAS-Ø15Ø7-1 for genetically modified maize (*Zea mays* L.) MON 87427 × 1507;
- (m) the unique identifier MON-87427-7 × MON-88Ø17-3 for genetically modified maize (*Zea mays* L.) MON 87427 × MON 88017;
- (n) the unique identifier MON-87427-7 × DAS-59122-7 for genetically modified maize (*Zea mays* L.) MON 87427 × 59122;
- (o) the unique identifier MON-89Ø34-3 × MON-88Ø17-3 for genetically modified maize (*Zea mays* L.) MON 89034 × MON 88017.

Article 2

Authorisation

The following products are authorised for the purposes of Article 4(2) and Article 16(2) of Regulation (EC) No 1829/2003 in accordance with the conditions set out in this Decision:

- (a) foods and food ingredients containing, consisting of or produced from genetically modified maize referred to in Article 1;
- (b) feed containing, consisting of or produced from genetically modified maize referred to in Article 1;
- (c) genetically modified maize referred to in Article 1 in products containing them or consisting of them, for uses other than those provided for in points (a) and (b) of this Article, with the exception of cultivation.

Article 3

Labelling

1. For the purposes of the labelling requirements laid down in Article 13(1) and Article 25(2) of Regulation (EC) No 1829/2003 and in Article 4(6) of Regulation (EC) No 1830/2003, the 'name of the organism' shall be 'maize'.
2. The words 'not for cultivation' shall appear on the label of and in the documents accompanying products containing or consisting of genetically modified maize referred to in Article 1, with the exception of food and food ingredients.

Article 4

Method for detection

The method set out in point (d) of the Annex shall apply for the detection of the genetically modified maize referred to in Article 1.

Article 5

Monitoring for environmental effects

1. The authorisation holder shall ensure that the monitoring plan for environmental effects, as set out in point (h) of the Annex, is put in place and implemented.
2. The authorisation holder shall submit to the Commission annual reports on the implementation and the results of the activities set out in the monitoring plan in accordance with Decision 2009/770/EC.

*Article 6***Community register**

The information set out in the Annex to this Decision shall be entered in the Community register of genetically modified food and feed referred to in Article 28(1) of Regulation (EC) No 1829/2003.

*Article 7***Authorisation holder**

The authorisation holder shall be Monsanto Company, United States, represented by Monsanto Europe SA/NV, Belgium.

*Article 8***Repeal**

Decision 2011/366/EU is hereby repealed.

*Article 9***Validity**

This Decision shall apply for a period of 10 years from the date of its notification.

*Article 10***Addressee**

This Decision is addressed to Monsanto Europe SA/NV, Scheldelaan 460, 2040 Antwerp, Belgium.

Done at Brussels, 19 December 2018.

For the Commission
Vytenis ANDRIUKAITIS
Member of the Commission

ANNEX

(a) Applicant and authorisation holder:

Name: Monsanto Company

Address: 800 N. Lindbergh Boulevard, St. Louis, Missouri 63167, USA

Represented by Monsanto Europe SA/NV, Scheldelaan 460, 2040 Antwerp, Belgium.

(b) Designation and specification of the products:

- (1) foods and food ingredients containing, consisting of or produced from genetically modified maize (*Zea mays* L.) referred to in point (e);
- (2) feed containing, consisting of or produced from genetically modified maize (*Zea mays* L.) referred to in point (e);
- (3) genetically modified maize (*Zea mays* L.) referred to in point (e) in products containing them or consisting of them for uses other than those provided for in points (1) and (2), with the exception of cultivation.

MON-87427-7 maize expresses the CP4 EPSPS protein, which confers tolerance to glyphosate-based herbicides.

MON-89Ø34-3 maize expresses the Cry1A.105 and Cry2Ab2 proteins, which confer protection against certain lepidopteran pests.

DAS-Ø15Ø7-1 maize expresses the Cry1F protein, which confers protection against certain lepidopteran pests and the PAT protein, which confers tolerance to glufosinate-ammonium-based herbicides.

MON-88Ø17-3 maize expresses a modified Cry3Bb1 protein, which provides protection to certain coleopteran pests and the CP4 EPSPS protein, which confers tolerance to glyphosate-based herbicides.

DAS-59122-7 maize expresses Cry34Ab1 and Cry35Ab1 proteins, which confer protection against certain coleopteran pests and the PAT protein, which confers tolerance to glufosinate-ammonium-based herbicides.

(c) Labelling:

- (1) For the purposes of the labelling requirements laid down in Article 13(1) and Article 25(2) of Regulation (EC) No 1829/2003, and in Article 4(6) of Regulation (EC) No 1830/2003, the 'name of the organism' shall be 'maize';
- (2) The words 'not for cultivation' shall appear on the label of and in the accompanying documents of the products containing or consisting of the maize specified in (e), with the exception of foods and food ingredients.

(d) Method for detection:

- (1) The quantitative event-specific PCR detection methods for maize MON 87427 × MON 89034 × 1507 × MON 88017 × 59122 are those validated for genetically modified maize events MON-87427-7, MON-89Ø34-3, DAS-Ø15Ø7-1, MON-88Ø17-3 and DAS-59122-7.
- (2) Validated by the EU Reference Laboratory established under Regulation (EC) No 1829/2003, published at <http://gmo-crl.jrc.ec.europa.eu/statusofdossiers.aspx>;
- (3) Reference Material: ERM®-BF418 (for DAS-Ø15Ø7-1) and ERM®-BF424 (for DAS-59122-7) are accessible via the Joint Research Centre (JRC) of the European Commission at <https://ec.europa.eu/jrc/en/reference-materials/catalogue/>, and AOCS 0512-A (for MON-87427-7), AOCS 0906-E (for MON-89Ø34-3) and AOCS 0406-D (for MON-88Ø17-3) are accessible via the American Oil Chemists Society at <https://www.aocs.org/crm#maize>

(e) Unique identifiers:

MON-87427-7 × MON-89Ø34-3 × DAS-Ø15Ø7-1 × MON-88Ø17-3 × DAS-59122-7;

MON-87427-7 × MON-89Ø34-3 × DAS-Ø15Ø7-1 × MON-88Ø17-3;

MON-87427-7 × MON-89Ø34-3 × DAS-Ø15Ø7-1 × DAS-59122-7;

MON-87427-7 × MON-89Ø34-3 × MON-88Ø17-3 × DAS-59122-7;

MON-87427-7 × DAS-Ø15Ø7-1 × MON-88Ø17-3 × DAS-59122-7;

MON-87427-7 × MON-89Ø34-3 × DAS-Ø15Ø7-1;

MON-87427-7 × MON-89Ø34-3 × MON-88Ø17-3;

MON-87427-7 × MON-89Ø34-3 × DAS-59122-7;

MON-87427-7 × DAS-Ø15Ø7-1 × MON-88Ø17-3;

MON-87427-7 × DAS-Ø15Ø7-1 × DAS-59122-7;

MON-87427-7 × MON-88Ø17-3 × DAS-59122-7;

MON-87427-7 × DAS-Ø15Ø7-1;

MON-87427-7 × MON-88Ø17-3;

MON-87427-7 × DAS-59122-7;

MON-89Ø34-3 × MON-88Ø17-3;

(f) Information required under Annex II to the Cartagena Protocol on Biosafety to the Convention on Biological Diversity:

[Biosafety Clearing-House, Record ID number: *published in the Community register of genetically modified food and feed when notified*].

(g) Conditions or restrictions on the placing on the market, use or handling of the products:

Not required.

(h) Monitoring plan for environmental effects:

Monitoring plan for environmental effects conforming with Annex VII to Directive 2001/18/EC.

[Link: *plan published in the Community register of genetically modified food and feed*]

(i) Post-market monitoring requirements for the use of the food for human consumption

Not required.

Note: links to relevant documents may need to be modified over the time. Those modifications will be made available to the public via the updating of the Community register of genetically modified food and feed.

COMMISSION IMPLEMENTING DECISION (EU) 2018/2047**of 20 December 2018****on the equivalence of the legal and supervisory framework applicable to stock exchanges in Switzerland in accordance with Directive 2014/65/EU of the European Parliament and of the Council****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU ⁽¹⁾, and in particular Article 25(4)(a) thereof,

Whereas:

- (1) Article 23(1) of Regulation (EU) No 600/2014 of the European Parliament and of the Council ⁽²⁾ requires investment firms to ensure that the trades they undertake in shares admitted to trading on regulated markets, or traded on trading venues should take place on regulated markets, multilateral trading facilities (MTFs) or systematic internalisers, or third-country trading venues assessed by the Commission as equivalent in accordance with Article 25(4)(a) of Directive 2014/65/EU.
- (2) Article 23(1) of Regulation (EU) No 600/2014 only applies a trading obligation in respect of shares. The trading obligation does not comprise other equity instruments, such as depositary receipts, exchange-traded funds (ETFs), certificates and other similar financial instruments.
- (3) The equivalence procedure for trading venues established in third countries set out in Article 25(4)(a) of Directive 2014/65/EU aims to allow investment firms to undertake trades in shares that are subject to the trading obligation in the Union, on third-country trading venues recognised as equivalent. At the request of the competent authority of a Member State, the Commission should assess whether the legal and supervisory framework of a third country ensures that a trading venue authorised in that third country complies with legally binding requirements which are equivalent to the requirements resulting from Regulation (EU) No 596/2014 of the European Parliament and of the Council ⁽³⁾, from Title III of Directive 2014/65/EU, from Title II of Regulation (EU) No 600/2014 and from Directive 2004/109/EC of the European Parliament and of the Council ⁽⁴⁾, and which are subject to effective supervision and enforcement in that third country. This should be read in the light of the objectives pursued by that act, in particular its contribution to the establishment and functioning of the internal market, market integrity, investor protection and ultimately, but no less importantly, financial stability. On 30 July 2018, the German Financial Supervisory Authority requested that the Commission renew its assessment of the Swiss legal and supervisory framework and adopt an equivalence decision for the Swiss stock exchanges.
- (4) In accordance with the fourth subparagraph Article 25(4)(a) of Directive 2014/65/EU, a third-country legal and supervisory framework may be considered equivalent where that framework fulfils at least the conditions that (a) the markets are subject to authorisation and to effective supervision and enforcement on an ongoing basis, (b) have clear and transparent rules regarding the admission of securities to trading so that such securities are capable of being traded in a fair, orderly and efficient manner, and are freely negotiable, (c) security issuers should be subject to periodic and ongoing information requirements ensuring a high level of investor protection, and (d) market transparency and integrity should be ensured by the prevention of market abuse in the form of insider dealing and market manipulation.

⁽¹⁾ OJ L 173, 12.6.2014, p. 349.

⁽²⁾ Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (OJ L 173, 12.6.2014, p. 84).

⁽³⁾ Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC (OJ L 173, 12.6.2014, p. 1).

⁽⁴⁾ Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC (OJ L 390, 31.12.2004, p. 38).

- (5) The purpose of this equivalence assessment is to assess inter alia whether the legally binding requirements which are applicable in Switzerland to stock exchanges established and authorised therein under the supervision of the Swiss Financial Market Supervisory Authority ('FINMA') are equivalent to the requirements resulting from Regulation (EU) No 596/2014, from Title III of Directive 2014/65/EU, from Title II of Regulation (EU) No 600/2014 and from Directive 2004/109/EC, and whether they are subject to effective supervision and enforcement in that third country.
- (6) Article 26(b) of the Federal Act on Financial Market Infrastructures and Market Conduct in Securities and Derivatives Trading ('Financial Market Infrastructure Act', 'FMIA') defines a stock exchange as an institution for multilateral securities trading where securities are listed, whose purpose is the simultaneous exchange of bids between multiple participants and the conclusion of contracts based on non-discretionary rules. A stock exchange does not enjoy discretion over how it executes trades and is not allowed to trade on its own account or engage in matched principal trading. Furthermore, a stock exchange must provide participants with impartial and non-discriminatory access to its markets and services. To this effect, a stock exchange is required to have rules in place that prescribe the means by which a securities dealer or other parties supervised by FINMA as well as foreign participants authorised by FINMA may apply to become a participant. Pursuant to Article 27(4) FMIA in conjunction with Article 25(1) of the Ordinance on Financial Market Infrastructures and Market Conduct in Securities and Derivatives Trading ('Financial Market Infrastructure Ordinance', 'FMIO'), FINMA reviews and approves regulations and their amendments on the admission, duties and exclusion of participants to a stock exchange. A stock exchange must deny membership to a participant that is not authorised by FINMA and may deny membership to any participant that is subject to a statutory disqualification.
- (7) The four conditions set out in the fourth subparagraph of Article 25(4)(a) of Directive 2014/65/EU must be fulfilled in order to determine that the legal and supervisory arrangements of a third country regarding the trading venues authorised therein are equivalent to those laid down in Directive 2014/65/EU.
- (8) According to the first condition, third-country trading venues must be subject to authorisation and to effective supervision and enforcement on an ongoing basis.
- (9) A stock exchange must be authorised by FINMA before it may begin operations. Pursuant to Articles 4 and 5 of the FMIA, FINMA grants authorisation if it finds that the applicable conditions and requirements with respect to the applicant are satisfied. The authorisation requirements are set out in the FMIA and the associated ordinances, which have force of law. The FMIA requires that a stock exchange has in place arrangements to address all of the types of conduct and activity that an applicant wishes to engage in. According to Article 27(1) of the FMIA, a stock exchange shall establish under FINMA's supervision its own regulatory and supervisory organisation which is appropriate for its activity. With FINMA's approval, the stock exchange's self-regulation becomes binding and enforceable regulation. According to Article 27 of the FMIA in conjunction with Article 24(1) of the FMIO an appropriate regulatory and supervisory organisation requires the establishment of a body that fulfils regulatory tasks, a trading supervisory body, a body responsible for the admission of securities to trading and an appeal body. These bodies must be independent of the stock exchange's business management, both organisationally and with respect to personnel. As part of the self-regulatory and supervisory organisation the respectively responsible body monitors and enforces compliance of the stock exchange's rules and regulations by the stock exchange's participants.
- (10) Furthermore, Article 18 of the FMIA requires stock exchanges to grant participants and market makers non-discriminatory and open access. FINMA ensures both during the authorisation process and on an ongoing basis that exchange rules comply with this requirement (see sections 3 to 5 of the SSX Rule Book in conjunction with the SSX Directive 1 and sections 3-5 of the BX Swiss Rule Book). Denial of access is only permissible on safety and efficiency grounds and subject to a stringent proportionality test (Art. 18 of the FMIA, 17 of the FMIO). Applicants who have been denied access may lodge an appeal with an independent appeal board (section 8 of the SSX Rule Book and section 15 of the BX Swiss Rule Book). Compliance of exchanges with Article 18 of the FMIA and Article 17 of the FMIO is subject to FINMA's supervision. The adoption of rules and amendments thereto require FINMA's ex ante approval, their implementation may be scrutinised by FINMA staff, audits, requests for information, or remedial action pursuant to Articles 24 ff. of the Federal Act on the Swiss Financial Market Supervisory Authority ('Financial Market Supervision Act', 'FINMASA').
- (11) As regards effective supervision, the FINMASA, the Federal Act on Stock Exchanges and Securities Trading ('Stock Exchange Act', 'SESTA') and the FMIA constitute the main pieces of the primary legislation which establishes a legally enforceable regime for the trading of securities in Switzerland. The FINMASA, the SESTA and the FMIA empower FINMA with broad authority over all aspects of the securities industry, including the power to authorise

and supervise securities dealers, central counterparties, central securities depositories, trade repositories and payment systems. The FMIA and the FMIO also identify and prohibit certain types of conduct in the markets and provide FINMA with disciplinary powers over regulated entities and persons associated with them. Article 29 of the FINMASA grants FINMA comprehensive access to all relevant information of any supervised person and entity, their audit firms and auditors. Under the Swiss framework, stock exchanges are primarily responsible for establishing the rules under which their participants conduct business and for monitoring the ways their participants conduct business. FINMA directly monitors stock exchange regulations to ensure they are in line with the legal framework. All regulations and any changes to them must be submitted to FINMA for approval (Article 27(4) of the FMIA). Investigations by FINMA are triggered either by reports of potential breaches of the law reported by stock exchanges to FINMA or on the basis of its own suspicion.

- (12) Once a stock exchange has been authorised, FINMA monitors on an ongoing basis whether it continues to comply with the conditions and duties associated with the authorisation (Article 83 of the FMIA). A stock exchange is legally required to notify FINMA of any changes to the circumstances on which its authorisation or approval was originally based. If the changes are material, the financial market infrastructure must obtain prior authorisation or approval from FINMA to pursue its activities (Article 7 of the FMIA). Key requirements are the compliance with organisational requirements; the existence and effectiveness of the internal control system; the appropriateness of IT systems; and proper business conduct. FINMA's supervision extends to all bodies of the stock exchange including its trading surveillance and sanctioning functions. Pursuant to Article 24, 24a of the FINMASA, FINMA may carry out audits directly, or indirectly through licensed audit companies, both on-site and off-site. Articles 27, 30 and 34 of the FMIA also require all authorised stock exchanges to be able to enforce compliance by their issuers, participants and persons associated with their participants with the provisions of the FMIA and FMIO, associated acts and regulations, and their own rules and regulations. As part of its duty to enforce compliance by their members, the stock exchange is responsible for investigating and disciplining any breaches of the applicable laws and rules.
- (13) As regards the effective enforcement, FINMA has a range of administrative mechanisms for enforcing its powers and authority. Where breaches of the law or irregularities are identified, FINMA takes the necessary corrective measures, which may involve administrative enforcement proceedings. With due regard to the principle of proportionality, FINMA imposes the measures it deems most appropriate to ensure compliance with the law. The measures available include reprimands, specific instructions to restore compliance with the law, prohibitions on individuals practising their profession, prohibitions on dealers conducting business, and the revocation of licenses. FINMA may also confiscate illegally generated profits or illegally avoided losses and may order publication of a final and binding ruling. To restore compliance of a stock exchange with applicable provisions, FINMA may use its administrative powers also for the removal of board members or staff whose irreproachable business conduct is in doubt. FINMA's own administrative mechanisms are backed up by provisions for criminal sanctions in relation to the offences described in Chapter 4 of FINMASA. Provisions for criminal sanctions are also included in Articles 147 ff. of the FMIA and Articles 42a and 43 of the SESTA. FINMA hands these cases on to the competent prosecution authorities. FINMA and the competent prosecuting authority coordinate their investigations, as far as this is practicable and necessary. In general, the Federal Department of Finance Legal Services both prosecutes and judges violations of the criminal provisions of FINMASA and of the financial markets acts. However, the Federal Attorney General's Office is competent for the prosecution of insider trading and price manipulation offences under FMIA.
- (14) It can therefore be concluded that Swiss stock exchanges are subject to authorisation and to effective supervision and enforcement on an ongoing basis.
- (15) According to the second condition, third-country trading venues must have clear and transparent rules regarding admission of securities to trading so that such securities are capable of being traded in a fair, orderly and efficient manner, and are freely negotiable.
- (16) Swiss law requires that stock exchanges issue regulations on the admission of securities to trading (Articles 35 and 36 of the FMIA). These regulations have to be approved by FINMA. The regulations shall take account of recognised international standards and in particular shall contain provisions on the tradability of securities; the publication of information on which investors rely for assessing the characteristics of securities and the quality of the issuer; the duties of the issuer, its representatives and third parties for the entire duration of the listing or admission of securities to trading; the obligation, regarding the admission of equity securities, to comply with Articles 7 and 81 of the Federal Act of 16 December 2005 on the Licensing and Oversight of Auditors. The admission to trading of securities and the listing, a qualified form of an admission to trading, of securities on stock exchanges are governed primarily by Listing Rules and Additional Rules for Listing and Admission to Trading. The stock exchange reviews the application filed by the issuer for each security and verifies that all pertinent requirements are fulfilled. For each application, the stock exchange releases a written decision.

The information on an admission decision is publicly available. With the listing of a security, the issuer is subject to maintenance obligations concerning periodic reporting obligations as, for example, financial reporting and corporate governance obligations, but also occurrence-based reporting obligations such as regular reporting obligations, disclosure of management transactions and ad hoc publicity. According to Article 35(3) of the FMIA, the stock exchange monitors the issuer's compliance with these rules and imposes the sanctions provided for contractually in the event of violations. According to Article 33(1) of the FMIO, a stock exchange shall guarantee that all securities admitted to trading and all listed securities can be traded in a fair, efficient and orderly manner. With regard to equity securities, the Listing Rules provide for free float requirements to ensure that such securities can be traded efficiently. The independent bodies of the stock exchange may temporarily suspend the trading of securities if unusual circumstances, and specifically the breach of important disclosure obligations by the issuer, indicate that such a suspension is advisable. They may cancel the listing of securities, if the solvency of the issuer is in serious doubt, or insolvency or liquidation proceedings have already commenced. FINMA may also compel a stock exchange to suspend trading in a given security by using its powers under Article 31 of the FINMASA with a view to restoring compliance with the provisions of the FMIA or responding to other irregularities.

- (17) The Swiss regulatory framework includes requirements for providing pre-trade information to market participants. Pre-trade transparency has its legal basis in Article 29(1) of the FMIA which stipulates that the stock exchange shall publish the five best bid and offer prices for each share and other security in real time, as well as the sizes of the trading positions at these prices. The same also applies for actionable indications of interest (Article 27(3) of the FMIO). Waivers are available for reference price systems, systems that exist only to formalise transactions already negotiated, orders held in an order management facility of the stock exchange pending disclosure and orders that are large in scale compared with normal market size. The Swiss regulatory framework also includes requirements for providing post-trade information. Post-trade transparency has its basis in Article 29(2) of the FMIA that stipulates that the stock exchange shall immediately publish information on the transactions carried out on- and off-exchange for all securities admitted to trading. In particular, the price, volume and time of the transactions must be published. The exemptions from post-trade transparency are the same as for pre-trade transparency. Information on certain atypical transactions will also be published with delay. The stock exchange pre- and post-trade data services are fully transparent and offered to all exchange participants on a non-discriminatory basis. Delayed data is available to all users free of charge.
- (18) It can therefore be concluded that Swiss stock exchanges have clear and transparent rules regarding the admission of securities to trading so that such securities are capable of being traded in a fair, orderly and efficient manner and are freely negotiable.
- (19) According to the third condition, security issuers must be subject to periodic and ongoing information requirements ensuring a high level of investor protection.
- (20) The stock exchange's regulations on the admission to trading must set out the information to be published to allow investors to assess the characteristics of the securities and the quality of the issuer to ensure a high level of investor protection. Issuers whose securities are admitted to trading on a Swiss stock exchange are required to publish annual and interim financial reports. The issuer must make its annual financial statements available on its website. Securities admitted to trading on a Swiss stock exchange may also be traded on another venue. The reporting obligation applicable to issuers applies regardless of the venue on which trading takes place. The disclosure of comprehensive and timely information about security issuers allows investors to assess the business performance of issuers and ensures appropriate transparency for investors through a regular flow of information.
- (21) It can therefore be concluded that issuers whose securities are admitted on Swiss stock exchanges are subject to periodic and ongoing information requirements ensuring a high level of investor protection.
- (22) According to the fourth condition, the third-country legal and supervisory framework must ensure market transparency and integrity by preventing market abuse in the form of insider dealing and market manipulation.
- (23) Articles 142 and 143 of the FMIA prohibit insider trading and market manipulation by any person. In addition, under the conditions of Articles 154 and 155 of the FMIA, the exploitation or the attempted exploitation of insider information and price manipulation constitute criminal offences. The stock exchange must issue regulations regarding the disclosure of inside information by issuers. Under the Listing Rules of a stock exchange, the issuer must inform the market of any price-sensitive facts which have arisen, or are about to arise, in its sphere of activity, as soon as it becomes aware of such information. Price-sensitive facts are facts which are

capable of triggering a significant change in market prices. Disclosure must be made so as to ensure the equal treatment of all market participants. Further, under Article 31(1) of the FMIA, Swiss stock exchanges are required to monitor price formation and the transactions executed on the stock exchange with a view to detecting insider trading, price and market manipulation and other breaches of statutory and regulatory provisions. To this end, a stock exchange must also review transactions which are conducted outside of the trading venue and which are reported to it or brought to its attention in some other way (Article 31(1) of the FMIA). This supervisory task must be carried out by an independent body of the stock exchange. Issuers must be able to provide FINMA upon request with an insider list based on their duty to provide information, including all additional information and documents that FINMA requires to carry out its tasks (Article 29(1) of the FINMASA in conjunction with Article 145 of the FMIA). A stock exchange must notify FINMA of any suspected breaches of the law or other irregularities. If the breaches in question involve criminal offences, it must also inform the competent prosecuting authority without delay (Article 31(2) of the FMIA). FINMA investigates on information about violations of the law received from stock exchanges, as well as based on its own market monitoring with the aim of enforcing the provisions of supervisory law that prohibit market abuse.

- (24) It can therefore be concluded that the Swiss legal and supervisory framework ensures market transparency and integrity by preventing market abuse in the form of insider dealing and market manipulation.
- (25) It can therefore further be concluded that the legal and supervisory framework governing stock exchanges as set out in the Annex to this Decision and operated in Switzerland under the supervision of FINMA complies with the four conditions for legal and supervisory arrangements and hence should be considered to provide for an equivalent system to the requirements for trading venues laid down in Directive 2014/65/EU, Regulation (EU) No 600/2014, Regulation (EU) No 596/2014 and Directive 2004/109/EC.
- (26) Given that a significant number of shares that are issued and admitted to trading in Switzerland are also traded on trading venues in the Union, it is appropriate to ensure that all investment firms subject to the trading obligation as set out in Article 23(1) of Regulation (EU) No 600/2014 preserve the ability to undertake trades in shares admitted to trading on the Swiss exchanges where their primary liquidity resides. As the primary liquidity of shares admitted to trading on the Swiss exchanges resides in these exchanges, the recognition of the legal and supervisory framework of Switzerland would allow investment firms to trade shares admitted to trading in Switzerland on Swiss exchanges and to fulfil their best execution obligation towards their clients.
- (27) Overall Union trading in a multitude of shares admitted on the Swiss exchanges is of such frequency that investment firms in the Union could not avail themselves of the exception set out in Article 23(1)(a) of Regulation (EU) No 600/2014. This implies that the trading obligation set out in Article 23(1) of Regulation (EU) No 600/2014 would apply to a significant number of shares admitted to trading in Switzerland.
- (28) This decision is to be complemented by cooperation arrangements to ensure the effective exchange of information and coordination of supervisory activities between the national competent authorities and FINMA.
- (29) This Decision is based on the legally binding requirements applicable to Swiss stock exchanges at the time of the adoption of this Decision. The Commission should continue monitoring on a regular basis the evolution of the legal and supervisory arrangements for Swiss stock exchanges and the fulfilment of the conditions on the basis of which this Decision has been taken.
- (30) This Decision also takes into account the Council conclusions of 28 February 2017, under which a precondition for further developing the sectoral approach with Switzerland remains the establishment of a common institutional framework for existing and future agreements through which Switzerland participates in the Single Market of the Union. When deciding on whether to extend the applicability of this Decision, the Commission has taken the current state of progress towards an Agreement establishing that common institutional framework into account. A full draft of the agreement has been agreed by the EU and Swiss negotiators. The Swiss Federal Council has taken note of this agreement and has decided to open a phase of domestic consultations that will last until spring 2019.
- (31) The Commission should conduct regular reviews of the legal and supervisory arrangements applicable to stock exchanges in Switzerland. Those reviews are without prejudice to the possibility of the Commission to undertake a specific review at any earlier time, where relevant developments make it necessary for the Commission to re-assess the equivalence granted by this Decision. Any re-assessment could lead to the repeal of this Decision.

- (32) To ensure the integrity of financial markets in the Union in light, in particular, of the progress made towards the establishment of a common institutional framework through which Switzerland participates in the Single Market of the Union, this Decision should expire on 30 June 2019.
- (33) Commission Implementing Decision (EU) 2017/2441 ⁽¹⁾ on the equivalence of the legal and supervisory framework applicable to stock exchanges in Switzerland in accordance with Directive 2014/65/EU expires on 31 December 2018. It is therefore necessary that this Decision enters into force as a matter of urgency and that it applies from 1 January 2019.
- (34) The measures provided for in this Decision are in accordance with the opinion of the European Securities Committee,

HAS ADOPTED THIS DECISION:

Article 1

For the purposes of Article 23(1) of Regulation (EU) No 600/2014 the legal and supervisory framework applicable to stock exchanges in Switzerland set out in the Annex to this Decision shall be considered to be equivalent to the requirements resulting from Directive 2014/65/EU, Regulation (EU) No 600/2014, Regulation (EU) No 596/2014 and Directive 2004/109/EC and to be subject to effective supervision and enforcement.

Article 2

This Decision 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 2019.

It shall expire on 30 June 2019.

Done at Brussels, 20 December 2018.

For the Commission
The President
Jean-Claude JUNCKER

⁽¹⁾ Commission Implementing Decision (EU) 2017/2441 of 21 December 2017 on the equivalence of the legal and supervisory framework applicable to stock exchanges in Switzerland in accordance with Directive 2014/65/EU of the European Parliament and of the Council (OJ L 344, 23.12.2017, p. 52).

ANNEX

Stock exchanges in Switzerland considered equivalent to regulated markets as defined in Directive 2014/65/EU:

- (a) SIX Swiss Exchange AG
 - (b) BX Swiss AG
-

COMMISSION IMPLEMENTING DECISION (EU) 2018/2048**of 20 December 2018****on the harmonised standard for websites and mobile applications drafted in support of Directive (EU) 2016/2102 of the European Parliament and of the Council**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council ⁽¹⁾, and in particular Article 10(6) thereof,

Whereas:

- (1) In accordance with Article 6(1) of Directive (EU) 2016/2102 of the European Parliament and of the Council ⁽²⁾, content of websites and mobile applications which is in conformity with harmonised standards or parts thereof, the references of which have been published in the *Official Journal of the European Union*, is to be presumed to be in conformity with the accessibility requirements covered by those standards or parts thereof set out in Article 4 of that Directive.
- (2) By Implementing Decision C(2017) 2585 ⁽³⁾ the Commission made a request to the European Committee for Standardisation (CEN), the European Committee for Electrotechnical Standardisation (Cenelec) and the European Telecommunications Standards Institute (ETSI) for the drafting of harmonised standard(s) based on EN 301 549 V1.1.2 (2015-04) and including any necessary provisions needed to support the implementation of Article 4 of Directive (EU) 2016/2102. The EN 301 549 V1.1.2 (2015-04) was the result of the Commission Standardisation Mandate 376 ⁽⁴⁾ and already contained some provisions relevant for the accessibility of websites and mobile applications as well as of other ICT products and services.
- (3) On the basis of the Implementing Decision C(2017) 2585, CEN, Cenelec and ETSI have completed the work on the requested harmonised standard and delivered to the Commission the harmonised European standard EN 301 549 V2.1.2 (2018-08) setting out, inter alia, technical requirements on the accessibility of the websites and mobile applications. The harmonised European standard EN 301 549 V2.1.2 (2018-08) contains, inter alia, a table which maps the relevant provisions from the standard to the accessibility requirements set out in Article 4 of Directive (EU) 2016/2102.
- (4) The Commission, together with CEN, Cenelec and ETSI, has assessed whether the relevant provisions of the harmonised European standard EN 301 549 V2.1.2 (2018-08) delivered by CEN, Cenelec and ETSI comply with the request set out in the Implementing Decision C(2017) 2585.
- (5) The relevant provisions of the harmonised European standard EN 301 549 V2.1.2 (2018-08) satisfy the requirements which they aim to cover and which are set out in Annex II to Implementing Decision C(2017) 2585. It is therefore appropriate to publish the reference of that standard in the *Official Journal of the European Union*.
- (6) Compliance with a harmonised standard confers a presumption of conformity with the corresponding essential requirements set out in Union harmonisation legislation from the date of publication of the reference of such standard in the *Official Journal of the European Union*. This Decision should therefore enter into force on the date of its publication,

⁽¹⁾ OJ L 316, 14.11.2012, p. 12.

⁽²⁾ Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies (OJ L 327, 2.12.2016, p. 1).

⁽³⁾ Commission Implementing Decision C(2017) 2585 of 27 April 2017 on a standardisation request to the European standardisation organisations in support of Directive (EU) 2016/2102 of the European Parliament and of the Council on the accessibility of the websites and mobile applications of public sector bodies.

⁽⁴⁾ Mandate 376, 7 December 2005 Standardisation Mandate to CEN, CENELEC and ETSI in support of European accessibility requirements for public procurement of products and services in the ICT domain.

HAS ADOPTED THIS DECISION:

Article 1

The reference to harmonised standard for websites and mobile applications drafted in support of Directive (EU) 2016/2102 listed in the Annex to this Decision, is hereby published in the *Official Journal of the European Union*.

Article 2

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

Done at Brussels, 20 December 2018.

For the Commission

The President

Jean-Claude JUNCKER

ANNEX

No	Reference of the standard
1.	EN 301 549 V2.1.2 (2018-08) Accessibility requirements for ICT products and services

DECISION (EU) 2018/2049 OF THE EUROPEAN CENTRAL BANK
of 12 December 2018
on the approval of the volume of coin issuance in 2019 (ECB/2018/35)

THE EXECUTIVE BOARD OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 128(2) thereof,

Having regard to Decision (EU) 2015/2332 of the European Central Bank of 4 December 2015 on the procedural framework for the approval of the volume of euro coin issuance (ECB/2015/43) ⁽¹⁾, and in particular Article 2(9) thereof,

Whereas:

- (1) The European Central Bank (ECB) has the exclusive right since 1 January 1999 to approve the volume of coins issued by the Member States whose currency is the euro.
- (2) The 19 Member States whose currency is the euro have submitted to the ECB their requests for the approval of the volume of coins to be issued in 2019, supplemented by explanatory notes on the forecasting methodology. Certain of these Member States have also provided additional information regarding circulation coins, where such information is available and considered important by the Member States concerned to substantiate the approval request.
- (3) As the right of Member States to issue euro coins is subject to approval by the ECB of the volume of the issue, the volumes approved by the ECB may not be surpassed by the Member States without prior approval by the ECB.
- (4) Pursuant to Article 2(9) of Decision (EU) 2015/2332 (ECB/2015/43), the power to adopt decisions on annual approval requests for the annual volume of coin issuance submitted by Member States whose currency is the euro is delegated to the Executive Board when no modification of the requested volume of coin issuance is required,

HAS ADOPTED THIS DECISION:

Article 1

Approval of the volume of euro coins to be issued in 2019

The ECB hereby approves the volume of euro coins to be issued by the Member States whose currency is the euro in 2019 as set out in the following table:

	Volume of euro coins approved for issuance in 2019		
	Circulation coins	Collector coins (not intended for circulation)	Volume of coin issuance
	(EUR million)	(EUR million)	(EUR million)
Belgium	46,0	1,0	47,0
Germany	401,0	231,0	632,0
Estonia	10,2	0,3	10,5
Ireland	11,0	0,5	11,5
Greece	110,9	0,6	111,5
Spain	357,2	30,0	387,2
France	235,8	50,1	285,9
Italy	204,2	2,1	206,3

⁽¹⁾ OJ L 328, 12.12.2015, p. 123.

	Volume of euro coins approved for issuance in 2019		
	Circulation coins	Collector coins (not intended for circulation)	Volume of coin issuance
	(EUR million)	(EUR million)	(EUR million)
Cyprus	13,5	0,1	13,6
Latvia	15,7	0,2	15,9
Lithuania	22,0	0,7	22,7
Luxembourg	12,4	0,2	12,6
Malta	9,0	0,2	9,2
Netherlands	25,0	3,0	28,0
Austria	73,2	153,4	226,6
Portugal	43,1	2,5	45,6
Slovenia	22,0	1,5	23,5
Slovakia	17,0	1,2	18,2
Finland	15,0	10,0	25,0
Total	1 644,2	488,6	2 132,8

Article 2

Taking effect

This Decision shall take effect on the day of its notification to the addressees.

Article 3

Addressees

This Decision is addressed to the Member States whose currency is the euro.

Done at Frankfurt am Main, 12 December 2018.

The President of the ECB
Mario DRAGHI

RECOMMENDATIONS

COMMISSION RECOMMENDATION (EU) 2018/2050

of 19 December 2018

on aligning the scope of and conditions for general transfer licences for the purposes of demonstration and evaluation as referred to in point (c) of Article 5(2) of Directive 2009/43/EC of the European Parliament and of the Council

(notified under document C(2018) 8598)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 292 thereof,

Whereas:

- (1) Pursuant to Article 5 of Directive 2009/43/EC of the European Parliament and of the Council ⁽¹⁾ Member States are obliged to publish at least four general transfer licences.
- (2) General transfer licences are a key element of the simplified licensing system introduced by Directive 2009/43/EC.
- (3) Differences in the scope of general transfer licences published by Member States in terms of defence-related products covered and diverging conditions applied to transfers of these products could hamper the implementation of Directive 2009/43/EC and the achievement of its simplification objective. Aligning national approaches as to the scope and conditions for transfers under the general transfer licences published by Member States are important to ensure the attractiveness and use of those licences.
- (4) The Council reiterated in its conclusions of 18 May 2015 the need for the implementation and application of, inter alia, Directive 2009/43/EC. Following the adoption of two previous recommendations on general transfer licences for armed forces ⁽²⁾ and for certified recipients ⁽³⁾, the Commission has announced in the European Defence Action Plan ⁽⁴⁾ and in the Report on evaluation of the Transfers Directive ⁽⁵⁾ its focus on the remaining two general transfer licences, covering transfers for the purposes of demonstration, evaluation, exhibition, repair and maintenance.
- (5) The initiative of this Recommendation has been strongly supported by the representatives of the Member States in the Committee established by Article 14 of Directive 2009/43/EC. The guidelines set out in the Recommendation reflect the discussions of an expert group set up under this Committee.
- (6) This Recommendation applies to the list of defence-related products (corresponding to the Common Military List of the European Union), as laid down in the Annex to Directive 2009/43/EC. This Recommendation will be updated when necessary to reflect future updates of the list of defence-related products.
- (7) Based on the discussions with the Member States and taking into account the characteristics of the products (including exceptions), such as for instance their sensitivity, the defence-related products listed under point 1.1. of this Recommendation are a minimum and non-exhaustive list of products, for which Member States allow transfer under their GTL-DE. This means that the GTL-DE published by a Member State may also allow for the transfer of other defence-related products included in the Annex of Directive 2009/43/EC and not listed in this Recommendation.

⁽¹⁾ Directive 2009/43/EC of the European Parliament and of the Council of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community (OJ L 146, 10.6.2009, p. 1).

⁽²⁾ OJ L 329, 3.12.2016, p. 101.

⁽³⁾ OJ L 329, 3.12.2016, p. 105.

⁽⁴⁾ COM(2016) 950 final.

⁽⁵⁾ COM(2016) 760 final.

- (8) In the context of the discussions on this Recommendation, the Member States have recalled that they are bound by commitments under European law, such as Council Common Position 2008/944/CFSP ⁽¹⁾, as well as by international commitments in the area of export control. In this context, Member States have acknowledged the declaration 'Member States' Political Commitment on Security of Supply' ⁽²⁾,

HAS ADOPTED THIS RECOMMENDATION:

1. GENERAL TRANSFER LICENCES FOR DEMONSTRATION AND EVALUATION

Member States are recommended to adapt their general transfer licences for demonstration and evaluation in accordance with the following elements.

1.1. Defence-related products eligible for transfer under the general transfer licence for the purposes of demonstration and evaluation set out in point (c) of Article 5(2) of Directive 2009/43/EC

The following ML categories are a sub set of the list of defence-related products, as laid down in the Annex to Directive 2009/43/EC. The general transfer licence for the purposes of demonstration and evaluation (GTL-DE) should, as a minimum, allow for the transfer of defence-related products specified in the ML categories hereunder. Member States may choose to include in their GTL-DE more ML categories with corresponding defence-related products.

List of ML categories to be covered as a minimum:

- ML 3. All goods are included, except:
 - Sub munitions which fall within convention on cluster munitions;
 - Terminally guided projectiles;
 - Ammunition, projectiles and propelling charges, specially designed for military use.
- ML 5. All goods are included, except:
 - Sub point 5.b) Target acquisition, designation, range-finding, surveillance or tracking systems; detection, data fusion, recognition or identification equipment; and sensor integration equipment;
 - Sub point 5.c) Countermeasure equipment for items specified by ML5.a or ML5.b.

All goods should be delivered without ciphering component and without integrated database.
- ML 6. All goods are included, except:
 - Complete vehicles which fall within sub point ML6.a);
 - Chassis and turrets which fall within sub point ML6.a);
 - Equipment and equipment's components excluded in the other ML categories.
- ML 7. The following goods are included:
 - Sub point 7.f) Protective and decontamination equipment, specially designed or modified for military use, components and chemical mixtures;
 - Sub point 7.g) Equipment specially designed or modified for military use designed or modified for the detection or identification of materials specified by ML7.a, ML7.b or ML7.d, and specially designed components therefor.
- ML 8. All goods are included, except:
 - All substances with all of the following characteristics:
 - Detonating velocity equal or exceeding to 8 000 m/s;
 - Density equal or up to 1,80 g/cm³.

⁽¹⁾ Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment (OJ L 335, 13.12.2008, p. 99).

⁽²⁾ Adopted by the Representatives of the Governments of EDA participating Member States meeting within the Council at its 3551st meeting held on 19 June 2017.

- All explosives, as follow, and related mixtures:
 - Sub point 8.a.15) HNS (hexanitrostilbene) (CAS 20062-22-0);
 - Sub point 8.a.21) RDX and derivatives, as follows:
 - RDX (cyclotrimethylenetrinitramine, cyclonite, T4, hexahydro-1,3,5-trinitro-1,3,5-triazine, 1,3,5-trinitro-1,3,5-triaza-cyclohexane, hexogen or hexogene) (CAS 121-82-4);
 - Keto-RDX (K-6 or 2,4,6-trinitro-2,4,6-triazacyclohexanone) (CAS 115029-35-1);
 - Sub point 8.a.23) TATB (triaminotrinitrobenzene) (CAS 3058-38-6).
- All substances that might be used directly or indirectly in production of sub munitions weapon which fall within Convention on Cluster Munitions, signed in Oslo on 3 December 2008, except towards Member States which ratified the Convention on Cluster Munitions.
- ML 9. All goods are included, except:
 - Complete vessels of war (surface or underwater) which fall within sub point ML9.a);
 - Complete hulls;
 - Sub point ML9.a)2.d) Active weapon countermeasure systems specified in ML4.b., ML5.c. or ML11.a;
 - Sub point ML9.b)4. Air independent propulsion (AIP) systems specially designed for submarines;
 - Sub point ML9.d) Anti-submarine nets and anti-torpedo nets, specially designed for military use;
 - Items under ML9.c) Underwater detection devices, specially designed for military use, controls therefor and components therefor specially designed for military use.
- ML 10. All goods are included, except:
 - Complete aircraft, lighter-than-air vehicles, unmanned aerial vehicles which fall within sub point ML10.a), ML10.b) or ML10.c);
 - Fuselage for combat aircraft and combat helicopter;
 - Engines for combat aircraft;
 - Equipment and equipment's components excluded in the other ML categories.
- ML 11. The following goods are included:
 - Sub point ML11.a)g. Guidance and navigation equipment except items specially designed for or modified for missiles, rockets, space launchers and Unmanned Aerial Vehicles ('UAVs');
 - Sub point ML11.a)h. Digital troposcatter-radio communications transmission equipment;
 - Sub point ML11.a)j. Automated command and control systems.
- ML 13. All goods are included.
- ML 15. All goods are included, except:
 - Sub point ML15.f).
- ML 16. All goods are included, except:
 - Any items related to goods linked to ballistic technology and CBRN proliferation.
- ML 17. The following goods are included:
 - Sub point ML17.b) Construction equipment specially designed for military use;
 - Sub point ML17.d) Field engineer equipment specially designed for military use;
 - Sub point ML17.j) Mobile repair shops specially designed or modified to service military equipment;
 - Sub point ML17.k) Field generators specially designed or modified for military use;

- Sub point ML17.l) Containers specially designed or modified for military use;
- Sub point ML17.m) Ferries, other than those specified elsewhere in the EU Common Military list, bridges and pontoons, specially designed for military use;
- Sub point ML17.o) Laser protection equipment specially designed for military use.
- ML 21. The following goods are included:
 - Sub point ML21.a) Software specially designed or modified for the use of goods listed in the GTL;
 - Sub point ML21.b)4. Software specially designed for military use or specially designed for Command, Communications, Control and Intelligence (C3I) or Command, Communications, Control, Computer and Intelligence (C4I) applications.
- ML 22. The following is included:
 - Only the necessary technology for the use of the goods allowed in the same general transfer license.

1.2. Conditions to be incorporated into the general transfer licence for demonstration and evaluation

The following list is not exhaustive. However, other conditions added by a Member State are not to contradict or undermine the conditions listed below.

Geographic validity:	European Economic Area ⁽¹⁾
Transfer for demonstration:	Transfer of a defence-related product for use in an environment simulating operational conditions. The term 'Transfer for Demonstration' covers test firing of arms.
Transfer for evaluation:	Transfer of a defence-related product for testing the product and sharing test results. The term 'Transfer for Evaluation' covers technology transfer for sharing test results.
Re-transfer:	<p>Member States are to choose one of the following options for re-transfer of the defence-related product after demonstration or evaluation:</p> <ul style="list-style-type: none"> (a) Exemption from the obligation of prior authorisation can be implemented in accordance with Article 4(2)(e) of Directive 2009/43/EC; (b) Publication of a specific general transfer licence for return of defence-related products after demonstration or evaluation, as appropriate, with at least the same list of eligible defence-related products; (c) Incorporation of re-transfer into the general transfer licence for demonstration and/or evaluation.
Duration:	Originating Member States may specify a time-limit for the return of the defence-related product to be observed by the supplier towards the Competent Authority in the originating Member State. The Member States from which the defence-related product is re-transferred may also specify a time-limit for the re-transfer to be observed by the supplier, or its representative.

2. FOLLOW UP

Member States are invited to give effect to this Recommendation by 1 July 2019 at the latest.

Member States are encouraged to inform the Commission of the measures taken to give effect to this Recommendation.

⁽¹⁾ The EEA Joint Committee Decision No 111/2013 of 14 June 2013 amending Annex II (Technical regulations, standards, testing and certification) to the EEA Agreement (OJ L 318, 28.11.2013, p. 12), which incorporated Directive 2009/43/EC into the EEA Agreement included an explicit adaptation text: 'This Directive shall not apply to Liechtenstein'.

3. ADDRESSEES

This Recommendation is addressed to the Member States.

Done at Brussels, 19 December 2018.

For the Commission
Elżbieta BIENKOWSKA
Member of the Commission

COMMISSION RECOMMENDATION (EU) 2018/2051**of 19 December 2018****on aligning the scope of and conditions for general transfer licences for the purposes of repair and maintenance as referred to in point (d) of Article 5(2) of Directive 2009/43/EC of the European Parliament and of the Council***(notified under document C(2018) 8610)***(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 292 thereof,

Whereas:

- (1) Pursuant to Article 5 of Directive 2009/43/EC of the European Parliament and of the Council ⁽¹⁾ Member States are obliged to publish at least four general transfer licences.
- (2) General transfer licences are a key element of the simplified licensing system introduced by Directive 2009/43/EC.
- (3) Differences in the scope of general transfer licences published by Member States in terms of defence-related products covered and diverging conditions applied to transfers of these products could hamper the implementation of Directive 2009/43/EC and the achievement of its simplification objective. Aligning national approaches as to the scope of and conditions for transfers under the general transfer licences published by Member States are important to ensure the attractiveness and use of those licences.
- (4) The Council reiterated in its conclusions of 18 May 2015 the need for the implementation and application of *inter alia* Directive 2009/43/EC. Following the adoption of two previous recommendations on general transfer licences for armed forces ⁽²⁾ and for certified recipients ⁽³⁾, the Commission has announced in the European Defence Action Plan ⁽⁴⁾ and in the Report on evaluation of the Transfers Directive ⁽⁵⁾ its focus on the remaining two general transfer licences, covering transfers for the purposes of demonstration, evaluation, exhibition, repair and maintenance.
- (5) The initiative of this Recommendation has been strongly supported by the representatives of the Member States in the Committee established by Article 14 of Directive 2009/43/EC. The guidelines set out in the Recommendation reflect the result discussions of an expert group set up under this Committee.
- (6) This Recommendation applies to the list of defence-related products (corresponding to the Common Military List of the European Union), as laid down in the Annex to Directive 2009/43/EC. This Recommendation will be updated when necessary to reflect future updates of the list of defence-related products.
- (7) Based on the discussions with the Member States and taking into account the characteristics of the products (including exceptions), such as for instance their sensitivity, the defence-related products listed under point 1.1 of this Recommendation are a minimum and non-exhaustive list of products, for which Member States allow transfer under their GTL-RM. This means that the GTL-RM published by a Member State may also allow for the transfer of other defence-related products included in the Annex of Directive 2009/43/EC and not listed in this Recommendation.
- (8) In the context of the discussions on this Recommendation, the Member States have recalled that they are bound by commitments under European law, such as Council Common Position 2008/944/CFSP ⁽⁶⁾, as well as by international commitments in the area of export control. In this context, Member States have acknowledged the declaration 'Member States' Political Commitment on Security of Supply' ⁽⁷⁾.

⁽¹⁾ Directive 2009/43/EC of the European Parliament and of the Council of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community (OJ L 146, 10.6.2009, p. 1).

⁽²⁾ OJ L 329, 3.12.2016, p. 101.

⁽³⁾ OJ L 329, 3.12.2016, p. 105.

⁽⁴⁾ COM(2016) 950 final.

⁽⁵⁾ COM(2016) 760 final.

⁽⁶⁾ Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment (OJ L 335, 13.12.2008, p. 99).

⁽⁷⁾ Adopted by the representatives of the Governments of European Defence Agency participating Member States meeting within the Council at its 3551st meeting held on 19 June 2017.

HAS ADOPTED THIS RECOMMENDATION:

1. GENERAL TRANSFER LICENCES FOR REPAIR AND MAINTENANCE

Member States are recommended to adapt their general transfer licences for repair and maintenance in accordance with the following elements.

1.1. Defence-related products eligible for transfer under the general transfer licence for the purposes of repair and maintenance set out in point (d) of Article 5(2) of Directive 2009/43/EC

The following ML categories are a sub set of the list of defence-related products, as laid down in the Annex to Directive 2009/43/EC. The general transfer licence for the purposes of repair and maintenance (GTL-RM) should, as a minimum, allow for the transfer of defence-related products specified in the ML categories hereunder. Member States may choose to include in their GTL-RM more ML categories with corresponding defence-related products.

List of ML categories to be covered as a minimum:

- ML 3. All goods are included, except:
 - Sub munitions which fall within convention on cluster munitions;
 - Terminally guided projectiles;
 - Ammunition, projectiles and propelling charges, specially designed for military use.
- ML 4. All goods are included, except:
 - Sub point 4.a) Bombs, torpedoes, rockets, missiles, other devices and charges and specially designed or modified for military use components;
 - Sub point 4.b) Specially designed components for the purpose of launching, laying, decoying, jamming, disrupting which fall within sub ML4.a).
- ML 5. All goods are included, except:
 - Sub point 5.b) Target acquisition, designation, range-finding, surveillance or tracking systems; detection, data fusion, recognition or identification equipment; and sensor integration equipment;
 - Sub point 5.c) Countermeasure equipment for items specified by ML5.a or ML5.b.

All goods should be delivered without ciphering component and without integrated database.
- ML 6. All goods are included, except:
 - Complete vehicles;
 - Chassis and turrets which fall within sub point ML6.a);
 - Equipment and equipment's components excluded in the other ML categories.
- ML 7. The following goods are included:
 - Sub point 7.f) Protective and decontamination equipment, specially designed or modified for military use, components and chemical mixtures;
 - Sub point 7.g) Equipment specially designed or modified for military use designed or modified for the detection or identification of materials specified by ML7.a, ML7.b or ML7.d, and specially designed components therefor.
- ML 8. All goods are included, except:
 - All substances with all of the following characteristics:
 - Detonating velocity equal or exceeding to 8 000m/s;
 - Density equal or up to 1,80g/cm³.
 - All explosives, as follow, and related mixtures:
 - Sub point 8.a.15) HNS (hexanitrostilbene) (CAS 20062-22-0);
 - Sub point 8.a.21) RDX and derivatives, as follows:
 - RDX (cyclotrimethylenetrinitramine, cyclonite, T4, hexahydro-1,3,5-trinitro-1,3,5-triazine, 1,3,5-trinitro-1,3,5-triaza-cyclohexane, hexogen or hexogene) (CAS 121-82-4);
 - Keto-RDX (K-6 or 2,4,6-trinitro-2,4,6-triazacyclohexanone) (CAS 115029-35-1);

- Sub point 8.a.23) TATB (triaminotrinitrobenzene) (CAS 3058-38-6).
- All substances that might be used directly or indirectly in production of sub munitions weapon which fall within Convention on Cluster Munitions, signed in Oslo on 3 December 2008, except towards Member States which ratified the Convention on Cluster Munitions.
- ML 9. All goods are included, except:
 - Complete vessels of war (surface or underwater) which fall within sub point ML9.a);
 - Complete hulls;
 - Items under ML9.c) Underwater detection devices, specially designed for military use, controls therefor and components therefor specially designed for military use.
- ML 10. All goods are included, except:
 - Complete aircraft, lighter-than-air vehicles, unmanned aerial vehicles which fall within sub point ML10.a) or ML10.c);
 - Fuselage for combat aircraft and combat helicopter;
 - Engines for combat aircraft;
 - Equipment and equipment's components excluded in the other ML categories.
- ML 11. the following goods are included:
 - Sub point ML11.a)g. Guidance and navigation equipment except items specially designed for or modified for missiles, rockets, space launchers and Unmanned Aerial Vehicles ('UAVs');
 - Sub point ML11.a)h. Digital troposcatter-radio communications transmission equipment;
 - Sub point ML11.a)j. Automated command and control systems.
- ML 13. All goods are included.
- ML 14. All goods are included.
- ML 15. All goods are included.
- ML 16. All goods are included, except:
 - Any items related to goods linked to ballistic technology and CBRN proliferation.
- ML 17. The following goods are included:
 - Sub point ML17.b) Construction equipment specially designed for military use;
 - Sub point ML17.d) Field engineer equipment specially designed for military use;
 - Sub point ML17.j) Mobile repair shops specially designed or modified to service military equipment;
 - Sub point ML17.k) Field generators specially designed or modified for military use;
 - Sub point ML17.l) Containers specially designed or modified for military use;
 - Sub point ML17.m) Ferries, other than those specified elsewhere in the EU Common Military list, bridges and pontoons, specially designed for military use;
 - Sub point ML17.o) Laser protection equipment specially designed for military use.
- ML 21. The following goods are included:
 - Sub point ML21.a) Software specially designed or modified for the use of goods listed in the GTL;
 - Sub point ML21.b)4. Software specially designed for military use or specially designed for Command, Communications, Control and Intelligence (C3I) or Command, Communications, Control, Computer and Intelligence (C4I) applications.
- ML 22. The following is included:
 - The necessary technology for the use of the goods allowed in the same general transfer licence.

1.2. Conditions to be incorporated into the general transfer licence for the purposes of repair and maintenance

The following list of conditions is not exhaustive. However, other conditions added by a Member State are not to contradict or undermine the conditions listed below.

- Geographic validity: European Economic Area ⁽¹⁾
- Transfer for repair: Transfer of a defence-related product for the purpose of its repair and not upgrade or improvement in terms of performance enhancement.
- Transfer for maintenance: Transfer of a defence-related product for the purpose of its maintenance and not upgrade or improvement in terms of performance enhancement.
- Return: Member States may require the existence of a previous authorisation for the original transfer of the item which is returned after repair. Member States are to choose one of the following options for return of the defence-related product after repair or maintenance:
- (a) Exemption from the obligation of prior authorisation in accordance with Article 4(2)(e) of Directive 2009/43/EC;
 - (b) Publication of a specific general transfer licence for return of defence-related products after repair or maintenance, with at least the same list of eligible defence-related products;
 - (c) Incorporation of return into the general transfer licence for repair and/or maintenance.
- Duration: Member States may specify a time limit for the return of the defence-related product.

2. FOLLOW UP

Member States are invited to give effect to this Recommendation by 1 July 2019 at the latest.

Member States are encouraged to inform the Commission of the measures taken to give effect to this Recommendation.

3. ADDRESSEES

This Recommendation is addressed to the Member States.

Done at Brussels, 19 December 2018.

For the Commission
Elżbieta BIENKOWSKA
Member of the Commission

⁽¹⁾ The EEA Joint Committee Decision No 111/2013 of 14 June 2013 amending Annex II (Technical regulations, standards, testing and certification) to the EEA Agreement (OJ L 318, 28.11.2013, p. 12), which incorporated Directive 2009/43/EC into the EEA Agreement included an explicit adaptation text: 'This Directive shall not apply to Liechtenstein.'

COMMISSION RECOMMENDATION (EU) 2018/2052**of 19 December 2018****on aligning the scope of and conditions for general transfer licences for the purpose of exhibition as referred to in point (c) of Article 5(2) of Directive 2009/43/EC of the European Parliament and of the Council***(notified under document C(2018) 8611)***(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 292 thereof,

Whereas:

- (1) Pursuant to Article 5 of Directive 2009/43/EC of the European Parliament and of the Council ⁽¹⁾ Member States are obliged to publish at least four general transfer licences.
- (2) General transfer licences are a key element of the simplified licensing system introduced by Directive 2009/43/EC.
- (3) Differences in the scope of general transfer licences published by Member States in terms of defence-related products covered and diverging conditions applied to transfers of these products could hamper the implementation of Directive 2009/43/EC and the achievement of its simplification objective. Aligning national approaches as to the scope of and conditions for transfers under the general transfer licences published by Member States are important to ensure the attractiveness and use of those licences.
- (4) The Council reiterated in its conclusions of 18 May 2015 the need for the implementation and application of *inter alia* Directive 2009/43/EC. Following the adoption of two previous recommendations on general transfer licences for armed forces ⁽²⁾ and for certified recipients ⁽³⁾, the Commission has announced in the European Defence Action Plan ⁽⁴⁾ and in the Report on evaluation of the Transfers Directive ⁽⁵⁾ its focus on the remaining two general transfer licences, covering transfers for the purposes of demonstration, evaluation, exhibition, repair and maintenance.
- (5) The initiative of this Recommendation has been strongly supported by the representatives of the Member States in the Committee established by Article 14 of Directive 2009/43/EC. The guidelines set out in the Recommendation reflect the discussions of an expert group set up under this Committee.
- (6) This Recommendation applies to the list of defence-related products (corresponding to the Common Military List of the European Union), as laid down in the Annex to Directive 2009/43/EC. This Recommendation will be updated when necessary to reflect future updates of the list of defence-related products.
- (7) Based on the discussions with the Member States and taking into account the characteristics of the products (including exceptions), such as for instance their sensitivity, the defence-related products listed under point 1.1 of this Recommendation are a minimum and non-exhaustive list of products, for which Member States allow transfer under their GTL-EX. This means that the GTL-EX published by a Member State may also allow for the transfer of other defence-related products included in the Annex of Directive 2009/43/EC and not listed in this Recommendation.
- (8) In the context of the discussions on this Recommendation, the Member States have recalled that they are bound by commitments under European law, such as Council Common Position 2008/944/CFSP ⁽⁶⁾, as well as by international commitments in the area of export control.

⁽¹⁾ Directive 2009/43/EC of the European Parliament and of the Council of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community (OJ L 146, 10.6.2009, p. 1).

⁽²⁾ OJ L 329, 3.12.2016, p. 101.

⁽³⁾ OJ L 329, 3.12.2016, p. 105.

⁽⁴⁾ COM(2016) 950 final.

⁽⁵⁾ COM(2016) 760 final.

⁽⁶⁾ Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment (OJ L 335, 13.12.2008, p. 99).

HAS ADOPTED THIS RECOMMENDATION:

1. GENERAL TRANSFER LICENCES FOR EXHIBITION

Member States are recommended to adapt their general transfer licences for exhibition in accordance with the following elements.

1.1. Defence-related products eligible for transfer under the general transfer licence for the purpose of exhibition set out in point (c) of Article 5(2) of Directive 2009/43/EC

The following ML categories are a subset of the list of defence-related products, as laid down in the Annex to Directive 2009/43/EC. The general transfer licence for the purpose of exhibition (GTL-EX) should, as a minimum, allow for the transfer of defence-related products specified in the ML categories hereunder. Member States may choose to include in their GTL-EX more ML categories with corresponding defence-related products.

List of ML categories to be covered as a minimum:

- ML 1. All goods are included, except:
 - Weapons specially designed for military use;
 - Barrels and breech blocks for weapons specially designed for military use.
- ML 2. Sub points c) and d). All goods are included.
- ML 3. The following goods are included:
 - Ammunition inert model.
- ML 4. All goods are included, except:
 - Sub point 4.a) All goods are excluded, except inert models which are included;
 - Sub point 4.b) Specially designed components for the purpose of launching, laying, decoying, jamming, disrupting which fall within sub point ML 4.a).
- ML 5. All goods are included, except:
 - Sub point 5.c) Countermeasure equipment for items specified by sub points ML5.a or ML5.b.

All goods should be delivered without ciphering component and without integrated database.
- ML 6. All goods are included, except:
 - Complete vehicles which fall within sub point ML 6.a);
 - Chassis and turrets which fall within sub point ML 6. a).
- ML 7. All goods are excluded, except:
 - Sub point 7.f) Protective and decontamination equipment, specially designed or modified for military use, components and chemical mixtures;
 - Sub point 7.g) Equipment specially designed or modified for military use designed or modified for the detection or identification of materials specified by sub points ML7.a, ML7.b or ML7.d, and specially designed components therefor.
- ML 9. All goods are included, except:
 - Complete vessels of war (surface or underwater);
 - Complete hulls;
 - Items under sub point ML9.c) Underwater detection devices, specially designed for military use, controls therefor and components therefor specially designed for military use.
- ML 10. All goods are included, except:
 - Complete aircraft;
 - Fuselage for combat aircraft and combat helicopter;
 - Engines for combat aircraft.

- ML 11. All goods are included, except:
 - Sub point ML11.a)a. Electronic countermeasure and electronic counter-countermeasure equipment, including jamming and counter-jamming equipment;
 - Sub point ML11.a)b. Frequency agile tubes;
 - Sub point ML11.a)c. Electronic systems or equipment, designed either for surveillance and monitoring of the electro-magnetic spectrum for military intelligence or security purposes or for counteracting such surveillance and monitoring;
 - Sub point ML11.a)d. Underwater countermeasures, including acoustic and magnetic jamming and decoy, equipment designed to introduce extraneous or erroneous signals into sonar receivers;
 - Sub point ML11.a)e. Data processing security equipment, data security equipment and transmission and signalling line security equipment, using ciphering processes;
 - Sub point ML11.a)f. Identification, authentication and keyloader equipment and key management, manufacturing and distribution equipment;
 - Sub point ML11.a)i. Digital demodulators specially designed for signals intelligence;
 - Sub point ML11.b) Global Navigation Satellite Systems (GNSS) jamming equipment and specially designed components therefor;
 - Sub point ML11.c) 'Spacecraft' specially designed or modified for military use, and 'spacecraft' components specially designed for military use.
- ML 13. All goods are included.
- ML 14. All goods are included.
- ML 15. All goods are included.
- ML 16. All goods are included.
- ML 17. All goods are included, except:
 - Sub point ML17.f) Libraries specially designed or modified for military use with systems, equipment or components, specified by the EU Common military list;
 - Sub point ML17.g) Nuclear power generating equipment or propulsion equipment, including nuclear reactors, specially designed for military use and components therefor specially designed or modified for military use;
 - Sub point ML17.h) Equipment and material, coated or treated for signature suppression, specially designed for military use, other than those specified elsewhere in the EU Common Military list;
 - Sub point ML17.i) Simulators specially designed for military nuclear reactor.
- ML 18. All goods are included.
- ML 21. All goods are included, except:
 - Sub point ML21.a) Software specially designed or modified for any of the following:
 - Development, production, operation or maintenance of equipment specified by the EU Common Military List;
 - Development or production of materials specified by the EU Common Military List; or
 - Development, production, operation or maintenance of software specified by the EU Common Military List.
 - Software specially designed or modified for the use of unlisted items in this general transfer licence.
- ML 22. The following are included:
 - Only the necessary technology for the use of the goods allowed in the same general transfer license.

1.2. Conditions to be incorporated into the general transfer licence for exhibition

The following list is not exhaustive. However, other conditions added by a Member State are not to contradict or undermine the conditions listed below.

Geographic validity: European Economic Area ⁽¹⁾

Transfer for exhibition: Transfer of any defence-related product for the purpose of its exhibition in a Member State, which are not to be used in operational conditions and does not include demonstration or evaluation purposes.

Re-transfer: Member States are to choose one of the following options for re-transfer of the defence-related product after exhibition, as appropriate:

(a) Exemption from the obligation of prior authorisation in accordance with Article 4(2)(e) of Directive 2009/43/EC;

(b) Publication of a specific general transfer licence for re-transfer of defence-related products after exhibition, with at least the same list of eligible defence-related products;

(c) Incorporation of re-transfer into the general transfer licence for exhibition.

Duration: Originating Member States may specify a time-limit for the return of the defence-related product to be observed by the supplier towards the Competent Authority in the originating Member State. The Member States from which the defence-related product is re-transferred may also specify a time-limit for the re-transfer to be observed by the supplier, or its representative.

2. FOLLOW UP

Member States are invited to give effect to this Recommendation by 1 July 2019 at the latest.

Member States are encouraged to inform the Commission of the measures taken to give effect to this Recommendation.

3. ADDRESSEES

This Recommendation is addressed to the Member States.

Done at Brussels, 19 December 2018.

For the Commission
Elżbieta BIENKOWSKA
Member of the Commission

⁽¹⁾ The EEA Joint Committee Decision No 111/2013 of 14 June 2013 amending Annex II (Technical regulations, standards, testing and certification) to the EEA Agreement (OJ L 318, 28.11.2013, p. 12), which incorporated Directive 2009/43/EC into the EEA Agreement included an explicit adaptation text: 'This Directive shall not apply to Liechtenstein'.

