

COMMISSION DELEGATED REGULATION (EU) No 1395/2014
of 20 October 2014
establishing a discard plan for certain small pelagic fisheries and fisheries for industrial purposes
in the North Sea

THE EUROPEAN COMMISSION,

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

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

Whereas:

- (1) Regulation (EU) No 1380/2013 aims to progressively eliminate discards in all Union fisheries through the introduction of a landing obligation for catches of species subject to catch limits.
- (2) Article 15(6) of Regulation (EU) No 1380/2013 empowers the Commission to adopt discard plans by means of a delegated act for a period of no more than three years on the basis of joint recommendations developed by Member States with the relevant Advisory Councils.
- (3) Belgium, Denmark, Germany, France, the Netherlands, Sweden and the United Kingdom have a direct fisheries management interest in the North Sea. Those Member States have submitted joint recommendations to the Commission after having consulted the Pelagic Advisory Council and the North Sea Advisory Council. Scientific contribution was obtained from relevant scientific bodies. The measures included in the joint recommendation comply with Article 15(6) of Regulation (EU) No 1380/2013 and therefore, in accordance with Article 18(3) of Regulation (EU) No 1380/2013 they should be included in this Regulation.
- (4) As regards the North Sea, according to Article 15(1)(a) of Regulation (EU) No 1380/2013 the landing obligation should apply to all vessels engaged in small pelagic fisheries and fisheries for industrial purposes in relation to species caught in those fisheries which are subject to catch limits at the latest from 1 January 2015.
- (5) In accordance with the joint recommendation, the discard plan should cover certain fisheries for mackerel, herring, horse mackerel, blue whiting, greater silver smelt and sprat as well as fisheries for industrial purposes for Norway pout, sprat and sand eel in the North Sea from 1 January 2015.
- (6) The joint recommendation includes an exemption from the landing obligation for mackerel and herring caught with purse seines under certain conditions based on scientific evidence of high survivability in accordance with Article 15(4)(b) of Regulation (EU) No 1380/2013. Scientific evidence supporting high survivability was provided by the Scheveningen Group in the joint recommendation, which made reference to a number of scientific studies on fish survival from slipping in purse seine fisheries. These studies found that survival rates depend on the crowding time and the density of fish within the net, which are typically limited in these fisheries. This information was reviewed by the STECF plenary 14-02. STECF concluded that assuming the results of the survival studies are representative of survival rates under commercial fishing operations, the proportion of slipped mackerel surviving would likely be around 70 % and would result in much lower densities than the density where mortality of herring was observed to increase. A prohibition of the release of mackerel and herring before the net is fully taken on board a fishing vessel, resulting in the loss of dead or dying fish, is set out in Article 19b(2) of Council Regulation (EU) No 850/98 ⁽²⁾. This survivability exemption does not affect the prohibition in force, since the release of the fish will occur at a stage of the fishing operation where the fish would have a high survival rate after release. Therefore such an exemption should be included in this Regulation.
- (7) The joint recommendation also includes a *de minimis* exemption from the landing obligation to avoid disproportionate costs of handling unwanted catches, like storing, labour, icing and taking into account the difficulty to increase selectivity for the pelagic fishery targeting mackerel, horse mackerel and herring in ICES areas IV b and c south of 54 degrees north. This exemption is based on scientific evidence provided by the Member States

⁽¹⁾ OJ L 354, 28.12.2013, p. 22.

⁽²⁾ OJ L 125, 27.4.1998, p. 1.

involved in the joint recommendation and was reviewed by the Scientific, Technical and Economic Committee for Fisheries (STECF). STECF found that the joint recommendation presents reasoned qualitative arguments in support of a *de minimis* exemption on the grounds of disproportionate costs of handling unwanted catches. In light of the above and in the absence of differing scientific information, it is appropriate to establish the *de minimis* exemption in accordance with the percentage levels proposed in the joint recommendations and at levels not exceeding those allowed under Article 15(1)(c) of Regulation (EU) No 1380/2013. Therefore, this exemption should be included in this Regulation.

- (8) In order to ensure appropriate control, specific requirements for documentation of catches under the exemptions covered by this Regulation should be laid down.
- (9) 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, it should enter into force immediately after its publication.
- (10) This Regulation should apply from 1 January 2015 in order to comply with the time-frame set out in Article 15(1) of Regulation (EU) No 1380/2013. In accordance with Article 15(6) of that Regulation, it should apply for no more than three years,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation specifies the details for implementing the landing obligation, provided for in Article 15(1) of Regulation (EU) No 1380/2013, from 1 January 2015 in the North Sea, as defined in Article 4(2)(a) of that Regulation, in the fisheries set out in the Annex to this Regulation.

Article 2

Survivability exemption

1. By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, the landing obligation shall not apply to catches of mackerel and herring in the purse seine fisheries, if all of the following conditions are met:
 - the catch is released before a certain percentage (set out in paragraphs 2 and 3 below) of the purse seine is closed ('the point of retrieval'),
 - the purse seine gear is fitted with a visible buoy clearly marking the limit for the point of retrieval,
 - the vessel and the purse seine gear are equipped with an electronic recording and documenting system when, where and extent to which the purse seine has been hauled for all fishing operations.
2. The point of retrieval shall be 80 % closure of the purse seine in fisheries for mackerel and it shall be 90 % closure of the purse seine in fisheries for herring.
3. If the surrounded school consists of a mixture of both species the point of retrieval shall be 80 % closure of the purse seine.
4. It shall be prohibited to release catches of mackerel and herring after the point of retrieval.
5. The surrounded school of fish shall be sampled before its release to estimate the species composition, the fish size composition and the quantity.

Article 3

De minimis exemption

By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, up to a maximum of 3 % in 2015 and 2 % for 2016 of the total annual catches of mackerel, horse mackerel, herring and whiting in the pelagic fishery with pelagic trawlers up to 25 metres in length overall, using mid-water trawl (OTM), targeting mackerel, horse mackerel and herring in ICES areas IV b and c south of 54 degrees north, may be discarded.

*Article 4***Documentation of catches under the exemptions**

1. Quantities of fish released under the exemption provided for in Article 2 and the results of the sampling required under Article 2(5) shall be reported in the logbook.
2. Quantities of fish discarded under the exemption provided for in Article 3 shall be reported in the logbook.

*Article 5***Entry into force**

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

It shall apply from 1 January 2015 until 31 December 2017.

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

Done at Brussels, 20 October 2014.

For the Commission
The President

José Manuel BARROSO

ANNEX

1. Small pelagic fisheries in ICES IIIa (Skagerrak and Kattegat):

Code	Pelagic fishing gear	Species targeted
OTM and PTM	Mid-water trawl and mid-water pair trawl	Herring, mackerel, blue whiting, horse mackerel, sprat (for human consumption)
PS	Purse seine	Herring, mackerel, sprat (for human consumption)
OTB and PTB ⁽¹⁾	Bottom otter and bottom pair trawl	Herring, mackerel, sprat (for human consumption)
GNS and GND ⁽²⁾	Gillnets anchored (set), and gillnets (drift)	Mackerel, herring
LLS, LHP and LHM	Set longlines, handlines and pole lines (hand operated) and handlines and pole lines (mechanised)	Mackerel
MIS	Miscellaneous gear, including traps, pots and pound nets	Mackerel, herring, sprat (for human consumption)

⁽¹⁾ Bottom otter and bottom pair trawl with mesh size < 70 mm

⁽²⁾ Mesh size 50-99 mm

2. Small pelagic fisheries in ICES IV (North Sea).

Code	Pelagic fishing gear	Quota species targeted
OTM and PTM	Mid-water otter trawl and mid-water pair trawl (inc. TR3)	Herring, mackerel, horse mackerel, greater silver smelt, blue whiting, sprat (for human consumption)
PS	Purse seines	Herring, mackerel, horse mackerel, blue whiting
GNS and GND ⁽¹⁾	Gillnets anchored (set) and gillnets (drift)	Mackerel, herring
GTR	Trammel nets	Mackerel
LLS, LHP and LHM	Set longlines, handlines and poles lines (hand operated) and handlines and pole lines (mechanised)	Mackerel
MIS	Miscellaneous gear, including traps, pots and pound nets	Herring, sprat (for human consumption)

⁽¹⁾ Mesh size 50-90 mm

3. Other fisheries deploying vessels targeting small pelagic species referred to in Article 15(1)(a) of Regulation (EU) No 1380/2013 that are not covered by points 1 and 2 of this Annex.

4. Fisheries for industrial purposes in Union waters of ICES IIIa and IV:

Code	Fishing gear	Quota species targeted
Any trawl	Trawl of mesh size less than 32 mm	Sand eel, sprat, Norway pout
PS	Purse seines	Sand eel, sprat, Norway pout