

**COMMISSION DELEGATED REGULATION (EU) 2016/2375**  
**of 12 October 2016**  
**establishing a discard plan for certain demersal fisheries in North-Western waters**

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<sup>(1)</sup>, and in particular Article 15(6) and Article 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 in consultation with the relevant Advisory Councils.
- (3) By Delegated Regulation (EU) 2015/2438<sup>(2)</sup>, the Commission established a discard plan for certain demersal fisheries in North-Western waters for the period 2016-2018 following a joint recommendation submitted by the Member States in 2015.
- (4) Belgium, Ireland, Spain, France, the Netherlands and the United Kingdom have a direct fisheries management interest in the North-Western waters. On 3 June 2016, those Member States submitted a new joint recommendation to the Commission after consultation of the North Western Waters Advisory Council. Scientific contributions were obtained from relevant scientific bodies and reviewed by the Scientific, Technical and Economic Committee for Fisheries (STECF). The measures included in the joint recommendation comply with Article 18(3) of Regulation (EU) No 1380/2013 and may be included in this Regulation.
- (5) As regards the North-Western waters, according to Article 15(1)(c) of Regulation (EU) No 1380/2013 the landing obligation applies to the species that define the fisheries which are subject to catch limits at the latest from 1 January 2016. The joint recommendation established the fleets that would be subject to the landing obligation in the mixed fisheries for cod, haddock, whiting and saithe; in the fisheries for Norway lobster; in the mixed fishery for common sole and plaice; in hake and pollack fisheries.
- (6) Delegated Regulation (EU) 2015/2438 established provisions for introduction of the landing obligation for certain demersal fisheries in North-Western waters for the period 2016-2018.
- (7) In accordance with the new joint recommendation submitted by Member States in 2016, the discard plan should cover from 2017 further species which define the highly mixed cod, haddock, whiting and saithe fishery, Norway lobster fishery, mixed common sole and plaice fishery, hake and pollack fisheries. By-catch species should also be covered in certain fisheries.
- (8) The joint recommendation suggested that an exemption from the landing obligation be applied to Norway lobster caught by pots, traps or creels in ICES division VI and subarea VII, for which scientific evidence demonstrates high survival rates, taking into account the characteristics of the gear, of the fishing practices and of the ecosystem. The STECF concluded that the exemption is grounded. Therefore, this exemption should continue to be included in this Regulation.

<sup>(1)</sup> OJ L 354, 28.12.2013, p. 22.

<sup>(2)</sup> 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).

- (9) The joint recommendation suggested that an exemption from the landing obligation be applied to catches of sole below the minimum conservation reference size caught by 80-99 mm otter trawl gears in ICES division VIId within six nautical miles from the coast and outside identified nurseries areas in the fishing operations meeting certain specific conditions. The scientific evidence demonstrates high survival rates, taking into account the characteristics of gear and of the ecosystem. The STECF noted that survival is dependent on a number of factors and recommended caution in extending the trial results to other fisheries and that further relevant trials should be undertaken to support this request. Therefore, this exemption should be included in this Regulation for 2017 under the condition that the fleet using this exemption operates under comparable conditions to those of the trial, and that Member States concerned undertake additional trials. The results of these additional trials should be assessed by the STECF in 2017.
- (10) The joint recommendation includes seven *de minimis* exemptions from the landing obligation for certain fisheries and up to certain levels. The evidence provided by the Member States was reviewed by the STECF, which in general concluded that the joint recommendation contained reasoned arguments that further improvements in 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 in the absence of differing scientific information, it is appropriate to include these *de minimis* exemptions in this Regulation in accordance with the percentage level proposed in the joint recommendation and at levels not exceeding those allowed under Article 15(1) of Regulation (EU) No 1380/2013.
- (11) The *de minimis* exemption for common sole, up to a maximum of 3 % in 2017-2018 of the total annual catches of this species by vessels using trammel and gill nets to catch common sole in ICES divisions VIId, VIIf, VIIf and VIIf, is based on the fact that increases in selectivity are very difficult to achieve. STECF concluded that the exemption is well defined and therefore, this exemption should be included in this Regulation.
- (12) The *de minimis* exemption for whiting, up to a maximum of 7 % in 2017 and up to a maximum of 6 % in 2018 of the total annual catches of this species by vessels obliged to land whiting and using bottom trawls and seines of less than 100 mm and pelagic trawls to catch whiting in ICES divisions VIId and VIIf, is based on the fact that increases in selectivity are very difficult to achieve.
- (13) The *de minimis* exemption for whiting, up to a maximum of 7 % in 2017 and up to a maximum of 6 % in 2018 of the total annual catches of this species by vessels obliged to land whiting and using bottom trawls and seines of not less than 100 mm to catch whiting in ICES divisions VIIf-VIIf, is based on the fact that increases in selectivity are very difficult to achieve.
- (14) The *de minimis* exemption for whiting, up to a maximum of 7 % in 2017 and up to a maximum of 6 % in 2018 of the total annual catches of this species by vessels obliged to land whiting and using bottom trawls and seines of less than 100 mm to catch whiting in ICES subarea VII (excluding VIIa, VIId and VIIf), is based on the fact that increases in selectivity are very difficult to achieve.
- (15) As regards the three *de minimis* exemptions for whiting, Delegated Regulation (EU) 2015/2438 required Member States concerned to submit to the Commission additional scientific information supporting the exemption. The STECF commented that, while complete evidence is still required, the additional information addresses some concerns of the STECF. The STECF highlighted the need for a more coherent approach to this stock. Based on the scientific evidence reviewed by STECF and considering that the further evidence supporting the exemption has improved, this exemption can be continued and should be included in this Regulation.
- (16) The *de minimis* exemption for Norway lobster, up to a maximum of 7 % in 2017 and up to a maximum of 6 % in 2018 of the total annual catches of this species by vessels obliged to land Norway lobster in ICES subarea VII, is based on the fact that increases in selectivity are very difficult to achieve. STECF concluded that the exemption was grounded. Therefore, this exemption should be included in this Regulation.
- (17) The *de minimis* exemption for Norway lobster, up to a maximum of 7 % in 2017 and up to a maximum of 6 % in 2018 of the total annual catches of this species by vessels obliged to land Norway lobster in ICES subarea VI, is based on the fact that increases in selectivity are very difficult to achieve and there is supporting quantitative information on disproportionate costs of handling unwanted catches. STECF concluded that the exemption was grounded. Therefore, this exemption should be included in this Regulation.

- (18) The *de minimis* exemption for common sole, up to a maximum of 3 % in 2017 and 2018 of the total annual catches of this species by vessels using TBB gear with mesh size of 80-119 mm with increased selectivity in ICES divisions VIId, VIIe, VIIf, VIIg and VIIh, is based on the fact that increases in selectivity are very difficult to achieve. STECF noted that the exemption is to compensate for the use of a more selective gear and the *de minimis* exemption requested is to cover residual discards. Therefore, this exemption should be included in this Regulation.
- (19) Delegated Regulation (EU) 2015/2438 should therefore be repealed and replaced by a new Regulation.
- (20) 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 2017,

HAS ADOPTED THIS REGULATION:

#### Article 1

### Implementation of the landing obligation

The landing obligation provided for in Article 15(1) of Regulation (EU) No 1380/2013 shall apply in ICES zones V (excluding Va and only Union waters of Vb), VI and VII to the fisheries set out in the Annex to this Regulation.

#### Article 2

### Survivability exemption

1. The exemption from the landing obligation provided for in Article 15(4)(b) of Regulation (EU) No 1380/2013 for species for which scientific evidence demonstrates high survival rates shall apply:
  - (a) to Norway lobster (*Nephrops norvegicus*) caught in pots, traps or creels (Gear codes <sup>(1)</sup> FPO and FIX) in ICES subareas VI and VII;
  - (b) in 2017 to catches of common sole (*Solea solea*) below the minimum conservation reference size caught with otter trawl gears (Gear codes OTT, OTB, TBS, TBN, TB, PTB, OT, PT, TX) with cod end mesh size of 80-99 mm in ICES division VIId within six nautical miles of the coast and outside identified nursery areas in the fishing operations meeting the following conditions: vessels with the maximum length of 10 meters, maximum engine power of 180 kW, when fishing in waters with the depth of 15 meters or less and with limited tow durations of no more than 1:30 hours. Such catches of common sole shall be released immediately.
2. Before 1 May 2017, Member States having a direct management interest in the North-western waters shall submit to the Commission any additional scientific information supporting the exemption laid down in paragraph 1(b). The Scientific, Technical and Economic Committee for Fisheries (STECF) shall assess that information before 1 September 2017.

#### Article 3

### De minimis exemptions

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

- (a) for whiting (*Merlangius merlangus*), up to a maximum of 7 % in 2017 and up to a maximum of 6 % in 2018 of the total annual catches of that species by vessels obliged to land whiting and using bottom trawls and seines of less than 100 mm (OTB, SSC, OTT, PTB, SDN, SPR, TBN, TBS, TB, SX, SV OT, PT and TX) and pelagic trawls (OTM, PTM) to catch whiting in ICES divisions VIId and VIIe.

<sup>(1)</sup> Gear codes used in this Regulation are defined by the Food and Agriculture Organisation of the United Nations.

- (b) for whiting (*Merlangius merlangus*), up to a maximum of 7 % in 2017 and up to a maximum of 6 % in 2018 of the total annual catches of that species by vessels obliged to land whiting and using bottom trawls and seines of not less than 100 mm (OTB, SSC, OTT, PTB, SDN, SPR, TBN, TBS, TB, SX, SV OT, PT and TX) and pelagic trawls (OTM, PTM) to catch whiting in ICES divisions VIIb-VIIj.
- (c) for whiting (*Merlangius merlangus*), up to a maximum of 7 % in 2017 and up to a maximum of 6 % in 2018 of the total annual catches of that species by vessels obliged to land whiting and using bottom trawls and seines of less than 100 mm (OTB, SSC, OTT, PTB, SDN, SPR, TBN, TBS, TB, SX, SV OT, PT and TX) and pelagic trawls (OTM, PTM) to catch whiting in ICES subarea VII, except divisions VIIa, VIId and VIIe.
- (d) for Norway lobster (*Nephrops norvegicus*), up to a maximum of 7 % in 2017 and up to a maximum of 6 % in 2018 of the total annual catches of that species by vessels obliged to land Norway lobster in ICES subarea VII;
- (e) for Norway lobster (*Nephrops norvegicus*), up to a maximum of 7 % in 2017 and up to a maximum of 6 % in 2018 of the total annual catches of that species by vessels obliged to land Norway lobster in ICES subarea VI;
- (f) for common sole (*Solea solea*), up to a maximum of 3 % in 2017 and 2018 of the total annual catches of that species by vessels using trammel and gill nets to catch common sole in ICES divisions VIId, VIIe, VIIf and VIIg;
- (g) for common sole (*Solea solea*), up to a maximum of 3 % in 2017 and 2018 of the total annual catches of that species by vessels obliged to land common sole and using TBB gear with mesh size of 80-119 mm with increased selectivity, such as a large mesh extension, in ICES divisions VIId, VIIe, VIIf, VIIg and VIIh.

#### Article 4

##### **Vessels subject to the landing obligation**

1. Member States shall determine, in accordance with the criteria laid down in the Annex to this Regulation, the vessels subject to the landing obligation in each particular fishery.

Vessels that were subject to the landing obligation in certain fisheries in 2016 shall remain subject to the landing obligation in those fisheries.

2. Before 31 December 2016, the Member States concerned shall submit to the Commission and other Member States, using the secure Union control website, the lists of vessels determined pursuant to paragraph 1 for each particular fishery set out in the Annex. They shall keep those lists updated.

#### Article 5

##### **Repeal**

Delegated Regulation (EU) 2015/2438 is repealed.

#### Article 6

##### **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 2017 until 31 December 2018.

Article 4 shall apply from the date of entry into force of this Regulation.

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

Done at Brussels, 12 October 2016.

*For the Commission*

*The President*

Jean-Claude JUNCKER

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## ANNEX

**Fisheries subject to the landing obligation**

## a) Fisheries in Union and International waters of ICES subarea VI and division Vb

Fishery	Gear Code	Fishing gear description	Mesh Size	Species to be landed
Cod ( <i>Gadus morhua</i> ), Haddock ( <i>Melanogrammus aeglefinus</i> ), Whiting ( <i>Merlangius merlangus</i> ) and Saithe ( <i>Pollachius virens</i> )	OTB, SSC, OTT, PTB, SDN, SPR, TBN, TBS, OTM, PTM, TB, SX, SV, OT, PT, TX	Trawls & Seines	All	All catches of haddock and by-catches of sole, plaice and megrims where total landings per vessel of all species in 2014 and 2015 (*) consisted of more than 5 % of the following gadoids: cod, haddock, whiting and saithe combined
Norway lobster ( <i>Nephrops norvegicus</i> )	OTB, SSC, OTT, PTB, SDN, SPR, FPO, TBN, TB, TBS, OTM, PTM, SX, SV, FIX, OT, PT, TX	Trawls, Seines, Pots, Traps & Creels	All	All catches of Norway lobster and by-catches of haddock where the total landings per vessel of all species in 2014 and 2015 (*) consisted of more than 20 % of Norway lobster

(\*) Vessels listed as subject to the landing obligation in this fishery in accordance with Delegated Regulation (EU) 2015/2438 remain on the list indicated in Article 4 of this Regulation despite the change in the reference period and continue being subject to the landing obligation in this fishery.

## b) Fisheries for hake with TAC for ICES subareas VI and VII and Union and International waters of ICES division Vb

Fishery	Gear Code	Fishing gear description	Mesh Size	Species to be landed
Hake ( <i>Merluccius merluccius</i> )	OTB, SSC, OTT, PTB, SDN, SPR, TBN, TBS, OTM, PTM, TB, SX, SV, OT, PT, TX	Trawls & Seines	All	All catches of hake where the total landings per vessel of all species in 2014 and 2015 (*) consisted of more than 20 % of hake
Hake ( <i>Merluccius merluccius</i> )	GNS, GN, GND, GNC, GTN, GTR, GEN	All Gill Nets	All	All catches of hake
Hake ( <i>Merluccius merluccius</i> )	LL, LLS, LLD, LX, LTL, LHP, LHM	All Long lines	All	All catches of hake

(\*) Vessels listed as subject to the landing obligation in this fishery in accordance with Delegated Regulation (EU) 2015/2438 remain on the list indicated in Article 4 of this Regulation despite the change in the reference period and continue being subject to the landing obligation in this fishery.

## c) Fisheries with TAC covering ICES subarea VII for Norway lobster

Fishery	Gear Code	Fishing gear description	Mesh Size	Species to be landed
Norway lobster ( <i>Nephrops norvegicus</i> )	OTB, SSC, OTT, PTB, SDN, SPR, FPO, TBN, TB, TBS, OTM, PTM, SX, SV, FIX, OT, PT, TX	Trawls, Seines, Pots, Traps & Creels	All	All catches of Norway lobster where the total landings per vessel of all species in 2014 and 2015 (*) consisted of more than 20 % of Norway lobster

(\*) Vessels listed as subject to the landing obligation in this fishery in accordance with Delegated Regulation (EU) 2015/2438 remain on the list indicated in Article 4 of this Regulation despite the change in the reference period and continue being subject to the landing obligation in this fishery.

## d) Fisheries in ICES division VIIa

Fishery	Gear Code	Fishing gear	Mesh Size	Species to be landed
Cod ( <i>Gadus morhua</i> ), Haddock ( <i>Melanogrammus aeglefinus</i> ), Whiting ( <i>Merlangius merlangus</i> ) and Saithe ( <i>Pollachius virens</i> )	OTB, SSC, OTT, PTB, SDN, SPR, TBN, TBS, OTM, PTM, TB, SX, SV, OT, PT, TX	Trawls & Seines	All	All catches of haddock where total landings per vessel of all species in 2014 and 2015 (*) consisted of more than 10 % of the following gadoids: cod, haddock, whiting and saithe combined

(\*) Vessels listed as subject to the landing obligation in this fishery in accordance with Delegated Regulation (EU) 2015/2438 remain on the list indicated in Article 4 of this Regulation despite the change in the reference period and continue being subject to the landing obligation in this fishery.

## e) Fisheries in ICES division VIId

Fishery	Gear Code	Fishing gear	Mesh Size	Species to be landed
Common Sole ( <i>Solea solea</i> )	TBB	All Beam trawls	All	All catches of common sole
Common Sole ( <i>Solea solea</i> )	OTT, OTB, TBS, TBN, TB, PTB, OT, PT, TX	Trawls	< 100 mm	All catches of common sole where the total landings per vessel of all species in 2014 and 2015 (*) consisted of more than 5 % of common sole
Common Sole ( <i>Solea solea</i> )	GNS, GN, GND, GNC, GTN, GTR, GEN	All Trammel nets & Gill nets	All	All catches of common sole

Fishery	Gear Code	Fishing gear	Mesh Size	Species to be landed
Cod ( <i>Gadus morhua</i> ), Haddock ( <i>Melanogrammus aeglefinus</i> ), Whiting ( <i>Merlangius merlangus</i> ) and Saithe ( <i>Pollachius virens</i> )	OTB, SSC, OTT, PTB, SDN, SPR, TBN, TBS, OTM, PTM, TB, SX, SV, OT, PT, TX	Trawls and Seines	All	All catches of whiting, where total landings per vessel of all species in 2014 and 2015 (*) consisted of more than 20 % of the following gadoids: cod, haddock, whiting and saithe combined

(\*) Vessels listed as subject to the landing obligation in this fishery in accordance with Delegated Regulation (EU) 2015/2438 remain on the list indicated in Article 4 of this Regulation despite the change in the reference period and continue being subject to the landing obligation in this fishery.

f) Fisheries in ICES division VIIe for common sole

Fishery	Gear Code	Fishing gear	Mesh Size	Species to be landed
Common Sole ( <i>Solea solea</i> )	TBB	All Beam trawls	All	All catches of common sole where the total landings per vessel of all species in 2014 and 2015 (*) consisted of more than 5 % of common sole
Common Sole ( <i>Solea solea</i> )	GNS, GN, GND, GNC, GTN, GTR, GEN	All Trammel nets & Gill nets	All	All catches of common sole

(\*) Vessels listed as subject to the landing obligation in this fishery in accordance with Delegated Regulation (EU) 2015/2438 remain on the list indicated in Article 4 of this Regulation despite the change in the reference period and continue being subject to the landing obligation in this fishery.

g) Fisheries in ICES divisions VIIId and VIIe for Pollack

Fishery	Gear Code	Fishing gear	Mesh Size	Species to be landed
Pollack ( <i>Pollachius pollachius</i> )	GNS, GN, GND, GNC, GTN, GTR, GEN	All Trammel nets and Gill nets	All	All catches of pollack

h) Fisheries in ICES divisions VIIb, VIIc and VIIf-VIIk

Fishery	Gear Code	Fishing gear	Mesh Size	Species to be landed
Common Sole ( <i>Solea solea</i> )	TBB	All Beam trawls	All	All catches of common sole where the total landings per vessel of all species in 2014 and 2015 (*) consisted of more than 5 % of common sole



Fishery	Gear Code	Fishing gear	Mesh Size	Species to be landed
Common Sole ( <i>Solea solea</i> )	GNS, GN, GND, GNC, GTN, GTR, GEN	All Trammel nets & Gill nets	All	All catches of common sole

(\*) Vessels listed as subject to the landing obligation in this fishery in accordance with Delegated Regulation (EU) 2015/2438 remain on the list indicated in Article 4 of this Regulation despite the change in the reference period and continue being subject to the landing obligation in this fishery.

i) Fisheries in ICES divisions VIIb, VIIc, VIIe and VIIf-VIIk

Fishery	Gear Code	Fishing gear	Mesh Size	Species to be landed
Cod ( <i>Gadus morhua</i> ), Haddock ( <i>Melanogrammus aeglefinus</i> ), Whiting ( <i>Merlangius merlangus</i> ) and Saithe ( <i>Pollachius virens</i> )	OTB, SSC, OTT, PTB, SDN, SPR, TBN, TBS, OTM, PTM, TB, SX, SV, OT, PT, TX	Trawls & Seines	All	All catches of whiting where total landings per vessel of all species in 2014 and 2015 (*) consisted of more than 20 % of the following gadoids: cod, haddock, whiting and saithe combined

(\*) Vessels listed as subject to the landing obligation in this fishery in accordance with Delegated Regulation (EU) 2015/2438 remain on the list indicated in Article 4 of this Regulation despite the change in the reference period and continue being subject to the landing obligation in this fishery.