II

(Non-legislative acts)

REGULATIONS

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

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 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) Commission Delegated Regulation (EU) 2016/2374 ([2]) established a discard plan for certain demersal fisheries in South-Western waters following a joint recommendation submitted by Belgium, Spain, France, the Netherlands and Portugal in 2016.

(4) Belgium, Spain, France, the Netherlands and Portugal have a direct fisheries management interest in South-Western waters. On 2 June 2017 those Member States submitted a new joint recommendation to the Commission, after consultation of the South Western Waters Advisory Council, suggesting certain amendments to the discard plan.

(5) The new joint recommendation was reviewed by STECF ([3]). The measures suggested by that joint recommendation comply with Article 18(3) of Regulation (EU) No 1380/2013 and may thus be included in the discard plan.

(6) The new joint recommendation suggests that the fisheries of blue whiting (*Micromesistius poutassou*) caught with bottom trawls and seines in ICES divisions VIIIc and IXa be also included in the discard plan established by Regulation (EU) 2016/2374.

(7) The new joint recommendation also suggests to amend the definition of the fishery for anglerfish (*Lophiidae*) in ICES divisions VIII a, b, d and e and ICES divisions VIIIc and IXa, as set out in the discard plan, by adding a gear code for trammel nets (GTR) and lowering the mesh size for all set nets from 200 to 170 mm.

([1]) OJ L 354, 28.1.2013, p. 22.
([2]) 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).
([3]) 2017-07_STECF PLEN 17-02_JRCxxx.pdf

(8) The new joint recommendation suggests furthermore to maintain the exemption from the landing obligation granted by the discard plan for Norway lobster caught by trawls in ICES subareas VIII and IX, as existing scientific evidence indicates 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 concluded that the latest experiments and studies, completed by the additional information provided by Member States, show a sufficent evidence on survival rates. Therefore, that exemption granted twice (for the year 2016 and for the year 2017) should be maintained in the year 2018.

(9) The *de minimis* exemption set out in the discard plan for hake, up to a maximum of 6 % in 2018 of the total annual catches of that species by vessels targeting that species in ICES subareas VIII and IX with trawls, is based on the fact that viable increases in selectivity are very difficult to achieve. The STECF concluded that additional selectivity information provided by Member States did contain additional evidence to demonstrate that selectivity is very difficult to achieve for the métiers involved. However, additional work should be carried out in order to improve the justification for this exemption. That exemption should therefore be extended to the year 2018, and under the condition that Member States provide improved information to support this exemption that would be assessed by STECF.

(10) Delegated Regulation (EU) 2016/2374 should be amended accordingly.

(11) 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 2018,

HAS ADOPTED THIS REGULATION:

Article 1

Delegated Regulation (EC) 2016/2374 is amended as follows:

(1) In Article 3(1), point (a) is replaced by the following:

'(a) for hake (*Merluccius merluccius*), up to a maximum of 6 % in 2018 of the total annual catches of this species by vessels using trawls and seins (gear codes: OTT, OTB, PTB, OT, PT, TBN, TBS, TX, SSC, SPR, TB, SDN, SX and SV) to catch hake in ICES subareas VIII and IX.';

(2) in Article 3(2) the year '2017' is replaced by the year '2018';

(3) the Annex is replaced by the text set out 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 2018.

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

Done at Brussels, 20 October 2017.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

Fisheries subject to the landing obligation

1. **Common sole (*Solea solea*) fisheries**

Fishing zones	Gear Code	Fishing gear description	Mesh Size	Species to be landed
ICES divisions VIIIa, b, d and e	OTB, OTT, PTB, TBN, TBS, TB, OT, PT, TX	All Bottom Trawls	Mesh size between 70 mm and 100 mm wide	All catches of common sole
	TBB	All Beam trawls	Mesh size between 70 mm and 100 mm wide	
	GNS, GN, GND, GNC, GTN, GTR, GEN	All Trammel nets & Gill nets	Mesh size larger or equal to 100 mm wide	

2. **Common sole (*Solea solea*) and plaice (*Pleuronectes platessa*) fisheries**

Fishing zones	Gear Code	Fishing gear description	Mesh Size	Species to be landed
ICES division IXa	GNS, GN, GND, GNC, GTN, GTR, GEN	All Trammel nets & Gill nets	Mesh size larger or equal to 100 mm	All catches of common sole and plaice

3. **Hake (*Merluccius merluccius*) fisheries**

Fishing zones	Gear Code	Fishing gear description	Mesh Size	Species to be landed
ICES divisions VIIIa, b, d and e	OTT, OTB, PTB, SDN, OT, PT, TBN, TBS, TX, SSC, SPR, TB, SX, SV	All Bottom Trawls & Seines	Mesh size larger or equal to 100 mm wide	All catches of hake
	LL, LLS	All Long lines	All	
	GNS, GN, GND, GNC, GTN, GEN	All Gill Nets	Mesh size larger or equal to 100 mm wide	
ICES divisions VIIIc and IXa	OTT, OTB, PTB, OT, PT, TBN, TBS, TX, SSC, SPR, TB, SDN, SX, SV	All Bottom Trawls and Seines	Vessels which fulfil the following cumulative criteria: 1. Use mesh size larger or equal to 70 mm 2. Total hake landings in the period 2014/2015 [1] consist of: more than 5 % of all landed species and more than 5 metric tons.	All catches of hake

Fishing zones	Gear Code	Fishing gear description	Mesh Size	Species to be landed
	GNS, GN, GND, GNC, GTN, GEN	All Gill Nets	Mesh size between 80 and 99 mm wide	
	LL, LLS	All Long lines	Hook size bigger than 3,85 cm +/– 1,15 cm length and 1,6 cm +/– 0,4 cm width	

(1) Reference period for the year 2017. For 2018 the reference period shall be 2015/2016 and for 2019 the reference period shall be 2016/2017.

4. **Anglerfish (*Lophiidae*) fisheries**

Fishing zones	Gear Code	Fishing gear description	Mesh Size	Species to be landed
ICES divisions VIIIa, b, d and e	GNS, GN, GND, GNC, GTN, GEN, GTR	All Trammel nets and Gill Nets	Mesh size larger of equal to 170 mm wide	All catches of anglerfish
ICES divisions VIIIc and IXa	GNS, GN, GND, GNC, GTN, GEN, GTR	All Trammel nets and Gill Nets	Mesh size larger of equal to 170 mm wide	All catches of anglerfish

5. **Norway lobster (*Nephrops norvegicus*) fisheries**

Fishing zones	Gear Code	Fishing gear description	Mesh Size	Species to be landed
ICES divisions VIIIa, b, d and e (only inside functional units)	OTB, OTT, PTB, TBN, TBS, TB, OT, PT, TX	All Bottom Trawls	Mesh size larger or equal to 70 mm	All catches of Norway lobster
ICES divisions VIIIc and IXa (only inside functional units)	OTB, PTB, OTT, TBN, TBS, OT, PT, TX TB	All Bottom Trawls	Mesh size larger or equal to 70 mm	All catches of Norway lobster

6. **Black scabbardfish (*Aphanopus carbo*) fisheries**

Fishing zones	Gear Code	Fishing gear description	Mesh Size	Species to be landed
ICES divisions VIIIc, IX, X and CECAF zone 34.1.2	LLS, DWS	Deepwater set-longlines	—	All catches of black scabbardfish where the total landings per vessel of all species in 2014 and 2015 (1) consisted of more than 20 % of black scabbardfish

(1) Reference period for the year 2017. For 2018 the reference period shall be 2015/2016 and for 2019 the reference period shall be 2016/2017.

7. **Red seabream (*Pagellus bogaraveo*) fisheries**

Fishing zones	Gear Code	Fishing gear description	Mesh Size	Species to be landed
ICES division IX	LLS, DWS	Deepwater set-longlines	Hook size bigger than 3,95 cm length and 1,65 cm width	All catches of red seabream where the total landings per vessel of all species in 2014 and 2015 [1] consisted of more than 20 % of red seabream

[1] Reference period for the year 2017. For 2018 the reference period shall be 2015/2016 and for 2019 the reference period shall be 2016/2017.

8. **Blue whiting (*Micromesistius poutassou*) fisheries**

Fishing zones	Gear Code	Fishing gear description	Mesh Size	Species to be landed
ICES divisions VIIIc and IXa	OTT, OTB, PTB, OT, PT, TBN, TBS, TX, SSC, SPR, TB, SDN, SX, SV	All Bottom Trawls and Seines	All	All catches of blue whiting