

REGULATIONS

COMMISSION DELEGATED REGULATION (EU) 2017/86

of 20 October 2016

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 Article 15(6) thereof,

Whereas:

- (1) Regulation (EU) No 1380/2013 aims to progressively eliminate discards in all Union fisheries through the introduction of a landing obligation.
- (2) Article 15(6) of Regulation (EU) No 1380/2013 empowers the Commission to adopt discard plans by means of delegated acts 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) Greece, Spain, France, Croatia, Italy, Cyprus, Malta and Slovenia have a direct fisheries management interest in the Mediterranean Sea. On 4 and 7 July 2016 those Member States have submitted three joint recommendations to the Commission concerning discard plans for demersal fisheries in the Adriatic Sea, the south-eastern Mediterranean Sea and the western Mediterranean Sea, respectively ⁽²⁾, after consultation of the Mediterranean Sea Advisory Council. Scientific contribution was obtained from relevant scientific bodies. In line with Article 18(3) of Regulation (EU) No 1380/2013, only those measures in the joint recommendations which comply with Article 15(6) of that Regulation should be included in this Regulation.
- (4) As regards the Mediterranean Sea, Article 15 of Regulation (EU) No 1380/2013 establishes a landing obligation for all catches of species which are subject to catch limits and also for catches of species which are subject to minimum sizes as defined in Annex III to Council Regulation (EC) No 1967/2006 ⁽³⁾. According to Article 15(1)(d) of Regulation (EU) No 1380/2013, the landing obligation should apply to species which define the fisheries at the latest from 1 January 2017.
- (5) The joint recommendations suggested that an exemption from the landing obligation be applied to common sole (*Solea solea*) in the Adriatic Sea and the mollusc bivalves scallop (*Pecten jacobaeus*), carpet clams (*Venerupis* spp.) and Venus shells (*Venus* spp.) in the western Mediterranean Sea, as high survival rates can occur, taking into account the characteristics of the gear, of the fishing practices and of the ecosystem.

⁽¹⁾ OJ L 354, 28.12.2013, p. 22.

⁽²⁾ (i) Discard Plan for Demersal Fisheries in the Adriatic Sea (GSAs 17 and 18) — Joint Recommendation by the Adriatica High-Level Group (Croatia, Italia and Slovenia); (ii) Discard Plan for Demersal Fisheries in the South-Eastern Mediterranean Sea (GSAs 15, 16, 19, 20, 22, 23 and 25) — Joint Recommendation by the Sudestmed High-Level Group (Cyprus, Greece, Italy and Malta); and (iii) Discard Plan for Demersal Fisheries in the Western Mediterranean Sea (GSAs 1, 2, 5, 6, 7, 8, 9, 10 and 11) — Joint Recommendation by the Pescamed High-Level Group (France, Italy and Spain).

⁽³⁾ Council 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).

- (6) The Scientific, Technical and Economic Committee for Fisheries (STECF) concludes in its evaluation ⁽¹⁾ that more studies are needed to corroborate the existing findings related to high survivability of the common sole, scallop, carpet clams and Venus shells. As there are no conclusive evidences on the survival rates of these species, the Commission considers that the survivability exemption allowed under Article 15(4)(b) of Regulation (EU) No 1380/2013 should be included in this Regulation for one year only. The Member States concerned should submit relevant data to the Commission to allow STECF to fully assess the justifications for the exemption and the Commission to review the relevant exemptions.
- (7) Based on the scientific evidences provided in the joint recommendation, the revision by the STECF and taking into account the characteristics of the gears, the high number of species in each fishing operations, the fishing patterns and the particularities of the Mediterranean Sea (e.g. predominance of small-scale fisheries), the Commission considers that, in order to avoid disproportionate costs of handling unwanted catches and in accordance with Article 15(5)(c)(ii) of Regulation (EU) No 1380/2013, it is appropriate to establish a *de minimis* exemption in accordance with the percentage level proposed in the joint recommendations, within the limits set out in Article 15(5)(c) of Regulation (EU) No 1380/2013.
- (8) In order to ensure appropriate control, specific requirements for the Member States to establish lists of vessels covered by this Regulation should be laid down.
- (9) Since the measures provided for in this Regulation have a direct impact 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. In accordance with the joint recommendations and taking into account the time-frame set out in Article 15(1) of Regulation (EU) No 1380/2013, this Regulation 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 the Mediterranean Sea to the fisheries as set out in the Annex to this Regulation.

That landing obligation shall apply to the species referred to in that Annex when caught during fishing activities in Union waters or by Union fishing vessels outside the Union waters in waters not subject to third countries' sovereignty or jurisdiction.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

- (a) 'Mediterranean Sea' means maritime waters of the Mediterranean to the east of line 5°36' West;
- (b) 'GFCM Geographical Sub-Areas' (GSAs) means General Fisheries Commission for the Mediterranean (GFCM) Geographical Sub-Areas as defined in the Annex I to Regulation (EU) No 1343/2011 of the European Parliament and of the Council ⁽²⁾;

⁽¹⁾ Reports of the Scientific, Technical and Economic Committee for Fisheries (STECF) — Evaluation of the landing obligation joint recommendations (STECF-16-10). 2016. Publications Office of the European Union, Luxembourg, EUR 27758 EN, JRC Scientific and Policy Report, 104 pp. Available at <https://bookshop.europa.eu/en/reports-of-the-scientific-technical-and-economic-committee-for-fisheries-stecf-pbLBAX16010/?CatalogCategoryID=0A4KABsty0gAAAEjqJEY4e5L>

⁽²⁾ Regulation (EU) No 1343/2011 of the European Parliament and of the Council of 13 December 2011 on certain provisions for fishing in the GFCM (General Fisheries Commission for the Mediterranean) Agreement area and amending Council Regulation (EC) No 1967/2006 concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea (OJ L 347, 30.12.2011, p. 44).

- (c) 'Western Mediterranean Sea' means GFCM Geographical Sub-Areas 1, 2, 5, 6, 7, 8, 9, 10 and 11;
- (d) 'Adriatic Sea' means GFCM Geographical Sub-Areas 17 and 18;
- (e) 'South-eastern Mediterranean Sea' means GFCM Geographical Sub-Areas 15, 16, 19, 20, 22, 23 and 25.

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 in 2017 to:

- (a) common sole (*Solea solea*) caught with rapido (beam trawl), (TBB) ⁽¹⁾ in GSAs 17 and 18;
- (b) scallop (*Pecten jacobaeus*) caught with mechanised dredges (HMD) in GSAs 1, 2, 5 and 6;
- (c) carpet clams (*Venerupis* spp.) caught with mechanised dredges (HMD) in GSAs 1, 2, 5 and 6;
- (d) Venus shells (*Venus* spp.) caught with mechanised dredges (HMD) in GSAs 1, 2, 5 and 6.

2. Common sole (*Solea solea*), scallop (*Pecten jacobaeus*), carpet clams (*Venerupis* spp.) and Venus shells (*Venus* spp.) 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 2017, 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 for in the Joint Recommendations of 4 and 7 July 2016 and any other relevant scientific information supporting the exemption laid down in paragraph 1. The Scientific, Technical and Economic Committee for Fisheries (STECF) shall assess those data and that information by July 2017 at the latest.

Article 4

De minimis exemption

By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, the following quantities of species which define the fisheries as set out in the Annex to this Regulation 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 red mullet (*Mullus* spp.), up to a maximum of 7 % for 2017 and 2018 and up to a maximum of 6 % in 2019 of the total annual catches of these species by vessels using trawl nets; and
 - (ii) for hake (*Merluccius merluccius*) and red mullet (*Mullus* spp.), up to a maximum of 1 % of the total annual catches of these species by vessels using gillnets;
- (b) in the Adriatic Sea (point 2 of the Annex):
 - (i) for hake (*Merluccius merluccius*) and red mullet (*Mullus* spp.), up to 7 % for 2017 and 2018 and up to 6 % for 2019 of the total annual catches of these species by vessels using trawl nets;
 - (ii) for hake (*Merluccius merluccius*) and red mullet (*Mullus* spp.), up to 1 % of the total annual catches of these species by vessels using gillnets;

⁽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.

- (iii) for hake (*Merluccius merluccius*) and red mullet (*Mullus* spp.), up to 1 % of the total annual catches of these species by vessels using rapido (beam trawl);
 - (iv) for common sole (*Solea solea*), up to 3 % for 2017 and 2018 and up to 2 % for 2019 of the total annual catches of this species by vessels using trawl nets; and
 - (v) for common sole (*Solea solea*), 0 % of the total annual catches of this species by vessels using gillnets;
- (c) in the south-eastern Mediterranean Sea (point 3 of the Annex):
- (i) for hake (*Merluccius merluccius*) and red mullet (*Mullus* spp.), up to 7 % for 2017 and 2018 and up to 6 % for 2019 of the total annual catches of these species by vessels using trawl nets;
 - (ii) for hake (*Merluccius merluccius*) and red mullet (*Mullus* spp.), up to 1 % of the total annual catches of these species by vessels using gillnets; and
 - (iii) for deep-water rose shrimp (*Parapenaeus longirostris*), up to 7 % for 2017 and 2018 and up to 6 % for 2019 of the total annual catches of this species by vessels using trawl nets.

Article 5

List of vessels

1. The Member States concerned shall determine, in accordance with the criteria laid down in the Annex, the vessels subject to the landing obligation for each particular fishery.
2. By 31 December 2016, the Member States concerned shall submit to the Commission and to the other Member States, using the secure Union control website, the lists of all vessels targeting hake, red mullet, common sole and deep-water rose shrimp. They shall keep those lists updated.

Article 6

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 2017 to 31 December 2019.

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

Done at Brussels, 20 October 2016.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

1. Western Mediterranean Sea

Fisheries	Fishing gear	Landing obligation
Hake (<i>Merluccius merluccius</i>)	All bottom trawls (OTB, OTT, PTB, TBN, TBS, TB, OT, PT, TX)	Where the total landings per vessel of all species in 2014 and 2015 consist of more than 25 % of hake, the landing obligation shall apply to hake.
	All longlines (LL, LLS, LLD, LX, LTL, LHP, LHM)	
	All gillnets and trammel nets (GNS, GN, GND, GNC, GTN, GTR, GEN)	
Red mullet (<i>Mullus barbatus</i>)	All bottom trawls (OTB, OTT, PTB, TBN, TBS, TB, OT, PT, TX)	Where the total landings per vessel of all species in 2014 and 2015 consist of more than 25 % of red mullet, the landing obligation shall apply to red mullet.
	All longlines (LL, LLS, LLD, LX, LTL, LHP, LHM)	
	All gillnets and trammel nets (GNS, GN, GND, GNC, GTN, GTR, GEN)	
Scallop (<i>Pecten jacobaeus</i>), Carpet clams (<i>Venerupis</i> spp.), Venus shells (<i>Venus</i> spp.) in GSAs 1, 2, 5 and 6	HMD	All mechanised dredges.

2. Adriatic Sea

Fisheries	Fishing gear	Landing obligation
Hake (<i>Merluccius merluccius</i>), Red mullet (<i>Mullus barbatus</i>), Common sole (<i>Solea solea</i>)	All bottom trawls (OTB, OTT, PTB, TBN, TBS, TB, OT, PT, TX, TBB)	Where the total landings per vessel of all species in 2014 and 2015 consist of more than 25 % of either hake, or red mullet, or common sole, the landing obligation shall apply to hake, or red mullet, or common sole, or all together.
	All gillnets and trammel nets (GNS, GN, GND, GNC, GTN, GTR, GEN)	

3. South-eastern Mediterranean Sea

Fisheries	Fishing gear	Landing obligation
Hake (<i>Merluccius merluccius</i>), Red mullet (<i>Mullus barbatus</i>), Deep-water rose shrimp (<i>Parapenaeus longirostris</i>)	All bottom trawls (OTB, OTT, PTB, TBN, TBS, TB, OT, PT, TX)	Where the total landings per vessel of all species in 2014 and 2015 consist of more than 25 % of either hake, or red mullet, or deep-water rose shrimp, the landing obligation shall apply to hake, or red mullet, or deep-water rose shrimp, or all together.
	All gillnets and trammel nets (GNS, GN, GND, GNC, GTN, GTR, GEN)	