Joint Recommendation of the Scheveningen Group

Discard Plan for Demersal Fisheries in the North Sea

1. Background

One of the main elements of the reform of the Common Fisheries Policy (CFP) applying from 1 January 2014 is the gradual introduction of landing obligations for all catches taken from stocks subject to catch limits. To this end, Regulation (EU) no. 1380/2013 (the "Basic Regulation") sets out the timeframes for the relevant fisheries as well as provisions for possible exemptions. At the same time this regulation defines the general framework for regional cooperation on conservation measures.

In Article 15(6) of Regulation (EU) no. 1380/2013 the Commission is empowered to adopt Delegated Acts in accordance with Article 18 of that Regulation concerning specific provisions regarding fisheries or species covered by the landing obligation, exemptions for high survivability and de minimis, provisions, on the documentation of catches and the fixing of minimum conservation reference sizes.

According to Article 18 of the Basic Regulation Member States having a direct management interest may submit joint recommendation (JR) for discard plans. These are to contain details of the implementation of the landing obligation. Upon agreeing a JR the Member States may propose to the Commission to translate it into a delegated act. Where no measures have been adopted for the purpose of specifying the de minimis exemption the Commission is empowered to adopt delegated acts containing only provisions for *de minimis* exemptions.

At the time of submitting this JR to the Commission a multiannual plan for demersal stocks in the North Sea was in the final stage of its adoption. Should this plan enter into force before the adoption of the Delegated Act for which this JR has been transmitted to the Commission, the references to Article 15(6) and Article 18 of Regulation (EU) no. 1380/2013 are to be interpreted as references, respectively, to Article 11 of that regulation in conjunction with Article 15(6) of Regulation (EU) no. 1380/2013 and to Article 18 of that regulation in conjunction with Article 18 of Regulation (EU) no. 1380/2013..

2.1. Scheveningen High-Level Group

Following Article 18 of the Basic Regulation, the Fisheries Directors of the North Sea Member States cooperating in the Scheveningen Group since 2004 established a High Level Group (HLG) in December 2013 and agreed on a Memorandum of Understanding

setting out the principles and working methods of the Group. Members of the Group are Belgium, Denmark, France, Germany, the Netherlands, Sweden and the United Kingdom. The group is chaired by an annual chair, with Germany chairing from 1 January 2018 to 31 December 2018. The HLG is assisted by a technical group for the development of a joint recommendation for a discard plan.

2.2. Consultation with relevant Advisory Councils

The group is aware of the importance of a meaningful input from stakeholders in the process of drawing up the discard plans, especially in relation to identifying challenges and solutions as well as formulating exemptions, in light of Article 18(2) of the Basic Regulation.

With this in mind the North Sea Advisory Council (NSAC) and the Pelagic Advisory Council (PELAC) were invited to closely cooperate with the Scheveningen group. There has been regular and detailed engagement between the Scheveningen group and the NSAC and PELAC throughout the development of the joint recommendation. In order to have a continuous consultation during the process, the NSAC has been invited to attend, in part, meetings of the Scheveningen High Level Group and, together with PELAC, the Technical Group. Additionally, Member States representatives have attended a meeting of NSAC.

On 16 April 2018 a draft of the joint recommendation was sent to NSAC and PELAC for consultation. On 26 April.2018 the NSAC adopted its advice Ref. 01-1718 on “comments on the implementation of the landing obligation in the North Sea demersal fisheries – joint recommendation for a delegated act for 2019”. The NSAC advice was presented and discussed with the NSAC representative in the Technical Group on 3 May .]

The Scheveningen group remains committed to working in close cooperation with the NSAC and the PELAC during the full implementation of the demersal landing obligation in the North Sea area.

2.3. Implementing authority

On the basis of the authority granted by Article 15(6) and 18(1) of the Basic Regulation to the European Commission to adopt discard plans by means of delegated acts, the Member States of the North Sea submit a joint recommendation, as per Article 18(1) of Regulation (EU) No 1380/2013, to the European Commission for a specific discard plan for demersal fisheries in the North Sea.

2.4. Extent of discarding in North Sea Demersal Fisheries

The Scheveningen Group produced a Demersal Discard Atlas in 2014 detailing catch compositions, landings data and discards estimates for 2010-2012. Data was sourced from that reported by individual countries. That information on discards in demersal fisheries (STECF; ICES; NSAC, JRC) suggests that discards in the different fisheries varied

significantly from close to 0% up to more than 40% of average catch in weight before the introduction of the landing obligation

With the phased introduction of the landing obligation since 2015 certain measures to increase selectivity were introduced, in particular as part of exemptions granted in the framework of discard plans. Unwanted catches becoming an ever more important issue with the entry into force of the landing obligation for ever more stocks, the Scheveningen group developed a choke mitigation tool and undertook an analysis of the choke species allowing to easily identify potential choke species as tools for the identification of additional solutions. Further work in this area still will be undertaken. Similar cases may arise where choke situations are not due to a lack of sufficient quotas but to economic constraints, such as the need for additional crew members for sorting the catch and more calls into ports with the limited storage capacity being used for fish of little value affecting the operating range of the fishing vessels and increasing the operation costs in terms of additional steaming time and fuel costs. For some vessels this could affect the economic viability of their operations. I.a. the flatfish and the brown shrimp sectors are likely to fall in this category if no exemption is granted as requested.

As to the recording of catches the introduction of the code DIM will allow the separate recording of discards under de minimis exemptions. However, serious control concerns remain as infringements are extremely difficult to prove. It is therefore thought that certain discards continue to occur but to vary between species, fisheries and over time. Available discard rate data for stocks not yet under the landing obligation also varies greatly in quality. This may impact on the suitability of such data to be used in calculating quota uplifts; however, whilst considering possible limitations, the available data has allowed the informed development of this JR.

3. Objectives and scope of the discard plan

3.1. Objectives

The discard plan shall establish provisions for any of the specifications referred to in Article 15(5) of Regulation (EU) no. 1380/2013.

It is the position of Member States that increased selectivity, where possible, is the most desirable way to deliver compliance with the landing obligation.

The introduction of exemptions from the landing obligation will be based on a thorough, evidence-based process.

The Member States of the North Sea consider it desirable to achieve, where possible, consistency between the recommendations for specific discard plans being drafted by regional groups in EU waters.

3.2. Scope

This JR will apply to demersal fisheries subject to catch limits in the North Sea as defined in Article 4(2)(a) of the Basic Regulation comprising ICES sea areas 3a and 4. Additionally, under Article 15(1)(c)(iv) of the Basic Regulation the Scheveningen Group recommends that the discard plan also covers the Union waters of ICES area 2a as the TAC areas for the relevant demersal stocks also comprise this area. Throughout this JR, reference to the North Sea hence means Union waters of areas 2a, 3a and 4, unless otherwise stated.

This JR will apply to all fishing vessels engaging in the specified demersal fisheries in the North Sea without prejudice to rules applicable outside the aforementioned Union waters under Member State jurisdiction. It is to be noted that part of the North Sea lies within the Norwegian zone. This part being subject to Norwegian legislation, it cannot be a part of this plan.

4. Introduction of the landing obligation

In accordance with Article 15(1) c of the Basic Regulation the Member States of the Scheveningen Group are committed to the full introduction of the landing obligation for demersal and deep-sea fisheries in the North Sea from 1 January 2019.

For the purposes of this JR, the following approach to the implementation of the landing obligation for demersal species is being recommended for 2019 and beyond.

The Scheveningen Group will follow the application of the demersal landing obligation, research into survivability and selectivity, and any advice from the North Sea Advisory Council closely, before proposing further recommendations for future years.

The obligation to land all catches shall not apply in cases for which a specific exemption is recommended as detailed in section 5 of this JR.

The obligation to land all catches shall also not apply in cases where catches as part of a normal operational procedure is released, e.g. when cleaning the gear by rinsing it in the sea or disposing of debris that builds up in the cod end.

The Scheveningen Group recognises the importance of addressing the challenges of choke species in 2019 and beyond. The Group agrees on the importance of Member States working collaboratively and with the European Commission and the North Sea Advisory Council on a variety of measures. This includes exploring with the European Commission solutions not currently available to Member States.

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5. Exemptions

Situations where the landing obligation shall not apply are specified in 15(4) of Regulation (EU) no. 1380/2013.

Moreover, taking into account that Regulation (EU) N° 1380/2013 Recital (16) states that the CFP should pay full regard, where relevant, to animal health, animal welfare, food and feed safety and Article 3 point h) recalls that the CFP shall respect consistency with other Union policies, catches of aquatic animals for which flesh contaminants would exceed the maximum limits set by EU rules for human or animal consumption would also be covered by this exemption. According to food safety prescriptions as set out in Regulation (EC) No 853/2004 of the European Parliament and of the Council as well as in Commission Regulation (EC) No 1881/2006 catches of contaminated fish shall not be kept on board a vessel. This fish has to be disposed directly into the sea.

Besides, in line with the new point c) of Article 15(4) of Regulation (EU) No 1380/2013 which is in force since 1 June 2015, fish which shows damage caused by predators is not subject to the landing obligation too.

5.1. High Survivability

The Scheveningen Group recommends the following exemptions for reason of high survivability in accordance with Article 15 (4)(b) of Regulation (EU) no. 1380/2013.

5.1.1 *Nephrops* caught using pots

The Scheveningen group recommends that by way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, the landing obligation shall not apply to *Nephrops* in ICES area 3a and 4, and EU waters of 2a, caught with pots (FPO). The exemption was evaluated by STECF in 2015 and is already included in Art 4(1)(a) of the current Discard Plan Regulation (EU) no. 2018/45 .

A number of scientific studies show survival rates in the range of 84 to 99% when the catch is sorted during the creel hauling process and discarded *Nephrops* are returned to the same location as where they are caught.

Fisheries for *Nephrops* using pots only takes place in the Scottish and Swedish fisheries. Scottish fisheries for *Nephrops* using pots accounts for around 1,758t of Nephrops about 8% of total landings, and mainly takes place in coastal waters around Scotland. The Swedish fisheries for *Nephrops* using pots accounts for around 325 tonnes and about 25 % of total Swedish *Nephrops* landings (2015-2017), and mainly takes place in coastal areas in Skagerrak and Kattegat.

Discard rates for *Nephrops* in the fisheries using pots is estimated at less than 10%.

The evidence underpinning this exemption can be found in annex A, F and Fi joint recommendation for a discard plan for demersal Fisheries for 2019 and beyond.

5.1.2 High survival exemption for ‘undersized’ common sole (sole less than MCRS of 24cm) caught by 80-99mm otter trawl gears in ICES area 4c within 6 nautical miles of coasts, albeit outside identified nursery areas

On the basis of scientific evidence and rationale provided in Annex B and Bi the Scheveningen group recommends that by way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, the landing obligation shall not apply to common sole (*solea, solea*):

i) of length less than the MCRS of 24cm;

ii) caught by vessels using 80-99mm otter trawl gears;

iii) within 6 nautical miles of the coast in ICES area 4c and outside identified nursery areas;

iv) caught by vessels with a maximum length of 10m;

v) caught by vessels with a maximum engine power of 221kW;

vi) caught by vessels fishing in waters with a depth of 30m or less; and

vii) caught by vessels with limited tow durations of no more than 1:30 hours.

An initial study conducted in the South Eastern English trawl fishery in 2015 demonstrated an average survival rate of 51% for undersized sole based on the catch profile in the study. A subsequent study carried out in 2016 demonstrated a survival rate of 80-87% for undersized sole (rates of avian predation have been applied).

This exemption is intended for a specific fishery in ICES area 4c experiencing particular environmental conditions and where selectivity is very difficult to improve. The inshore vessels in this fishery catch sole in shallow and weedy water, where the marine conditions are similar to those in the two studies.

Discard rates of undersized sole in the English South East inshore otter trawl fishery are estimated to be on average 1% of total catches, or 4% of total sole catches. The French discard rate is estimated at 2.2 % of total catches or 19% of total sole catches (of which approximately 70% are undersize sole.

It is estimated that exemption can be used by 91 vessels from the UK and 3 vessels from France in area 4c. The exemption is supposed to be also requested for area 7d in the North Western Waters.

Country	Exemption applied for (species, area, gear type)	Species as by-catch or target	Number of vessels subject to LO	Landings (by LO subject vessels)	Estimated Discards	Estimated Catch	Discard Rate (2016)	Estimated Survival
UK	Common sole caught in nets (gears GN, GNS, GND, GNC, GTN, GTR, GEN, GNF) in ICES areas IIIa, IV and EU waters of IIa	Target - sole	England: 116	England: 83t	England: 5t	England: 88t	England: 5%	80% - 87%

5.1.3 Survivability of fish by-catches in pots (creels) and traps

On the basis of scientific background and rationale provided in Annex C the Scheveningen group recommends that by way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, the landing obligation shall not apply for bycatch of TAC-regulated species in ICES area 3a and 4 in fisheries with pots and fyke nets (FPO, FYK). The cases described in Annex C come from Swedish fisheries in area 3a, but the Scheveningen Group considers that the principles and evidence are also applicable to the North Sea.

Discard survival rate from provided studies is judged to be above 90%. Cod is the dominating by-catch fish species in this fishery, all other quota species are caught in small quantities (Annex C). According to studies on discard survival, arrangements for minimising avian predation largely affects the discard survival. Against this background a condition for this exemption is the use of arrangements to minimise avian predation, such as fish slides.

The scientific knowledge of discard survival is largely limited to cod in similar pot fisheries. For other fish species existing knowledge is lacking. However, STECF (17-08), concluded that it is a reasonable to infer that, at the point of release, assuming environmental and technical operations are comparable, that unwanted catches will be in good health owing to the benign nature of the gear.

The dominating commercial creel fishery in Sweden is directed for *Nephrops*. The Swedish fishery for *Nephrops* using pots mainly takes place in coastal areas in Skagerrak and

Kattegat and is conducted by 83 vessels. The fish bycatch of the species concerned is estimated to 35.8 t annually.

The Swedish fishery for crab and lobster using pots mainly takes place in coastal areas in Skagerrak and Kattegat and is conducted by 140 vessels. The Swedish fishery for wrasse by creels and fyke nets is conducted inshore by 14 vessels. For further information, please refer to table 1 and Annex C.

In the UK pot, trap and creel fisheries target a variety of non-quota species (mainly crabs and lobsters) as well as Nephrops. Those fisheries landed 58t of fish in 2016. No discard data is collected, but discards are estimated at 90% of the catches.

This exemption was evaluated by STECF in 2017 and is included in Article 6 of the current Discard Plan (Regulation (EU) no 2018/45) and the Scheveningen group recommends that it should remain. The scientific evidence and rationale are provided in Annex C.

Table 1. Summary of information for the proposed survival exemption for pots and traps in area IIIa

Country	Exemption applied for (species, area, gear type)	Species as by-catch or target	No. vessels subject to LO	Landings (by vessels subject to LO)	Estimated discards (t)	Estimated catch (t)	Discard rate	Estimated discard survival rate from provided studies
SE	Haddock, whiting, cod, plaice, sole, hake and saithe in Nephrops creels in area IIIa	bycatch	83	1,6	34,1	35,8	95,3%	>90%*
SE	Haddock, whiting, cod, plaice, sole, hake and saithe in crab and lobster pots in area IIIa	bycatch	140	0,01	?	?	?	>90%*
SE	Haddock, whiting, cod, plaice, sole, hake and saithe in wrasse creels and traps in area IIIa	bycatch	14	0	≈0,2	≈0,2	100%	>90%*

*provided that arrangements for minimising avian predation are used

Country	Exemption applied for (species, area, gear type)	Species as by-catch or target	Number of vessels subject to LO	Landings (by LO subject vessels)	Estimated Discards	Estimated Catch	Discard Rate (2016)	Estimated Survival
UK	Fish bycatch - cod, haddock, whiting, plaice, sole, hake and saithe in ICES area IIIa and IV in fisheries with pots and fyke nets (FPO, FYK)	By-catch – all fish	England: 379 Scotland: 600	England: 36t Scotland: 22t (of fish)	England: n/a Scotland: n/a	England: n/a Scotland: n/a	England: NA (no available data), but probably 0% Scotland: >90%	>90%

5.1.4 By-catch of plaice by vessels using nets in ICES areas 3a and 4

On the basis of scientific evidence and rationale provided in Annex D the Scheveningen group recommends that by way of derogation from Article 15(1) of Regulation (EU) no. 1380/2013, the landing obligation shall not apply to plaice (pleunonectes platessa) caught in ICES area 3a and 4 by vessels using nets (GNS, GTR, GTN, GEN).

Discard survival rate from provided studies in ICES area 23 has shown to be 100 %. The cases described in Annex D come from Danish fisheries in area 23, but the Scheveningen Group considers that the principles and evidence are also applicable to the North Sea. Plaice should be discarded swiftly in order to minimize air exposure.

5.1.5 By-catch of plaice by vessels using Danish seine in ICES areas 3a and 4

On the basis of scientific evidence and rationale provided in Annex E the Scheveningen group recommends that by way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, the landing obligation shall not apply to plaice (pleunonectes platessa) caught in ICES area 3a and 4 by vessels using Danish seine.

Discard overall mean survival rate from provided studies is judged to be above 78 %. Plaice should be discarded swiftly in order to minimize air exposure.

5.1.6 High survival exemption for Nephrops caught by demersal trawls with a cod end larger than 80mm (70mm/35mm)

Member States have conducted a number of survival experiments on Nephrops caught in demersal trawls which show high levels of survival whether they are trawl gears fitted with a species selective grid (Annex F and Fi), trawl gears fitted with a SELTRA panel (Annex F), trawl gears fitted with a netgrid (Annex C) or trawl gears with a cod end larger than 80mm and within 12 miles of coastlines (Annex H). Based on these findings several exemptions for high survival are already included in Article 4 of the current discard plan Regulation (EU) no. 2018/45.

Given the generally high rates of survival of Nephrops found in many different fisheries in a number of different conditions, it seems reasonable to assume that Nephrops caught in all demersal trawls with a cod end larger than 80mm (70mm when caught with bottom trawls (OTB, TBN) equipped with a species selective grid with bar spacing of maximum 35mm) will survive the capture process in sufficiently high numbers to justify a general survival exemption for Nephrops caught in demersal trawls with a cod end larger than 80mm (70mm), provided they are returned swiftly to the sea, whole and over the grounds on which they have been caught.

It is therefore requested to exempt in ICES areas 2(EU waters), 3a, 4 all catches of Nephrops caught by demersal trawls with a cod end larger than 80mm (70mm when equipped with a species selective grid with bar spacing of maximum 35mm) based on the scientific evidence referred to in the annexes above. The Scheveningen group considers the scientific evidence described in the annexes referred to above to be applicable also for demersal trawls with a cod end of at least 35 mm equipped with a species selective grid with bar spacing of maximum 19 mm, and therefore recommends this fishery to be included in the exemption.

Country	Exemption applied for (species, area, gear type)	Species as by-catch or target	Number of vessels subject to LO	Landings (by LO subject vessels)	Estimated Discards	Estimated Catch	Discard Rate (2018 est)	Estimated Survival
EU	All Nephrops caught in otter trawls with a cod end larger than 80mm	Nephrops		n/a	1,298t (ICES estimate of all discards of Nephrops ifrom Functional Units in EU waters in 2018)	23,312 (ICES estimate of Nephrops catches from Functional Units in EU waters in 2018)	6%	

4.1.7 High survival exemption for skates and rays caught by all fishing gears in the North Sea (areas 4, 3a and EU waters of 2a)

On the basis of scientific evidence and rationale provided in Annex I the Scheveningen group recommends that by way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, the landing obligation shall not apply to skate and ray quota species caught by any fishing gear in the North Sea.

This exemption is time limited and will be in place until 31 December 2021. It is proposed as a temporary management measure while Member States collect additional information on survival and evidence that will inform the development of longer term management measures.

All catches of skate and ray quota species must be accurately recorded in logbooks (including vessels of up to 10 metres in length).

All catches of skate and ray quota species should be handled with care, kept wet whilst on board and promptly released.

All Scheveningen Member States will issue best practice guidelines on appropriate avoidance and selectivity measures that should be followed by fishers when making use of this exemption.

From the survival work carried out to date by Member States the following survival rates have been observed:

- 95% for thornback ray in the 4c trammel net fishery
- 57-69% for thornback ray in the 7f otter trawl fishery
- 41-44% for blonde ray in the 7e beam trawl fishery
- 34-35% for cuckoo ray in the 7e beam trawl fishery
- 40-65% for thornback ray in the 4 beam trawl fishery
- 44% for spotted ray in the 4 beam trawl fishery

Health vitality data on discarded skates and rays from a ten year period has been collated for certain fisheries. This work shows that most rays in these fisheries are alive and in good or moderate condition at the point of release and there is very little immediate mortality, demonstrating the potential for high survival. The following trends have been determined:

- 99.7% alive at point of release from longline fisheries
- 98.6% alive at point of release from otter trawl fisheries
- 98.4% alive at point of release from netting fisheries

Further scientific work will be completed by Member States during the three years of this exemption in order to fill in current data gaps.

Discards are known to occur for skate and ray quota species but discard estimates are not included in ICES advice. The Scheveningen group recommends that discards are included in this year's ICES assessment or that a new protocol is devised to calculate uplift for skate and ray species.

Discard rates in the North Sea averaged over 2014-2016 for skates and rays quota species combined are estimated at 45%.

5.1.8 Temporary high survival exemption for plaice below MCRS caught by 80-119mm beamtrawl gears (BT2) in ICES area 4

Request under Article 15.4(b) of Regulation (EU) 1380/2013 to exempt from the landing obligation plaice of less than 27 cm in length caught in 80-119mm beamtrawl gears in ICES area 4.

Plaice is caught in both targeted and non-targeted fisheries. The stock of plaice (Pleuronectes platessa) in the North Sea is in good shape. The spawning stock biomass is with 836.000 tonnes far above Blim (207.000 t) and Bmsy (565.000 t). Fishing mortality is below Fmsy. Catches represents about 123.000 t of which one third or 43.000 tonnes are unwanted catches, discards below the MCRS.

The percentage of discards (below MCRS) in the catch is high in the mixed fisheries for sole and for nephrops using BT 2 and TR 2 gears and low in the targeted fisheries using TR1 and BT1 gears. Whereas in the TR2 selectivity improvements have been achieved, improvements in the BT2 (targeting sole) are harder to accomplish. For both the Netherlands and Belgium the BT2 represent an important part of the fishing fleet. BT2 has a catch figure of 64.000 tonnes of which 30.000 tonnes are discards (ratio 47%).

Knowledge on survivability

Plaice has a proven potential for high survival, given already existing high survival exemptions that are in place in the North Sea and other regions. However, survival tests in the beam trawl fisheries, carried out by various member states, show high variations. The mean survival rate in the beam trawl seems to lie between the 15 and 20 per cent, with trips showing no survival and trips showing survival well above 50 per cent. Survival seems related to the gear type, water depth, duration of tow, water temperature, season and location. The way nets are constructed also seems to be another significant factor influencing survival rates. In annex Jii and Jiii an overview of conducted research can be found.

Adjustments in the handling process, like keeping the catch wet until it reaches the sorting belt, were tested but have shown only limited improvement so far. Conditions under water, in the net, seem of greater influence on the overall state in which the catch reaches the deck. Various technical adjustments were tested and some seem to have a positive impact. The study in Annex Jiv stipulates an estimation of the high numbers of juvenile plaice that could survive.

Effort to improve selectivity

Selectivity trials in beam trawl, increasing the mesh size from 80 mm to 90 mm have been unsuccessful with the discard rate in undersized plaice reduced by only 2-3% accompanied by a 40% decrease of catches of marketable high value sole.

Projects using gear mounted cameras have begun to study the escape behaviour of (juvenile) fish to inform the development of more effective escape panels. These panels could be made even more effective using led lighting or “in gear” dividers/guiders. This work is at early stages of development and results will not be available to influence fishing behaviour on the short term (that is, before January 2019).

Socio-economic impact

Despite the effort that has been put in reducing unwanted catch and understanding survival rates of plaice caught with different gears in different conditions, there will be no total solution available to secure a workable implementation of the landing obligation in the BT2 without severe economic impact. Given the high volumes of undersized plaice fishing activities will become uneconomic and the handling process would ask for extra personnel (+20 to 30 per cent), leading to further additional costs.

The economic impact mentioned above and the absence of a solution will likely lead to a high rate of non-compliance behaviour, given the economic benefit of non-compliance and the low likelihood of being caught. Obtaining trustworthy data to calculate fishing mortality is therefore likely to become more complicated.

Therefore the Scheveningen group suggests:

Aware of the currently available survival rates for plaice in the BT2 (80-119 mm) beam trawl fisheries, the still existing data gaps and available research show a potential high survival for plaice;

Taking into account the indicators that show a possible higher survival rate with gear modifications in use, based on increased insights in the near future;

Taking into account the possible improvements in gear selectivity in the near future, based on experiments focussing on differences in fish behaviour and the use of grids, dividers and lights;

Committed to the goal of the landing obligation, to reduce the practice of wasteful discarding;

At the same time committed to further strengthen science based fisheries management and the importance of innovation as a basis to work towards more sustainable European fisheries;

Given the strength of the plaice biomass and the low level of fishing mortality;

To allow a temporary (3 years) high survival exemption for plaice in the beam trawl fisheries with meshes between 80mm and 119 mm (BT2) in the North Sea (ICES area IV and II), conditional to the following package of measures and incentives. Member States involved will divide the tasks:

Fleet (<221 kw): The smaller BT2 vessels, with an engine power of not more than 221kw or less than 24m in length overall, which are constructed to fish in the twelve mile zone, can use the 3-year temporary exemption for high survivability for flatfish if the average trawl duration is less than ninety minutes.

Fleet (>221kw):

For the fleet with an engine of more than 221 kW the following package of measures and incentives towards more selective fishing will be developed in the coming three years. Member States involved will divide the following tasks:

The reduction of unwanted catches through gear innovations; technical innovation trials are developed within the context of technical regulations and in cooperation with scientific institutes. To compensate for potential loss of revenue, financial or extra quota can be sought for those fishermen participating, for the duration of the trials.

Research on the possibilities of spatial and temporal discard avoidance; real time data sharing, between fishers, is a key element in this scenario, automated catch volume registration, location, time and (partial) video data, are shared on a catch information platform. To cooperate with science, and to be able to investigate avoidance behaviour, motivation to fish, in certain area and time, and expected catch composition (e.g. target species, discards, etc.) should be registered (in advance of fishing activity).

Technical modifications to increase survivability will be introduced:

The flip-up rope; rigged on top of the bobbin rope in the net opening or

The benthos release panel, a square mesh panel inserted in the belly of the trawl: just in front of the Flemish panel.

Both measures are meant to avoid sand and stones in the cod end and are expected to increase survivability, since it is clear that the effect of the sediment catch is important. If catches exists of more than 25% of stones or sand, the survivability of the flatfish caught, decreases by nearly a factor 10. The technical measures are described in Annex Jii and will be object of further research in the three year’s period. Belgium will introduce for its entire concerned fleet segment technical measures to increase survivability and will participate as an observer in the FDF program.

Fully documented fisheries pilot programme: a pilot programme introducing FDF will be set up. The aim of the introduction of FDF is to gain better understanding into catch and discard volumes and composition. The information will be used for advancing selectivity and survival research and innovations. The focus of the programme will be on the introduction of REM and the further development of this technique (automatic analysis and registration of fish). The introduction of REM will be accompanied by an observation/self sampling programme in order to verify the data coming out of the REM-pilot and to get insight in the overall discarding amounts on a fleet level. The first year there will be a project fleet equipped with REM in order to test the definitive study design. After the first year the test will be evaluated and based on the outcomes there will be decided upon the further rollout of REM. The introduction of FDF as part of this exemption will only be used for monitoring and data collection to facilitate further improvement of selectivity and survivability.

A roadmap detailing the 3-year pilot programme will be drafted in which the introduction, functioning and step-by-step implementation of FDF is to be described. This roadmap will be submitted to the regional group by October 31st 2018. Step by step introduction of pilot FDF projects would commence in 2019. The roadmap for a pilot programme FDF will include elements such as participation, ownership, methodology, equipment specifications, monitoring, implementation, reporting and evaluation. Annex Ji will serve as input and groundwork for defining the architecture and scope of the pilot programme.

There will be an annual report on the results of the FDF programme mentioned above to the Scheveningen Group.

All catches of undersized plaice should be put overboard as swiftly as possible.

Further material can be found in annex J

Sub-annexes

Annex Ji: Explanatory paper of the Netherlands explaining the introduction of Fully Documented Fisheries in selected vessels of the North Sea beamtrawl fleet

Annex Jii: Belgian short note on factors that affect survivability

Annex Jiii: Dutch studies on survivability

Annex Jiv: Belgian study on survivability

5.1.9 By-catch of plaice by vessels using trawl (OTB, PTB) of mesh sizes ≥ 120 mm in ICES areas 3a and 4 in winter

On the basis of scientific evidence and rationale provided in Annex K the Scheveningen group recommends that by way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, the landing obligation shall not apply to plaice (pleunonectes platessa) caught in ICES area 3a and 4 by vessels using trawl (OTB, PTB) ≥ 120 mm targeting flatfish or roundfish in the winter months [1. November to 30. April].

Discard survival rate from provided studies in ICES area 3a has shown to be 75%. The cases described in Annex K come from Danish fisheries in area 3a, but the Scheveningen Group considers that the principles and evidence are applicable to the entire North Sea. Plaice must be discarded swiftly in order to minimize air exposure, which is necessary in order to a survival rate of 75 % in winter.

Scientific studies on survival rates in winter should continue to be carried out. Furthermore an evaluation will be carried out next year.

5.1.10 Temporary high survival exemption (2019-2021) for turbot caught by towed gears with a cod end larger than 80mm in ICES area 4.

Request under Article 15(4)(b) of Regulation (EU) 1380/2013 to exempt from the landing obligation turbot (*Scophthalmus maximus*) caught with towed gears with a cod end larger than 80mm in ICES area 4.

Evidence collected in the beam trawl fisheries shows discard survival estimates of 20-43% using gear with a cod end larger than 80mm. Discard survival estimates were generated from samples taken during normal commercial fishing activity. The data was supplemented with observations on discard patterns from other vessels fishing in the same areas to determine the representativeness of the survival estimates for each fishery.

As a condition of the exemption the turbot should be returned whole/undamaged to the sea as swiftly as possible and over the grounds where they were caught. Furthermore, trials to improve selectivity and survivability, should be carried out.

Since several improvements will be made and selectivity trials will already be conducted as well as a pilot programme be started to introduce fully documented fisheries on the basis of the temporary exemption for plaice (see paragraph 5.1.8), no further conditions shall apply to this exemption.

Scientific information on the survivability of flatfish suggests that the survivability is in general higher in trawls than beam trawls. Therefore, the exemption should be extended to

turbot caught by trawl (OTB, PTP) of mesh sizes ≥ 80 mm in ICES areas 3a and 4. Scientific trials on this should be carried out in order to confirm survivability of turbot in trawl fisheries.

The background to this request is contained in Annex L

5.2. De minimis

The Scheveningen Group recommends the following exemptions for reason of *de minimis*.

The supporting evidence is included in annexes M to X.

These exemptions will be reviewed where appropriate with the objective of reducing and, over time, phasing out these provisions where possible. In reviewing, the Scheveningen group will take into account experience in the fisheries and the results from scientific and technical trials.

When taking into account the potential de minimis volumes in the process of establishing fishing possibilities, the potential quantities need to be rightly reflected. In this exercise, it should be possible to distinguish the part of the fleet/fishery that is covered by the exemption, as well as the catch that the gear in question accounts for. That could for instance be done through the use of separate gear codes (at national or EU-level). Furthermore, for combined de minimis exemptions the quantity representing the total de minimis percentage need to be divided among the exempted species on the basis of the discard composition in the fishery concerned.

5.2.1. Fish bycatch caught in Nephrops targeted trawl fishery

On the basis of scientific background and rationale provided in Annex M the Scheveningen group recommends that by way of derogation from Article 15(1) of Regulation (EU) no 1380/2013, the following catches below MCRS may be discarded.

For common sole, haddock, whiting, cod, saithe and hake below MCRS combined, up to a maximum of 4 % of the total annual catches of N*ephrops*, common sole, haddock, whiting, Northern prawn, cod, saithe and hake in the fishery for N*ephrops* conducted with bottom trawls (OTB, TBN) with a mesh size of at least 70 mm equipped with a species selective grid with bar spacing of maximum 35 mm in ICES area 3a,

The request for an exemption for de minimis is based on Article 15(5)(c)(i), due to difficulties to further increase the highly selective properties of the gear concerned. The

species in question for de minimis represent small but unavoidable by-catches. As N*ephrops* is the only income for users of this gear, they are particularly vulnerable for the potential losses an increase in selectivity would risk to cause.

A de minimis exemption of 4% for haddock, sole, whiting, cod, saithe and hake in 2018 would correspond to total quantities of 50.6 t (based on a 2010-2015 baseline of discarded and caught quantities in the fishery for the species subject to the landing obligation- (see annex M for specifications). Per species, the combined de minimis of 4% would mean approximately 4.5 t of haddock, 0.6 t of sole, 11.2t of whiting, 25.3 t of cod, 0.34 t of saithe and 8.8 t of hake in 2019 (table1).

The exemption was evaluated by STECF in 2015 and is included in the current delegated act (Regulation (EU) no 45/2018, Article 7(d)). The scientific background is provided in Annex M.

In Table 1 all relevant information is summarised in accordance with the template proposed by STECF (EWG 16-06 report).

Table 1. Summary of information for the proposed 4% de minimis exemptions for certain fish by-catch species in the IIIa *Nephrops* grid trawl fishery. Cod is also presented for Skagerrak and Kattegat separately due to different management areas.

Country	Exemption applied for (species, area, gear type)	Species as by-catch or target	No. vessels subject to LO	Landings (by vessels subject to LO)	Estimated discards (t)	Estimated discards <MCRS (t)	Estimated catch (t)	Discard rate	Estimated de minimis volumes (t)*
SE	Haddock in trawls >70 mm with sorting grid (TR2) in area IIIa	bycatch	104	0,2	5,6	4,0	5,8	96,9%	4,5
SE	Whiting in trawls >70 mm with sorting grid (TR2) in area IIIa	bycatch	104	2,4	43	10,0	45,4	94,7%	11,2
SE	Cod in trawls >70 mm with sorting grid (TR2) in area IIIa	bycatch	104	0,5	31,2	22,4	31,7	98,4%	25,3
	of which cod-IIIaN		87	0,2	10,7	7,7	10,9	98,4%	8,7
	of which cod-IIIaS		53	0,3	20,5	14,7	20,8	98,4%	16,6
SE	Sole in trawls >70 mm with sorting grid (TR2) in area IIIa	bycatch	104	1,9	3,9	0,5	5,8	67,5%	0,6
SE	Saithe in trawls >70 mm with sorting grid (TR2) in area IIIa	bycatch	104	0	0,7	0,3	0,7	96,1%	0,3
SE	Hake in trawls >70 mm with sorting grid (TR2) in area IIIa	bycatch	104	0,3	13,5	7,8	13,8	97,3%	8,8

*de minimis only applies to catches <MCRS

5.2.2. De minimis exemption request for the vessels using nets to catch sole in the North Sea (ICES areas 3a, 4a, b and c and EU water of 2a)

On the basis of scientific background and rationale provided in Annex N and Ni a *de minimis* exemption is recommended for common sole (*Solea solea*) below and above MCRS for vessels using trammel nets and gill nets of a maximum of 3% of the total annual catches of this species caught by vessels using these gears (gear codes: GN, GNS, GND, GNC, GTN, GTR, GEN, GNF) to catch common sole in the North Sea (ICES Areas 3a, 4 and EU waters of 2a) as scientific evidence indicates that increases in selectivity are very difficult to achieve. The exemption was evaluated by STECF in 2015 and is included in the current delegated act, Article 7(a).

5.2.3 De minimis exemption for fishing vessels using TBB gear 80-119 mm to catch sole in area IV of the North Sea because of improved selectivity

For the sole fishery using TBB 80-119 mm gear with increased mesh sizes in the extension of the beam trawl in ICES area 4 of the North Sea, a de minimis exemption is recommended as per Article 15(5)(c) of Regulation (EU) no 1380/2013.

When in the spirit of the landing obligation and in an attempt to reduce the occurrence of unwanted catches of sole, for vessels deploying a more selective TBB gear 80-119mm with increased mesh sizes in the extension of the beam trawl (Flemish panel), the Scheveningen group recommends that a de minimis exemption of 6% will apply in 2019 and of 5% for catches in 2020 and beyond of sole under the MCRS.

For the fishing sector concerned, the sole fishery is the mainstay of its income. Taking into account that further increases in selectivity are very difficult to achieve without losing further marketable fish, it is necessary to ensure the economic viability of the fishing industry and to avoid disproportionate costs with the implementation of the landing obligation. The exemption was evaluated by STECF in 2015 and is included in the current delegated act, Article 7(b) and the evidence is provided in annexes O and Oi.

During the discussions on the joint recommendation the issue was raised that the Belgian Panel is not defined in the discard plan, which is a problem for inspection and control of the de minimus. The Scheveningen Group acknowledges that this is an omission and recommends to include again, as in Article 7(b) of Commission Delegated Regulation (EU) no. 2018/45, the following introductory sentence for this exemption in the discard plan:

"*in the fisheries by vessels using beam trawls (TBB) of mesh size 80-119 mm with increased mesh size in the extension of the beam trawl, Flemish panel, in ICES Subarea 4:*"

5.2.4 De *minimis* exemption request for whiting and cod for the vessels using bottom trawls (OTB, OTT, SDN, SSC) of mesh size 70-99mm (TR2) in the North Sea (ICES subarea 4)

The Scheveningen Group recommends for 2019 and onwards a de minimis exemption for whiting (*Merlangius merlangus*) and cod (*Gadus morhua*), up to a maximum of 6% in 2019 and 5% in 2020 and beyond (of which a maximum of 2% can be used for cod discards) of the total annual catches of species below MCRS that would fall under landing obligation, for the trawler mixed fishery, not targeting Nephrops, using bottom trawls with a mesh size of 70-99 mm in ICES area 4.

The request for an exemption for de minimis is based on 15(5)(c)(.i) and ii), due to difficulties to improve selectivity in a short term period. Also, vessels are operating long fishing trips (~3 days on average) at considerable distance from home harbours (more than 1000 km return). This would imply to come back often to home harbours, generating high costs for the vessel.

This exemption is already included Article 7(f) of the delegated act (EU) 2018/45 for area 4c, but it to be extended to the whole area 4. The evidence underpinning the recommendation can be found in Annex P.

The Scheveningen Group intends to monitor and assess the impact of this joint de deminis with special attention to control issues. Preliminary figures for 2018 indicate a utilisation rate of 0.84%, based on the total catches of 2017.

Based on provided data by France and the Netherlands a de minimis exemption of 6% of whiting and cod (of which maximal 2% is cod) would correspond to total quantities of 239t of discarded whiting and 67t of discarded cod for the entire North Sea.

5.2.5 De minimis exemption request for whiting caught in bottom trawls 90-119 mm with SELTRA panels an bottom trawls with a mesh size of 120 mm and above in the Skagerrak and the Kattegat (ICES Area 3a)

On the basis of the background and rationale provided for in Annex Q the Scheveningen group recommends that by way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, the catches of whiting (*Merlangius merlangus*) below MCRS may be discarded up to a maximum of 2% of the total annual catches of Nephrops, cod, haddock, whiting, saithe, common sole, plaice and hake in the mixed Nephrops and fish fishery conducted with bottom trawls (OTB, OTT, TBN) with a mesh size of 90-119 mm, equipped with a square mesh panel of at least 140 mm or a diamond mesh panel of at least 270 mm (“Seltra”) and bottom trawls with a mesh size of at least 120 mm in ICES Division 3a.

The request for an exemption for de minimis is based on Article 15(5)(c)(i) and (ii), due to difficulties to improve selectivity in a short term period and disproportionate costs of

handling the catches of whiting, in particular significantly additional labour costs for catch sorting, that a full landing obligation would imply on this fishery.

The total annual catches of whiting amounted to 834 tonnes in the Skagerrak and in the Kattegat, of which 89 tonnes were landed. Discards of whiting in these fisheries, both below and above MCRS, are estimated to 745 tonnes in total, approximately of which 187 tonnes are below MCRS. This equals to a discard rate in the Skagerrak and in the Kattegat at 90%.

The total annual catch of Nephrops, cod, haddock, whiting, saithe, whiting, plaice, sole and other flatfish by the Danish and Swedish fleet in the Skagerrak and the Kattegat is 11 786 tonnes.

Based on these catch figures a 2% de minimis for whiting in the fleet fishing with the Seltra-gear in ICES division 3a would thus potentially represent up to 236 tonnes per year. In 2017 this would amount to 23% of the whole TAC for whiting of 1,050 tonnes in ICES division 3a.

5.2.6 Fish bycatch caught in Northern prawn trawl fishery with sorting grid, with unblocked fish outlet in ICES area 3a

On the basis of scientific background and rationale provided in Annex R the Scheveningen group recommends that by way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, for catches below MCRS for common sole, haddock, whiting, cod, saithe, plaice, herring as well as for catches for Norway pout, greater silver smelt (*Argentina* spp.) and blue whiting combined, up to a maximum of 5 % of the total annual catches of species under landing obligation (Norway lobster, common sole, haddock, whiting, hake, Northern prawn, cod, saithe, plaice, Norway pout, *Argentina* spp., herring and blue whiting in the fishery for Northern prawn conducted with bottom trawls (OTB) with a mesh size of at least 35 mm equipped with a species selective grid with bar spacing of maximum 19 mm, with unblocked fish outlet, in ICES area 3a, may be discarded.

The request for an exemption for de minimis is based on Article 15(5)(c)(.i) of Regulation (EU) no. 1380/2013, due to difficulties to further increase the highly selective properties of the gear concerned. As Northern prawn is the only income for users of this gear, they are particularly vulnerable for the potential loss an increase in selectivity would risk to cause.

A de minimis exemption of 5 % for haddock, sole, whiting, cod, saithe, plaice, herring below MCRS, and for Norway pout, greater silver smelt and blue whiting in 2019 would correspond to total quantities of 37 t in 2019 (based on a 2010-2015 baseline of discarded and caught quantities for the species subject to the landing obligation- see annex R for specifications).

Per species, the combined de minimis of 5 % would mean approximately cod-1.2 tonnes, haddock-0.7 tonnes, plaice-0.5 tonnes, saithe-0.1 tonnes, sole-0.3 tonnes, whiting-3.7

tonnes, hake-0.5 tonnes, Argentina spp.-0.05 tonnes, herring-1.o tonnes, Norway pout-25.1 tonnes and blue whiting-3.8 tonnes in 2019 (Table 1).

This exemption is included in the current discard plan in Article 7(e). The exemption was evaluated by STECF in 2015. However due to phasing in of additional species the Scheveningen group recommends to revise the exemption as described above.

In Table 1 all relevant information is summarised in accordance with the template proposed by STECF (EWG 16-06 report). Two of the by-catch fish species presented here are comprised of different stocks in the Skagerrak and Kattegat; cod and plaice. Therefore, de minimis quantities in Table X should ideally be presented per stock. However, as >95% of the *Pandalus* fishery takes place in the Skagerrak, the estimated de minimis quantities for the two Kattegat stocks are negligible (<0.1 tonnes).

Table 1. Summary of information for the proposed de minimis exemptions for certain fish by-catch species in the 3a directed *Pandalus* grid trawl fishery.

Country	Exemption applied for (species, area, gear type)	Species as by-catch or target	No. vessels subject to LO	Landings (by vessels subject to LO)	Estimated discards (t)	Estimated discards <MCRS (t)	Estimated catch (t)	Discard rate	Estimated de minimis volumes (t)*
SE	Haddock in trawls 32-69 mm mm with sorting grid in area IIIa	bycatch	43	0	0,7	0,7	0,7	96,0%	0,7
SE	Whiting in trawls 32-69 mm mm with sorting grid in area IIIa	bycatch	43	0	3,7	3,7	3,7	100%	3,7
SE	Cod in trawls 32-69 mm mm with sorting grid in area IIIa	bycatch	43	0,7	1,6	1,2	2,3	68,0%	1,2
SE	Plaice in trawls 32-69 mm mm with sorting grid in area IIIa	bycatch	43	0	0,5	0,5	0,5	88,9%	0,5
SE	Sole in trawls 32-69 mm mm with sorting grid in area IIIa	bycatch	43	0	0,3	0,3	0,3	98,3%	0,3
SE	Saithe in trawls 32-69 mm mm with sorting grid in area IIIa	bycatch	43	0,6	0,1	0,1	0,7	14,0%	0,1
SE	Hake in trawls 32-69 mm mm with sorting grid in area IIIa	bycatch	43	0,1	0,5	0,5	0,6	86,2%	0,5
SE	Argentina spp. in trawls 32-69 mm mm with sorting grid in area IIIa	bycatch	43	0	0,05	0,05	0,05	100%	0,1
SE	Herring in trawls 32-69 mm mm with sorting grid in area IIIa	bycatch	43	0	2,1	1,0	2,1	99,2%	1,0
SE	Norway pout in trawls 32-69 mm mm with sorting grid in area IIIa	bycatch	43	0,4	25,1	25,1	25,5	98,4%	25,1
SE	Blue whiting in trawls 32-69 mm mm with sorting grid in area IIIa	bycatch	43	0,2	3,8	3,8	4,0	95,9%	3,8

*de minimis only applies to catches <MCRS

5.2.7 Request for a de minimis exemption for plaice by-catches in the Nephrops trawl fishery in combination with a technical measure (use of SepNep)

In the framework of the landing obligation in accordance with Article 15 of Regulation (EU) No 1380/2013, a de minimis exemption is requested for plaice below MCRS in the fishery for Nephrops *(Nephrops norvegicus)* conducted with bottom trawls with a mesh size of 80-99 mm (gearcode TR2) using the SepNep in Union waters of ICES area 4 for up to a maximum of 3% of the total annual catches of saithe, plaice, haddock, whiting, cod, Northern prawn, sole and *Nephrops.*

SepNep is a sorting device for Norway lobster *(Nephrops norvegicus)* fisheries. The concept is based on the separation of fish and Nephrops in two cod ends in a modified trawl that is mounted with a sieve panel. To provide an efficient Nephrops selectivity the SepNep trawl is supplemented with an innovative grid, mounted in the front part of the lower cod-end (the Nephrops cod-end).

The request for an exemption for a de minimis for plaice is based on Article 15(5)(c)(i) of Regulation (EU) no. 1380/2013 as the SepNep is highly selective and an further increase in selectivity is very difficult to achieve.

The scientific evidence underpinning the exemption can be found in Annex S

A de minimis exemption of 3% for plaice in 2019 would correspond to an amount of discards of plaice of 63t. This would amount to 0,04% of the total allowable catch in 2017.

5.2.8 De minimis exemption for by-catches in the brown shrimp fishery in the North Sea

For the brown shrimp fishery in ICES areas 4b and 4c a de minimis exemption of up to 7% in the first two years, 6% in the following two years and 5% thereafter of the total catch in this fishery for all species subject to catch limits is recommended on the basis of Article 15(5)(c) of Regulation (EU) no. 1380/2013. This recommendation is without prejudice to the legal view held by some Member States that the landing obligation according to Article 15(1) Regulation (EU) no. 1380/2013 is fisheries based and not species based.

The European brown shrimp fishery in the North Sea, mainly MSC certified, operates seasonally and deploys light and small meshed beam trawls (about 22 mm). The exclusive target species is brown shrimp (Crangon crangon), which is not TAC-regulated but is managed by an arrangement between fishermen from Denmark, Germany and the Netherlands. Until the end of 2018 catches of TAC-regulated species in the brown shrimp

fishery were not subject to the landing obligation[1]. From 2019 onwards a de minimis for by-catches of species subject to catch limits in this fishery should apply. This unwanted by-catch and all unwanted catches of unregulated species shall be released to the sea immediately after sieving procedures on board. Any further treatments of the unwanted catch including sorting, retaining, weighing may be omitted due to technical and economic constraints and with the aim to support post-release survival.

The request is based on Article 15(5)(c)(i) and (ii) of Regulation (EU) no. 1380/2013, i.e. a) scientific evidence that increases in selectivity are very difficult to achieve and (b) the avoidance of disproportionate costs of handling unwanted costs.

a. Major increases in selectivity are very difficult to achieve before the full application of the landing obligation because the exclusive target species brown shrimp is small growing as it rarely exceeds a body size of 80 mm. However, the fishery has recently undergone technical changes and is subject to ongoing experiments with the aim to further improve species and size selectivity.
b. The handling of the unwanted catch is also economically disproportionate, as it would require additional personal present on board of at least one crew member to sort out generally small amounts of very small undersized individuals of species subject to catch limits. Such sorting tasks would require difficult and time consuming manual operations as specific technical devices cannot be installed on the boats being shorter than 24 m, thereby substantially hampering ongoing fishing operations. The brown shrimp fishery suffers from the high natural and short-term variation in the exploited stock size and its demography and hence is considered vulnerable to further investments.

As any catches from TAC-regulated stocks have so far been discarded by almost 100%, estimated catch figures of TAC-regulated stocks are uncertain and appear unsuitable as a de minimis reference volume. As the brown shrimp fishery has not landed any significant catches of TAC-regulated stocks and hence, has never targeted and shared economic benefits of by-catches of stocks subject to the landing obligation, the requested de minimis exemption for unwanted by-catches of TAC-regulated stocks should be referenced against the total catch of the fishery excluding gravel and algae. Scientific monitoring has indicated that unwanted by-catches of TAC-regulated stocks were in the order of 7% of the catches of the brown shrimp fishery on average during 2006-17. However, it can be assumed that species and size selectivity has recently improved due to technical changes (mesh size increases) which should have further reduced unwanted by-catches. Further improvements of selectivity are expected by the proposed reduction of the scope of de minimis exemption from 7% to 5% over the next four years. The size of the fishes of TAC-regulated stocks is small and below the Minimum Conservation Reference Sizes. The scientific background is provided in Annex T.

[1] Article 3 of Regulation (EU) no. 2018/45

As part of the monitoring of unwanted by-catches of TAC-regulated stocks, starting in 2019, the brown shrimp fishery will be subject to a self-sampling programme with the aim to monitor seasonal and geographical variations in unwanted by-catch of stocks falling under the landing obligation. Sampling effort will be determined by about a randomly selected individual haul per vessel and month. It is expected that such sampling effort may lead to a number of around 3,000-4,000 observations per year. In addition to the information about vessel, date, time and position of the haul's setting, the catch composition will be monitored and quantified through assessing the following catch components in units of volumes (weight) with the precision of a kilogram: total catch weight without gravel and algae, brown shrimp landed and discarded, bycatch of sandeel, herring, cod, whiting, lemon sole, plaice, turbot and brill, common sole, sprat and horse mackerel. The implementation and performance of such a self-sampling programme will be designed until autumn 2018. The results of the program will be evaluated against the scientific observations conducted within the data collection framework DCF.

Notwithstanding the provision of immediate release of unwanted catches, for scientific monitoring and analyses the entire catch and its species and size composition may be retained on board.

5.2.9 De minimis request for pelagic species under landing obligation for demersal vessels using bottom trawls (OTB, OTT, PTB, TBB) of mesh size 70-99mm (TR2, BT 2) in the North Sea (ICES area 4).

The Scheveningen Group recommends a de minimis exemption for by-catches of pelagic species, up to a maximum of 7% for 2019-2020, 6% for 2021-2022, 5% for 2023 and beyond of the total annual catches of pelagic species caught in demersal fisheries that would fall under landing obligation, for the trawler mixed fishery using bottom trawls (OTB, OTT, PTB, TBB) with a mesh size of 70-99 mm in ICES area 4.

The request for an exemption for de minimis is based on Article 15(5)(c)(i) and ii), due to difficulties to improve selectivity in a short term period. Also, the landing application enforcement would increase the workable time on board and generate hold overloading issues. This would imply to come back often to home harbours, generating high costs for the vessel.
Based on STECF data for all European vessels a de minimis exemption of 7% of pelagic species would correspond to total quantities of 255.4t of discarded pelagic finfishes for the entire North Sea on a 2013-2016 basis.

The scientific evidence underpinning the exemption can be found in Annex U.

5.2.10 De minimis request for ling (*Molva molva*) for vessels using bottom trawls (OTB, OTT and PTB) >100mm in the North Sea (ICES area 4).

The Scheveningen Group recommends a de minimis exemption for ling catches (*Molva molva*) below minimum conservation reference (MCRS) size up to a maximum of 3% of the total annual catches of ling caught in demersal fisheries that would fall under landing obligation, using bottom trawls (OTB, OTT, PTB) with a mesh size over 100 mm in ICES area 4.

The request for an exemption for de minimis is based on Article 15(5)(c)(i) and (ii) of Regulation (EU) no. 1380/2013, due to difficulties to improve selectivity in a short term period and the fleet vulnerability to the risk of commercial catch loss an improvement in selectivity would cause.

Based on STECF data for all European vessels a de minimis exemption of 3% for ling below MCRS would correspond to total quantities of 106t of discarded ling for TR1 bottom trawls in the entire North Sea.

The scientific evidence underpinning the exemption can be found in Annex V.

5.2.11 De minimis request for bycatch of industrial species for demersal vessels using TR 1, TR2 or BT 2 in ICES areas 3a and 4.

On the basis of the rationale provided in annex W the Scheveningen group recommends by way of derogation from Article 15(1) of Regulation (EU) No 1380/2013 a de minimis exemption for bycatch of industrial species (sprat, sandeel, norway pout and blue whiting) in the demersal fishery, up to a maximum of 1 % of total catches. In 2017 discards by Danish vessels using OTB of these species amounted to 323 tons. These species are abundant and occur in large schools. Thus, it's inevitable that they are sometimes caught even in gears with large meshes. This happens in particular if they are 'trapped' amongst the targeted species and never get in contact with the netting of the gear. The impracticalities on board of handling both industrial catches and catches for human consumption, the separate stowage , additional economical costs and different procedures when landing, seen in the light of the almost insignificant impact on the stocks that catches of these species in the demersal fisheries amount to, calls for a de minimis exemption.

5.2.12 Whiting caught by beam trawls 80-119 mm in the North Sea ICES area 4

The Scheveningen Group recommends for 2019 and onwards a de minimis exemption for whiting (*Merlangius merlangus*) below minimum conservation reference size (MCRS) up to a maximum of 2% of the total annual catches of plaice and sole that would fall under

landing obligation, for the demersal mixed fishery using beam trawls with a mesh size of 80-119 mm (BT2) in ICES area 4.

The request for an exemption for de minimis is based on Article 15(5)(c)(i) and ii) of Regulation (EU) no. 1380/2013, due to difficulties to improve selectivity in a short term period and disproportionate costs caused by the handling of unwanted catches. Also, vessels are operating long fishing trips (4-5 days on average) at considerable distance from home harbours. This would imply to come back often to home harbours, generating high costs for the vessel.

Based on provided data by the Netherlands a de minimis exemption of 2% of whiting would correspond to total quantities of 1234 t of discarded whiting for the entire North Sea.

The scientific evidence underpinning this exemption can be found in annex X

6. Documentation of catches

In accordance Article 15(5)(d) of Regulation (EU) no. 1380/2013, provisions on the documentation of catches can be included in the Delegated Act.

Catches of species subject to catch limits shall be recorded with the correct scientific species name and/or with the appropriate codes in order to quantify the exact catches, in accordance with the Control Regulation (EC) no. 1224/2009. Documentation should be sufficiently rigorous to enable robust scientific assessments to be undertaken and to allow the application of control methods.

All discards under de minimis exemptions shall be recorded in accordance with the Regulation (EU) No 1224/2009 and Article 15(5)(c)(ii) of Regulation (EU) no. 1380/2013 with appropriate codes denoting species discarded. The utilisation of the de minimis exemption shall be monitored by the competent authorities.

When a fishing vessel encounters fish which are damaged, diseased or contaminated and must be discarded as they are hazardous to human health the following provisions should apply:

The vessel concerned shall:

a. Immediately notify its control authorities of the haul;

b. Record the volumes discarded in the logbook as referred to Articles 14 and 15 of Regulation (EC) no. 1224/2009

The Scheveningen Group may wish to take account of any advice issued by relevant experts groups relating to the documentation of catches in due course including on the matter of fully documenting discards under de minimis exemptions.

7. Minimum Conservation Reference Sizes (MCRS)

In the North Sea and Skagerrak/Kattegat the MCRS are given in Annex XII of Council Regulation (EC) No. 850/98.

If compatible with EU law the Scheveningen group recommends that the MCRS for Nephrops in ICES area 3a should be 105 mm full length (32 mm carapace length and 59 mm tail length) taking into account available information on length at maturity, survivability and discard rates in the fishery, as well as incentives to further increase selectivity. This MCRS is included in the current discard plan in Article 8.

8, Technical rules

According to Article 15(5)(a) of the Basic Regulation technical specific provisions regarding fisheries or species covered by the landing obligation, such as the technical measures aimed at increasing gear selectivity or reducing or/and, as far as possible, eliminating unwanted catches can be included in the discard plan.

The NSAC did not propose any specific technical measures that are linked to implementation of the landing obligation.

8.1.SepNep

Annex VIII of Regulation (EC) 850/98 stipulates that a combination of mesh size ranges can be used in Areas 1 and 2 except Skagerrak and Kattegat.
However, there is a general awareness that the technical measures in place are complicated and can lead to differences in interpretation of the legislation in force by inspection officers. Furthermore the provisions in Commission Regulation (EC) no. 3440/1984 whether it is allowed to have a separation panel or whether specific mesh requirements would apply, can be prone to differences in interpretation.

In order to provide legal certainty for the users of the SepNep, that is described in Annex S of this joint recommendation and for which a de minimis exemption is requested in paragraph 5.2.7. of this JR, the Scheveningen Group recommends to include in the delegated act a provision clarifying that the use of this net is in compliance with the regulation in force. Such a provision is already contained in Article 10 of the current discard plan.

8.2. Measures for Skagerrak

The Scheveningen group recommends that the measures referred to in Annex Y be included in the discard plan. The measures proposed shall apply to Skagerrak only, e.g. ICES area 3aN.

These measures were agreed between EU and Norway (in 2011[2], and repeated in 2012[3]) in order to increase gear selectivity and reduce unwanted catches, and thus support the implementation of a discard ban in Skagerrak that had been agreed between the parties. The technical measures agreed were included in a proposal[4] for a regulation of the European Parliament and of the Council with the purpose to implement a landing obligation in Skagerrak as of 1 January 2013.

However, decision for an EU-regulation implementing a discard ban in Skagerrak in advance of the revised CFP could not be reached. As a transitional arrangement, in order to increase selectivity and harmonise to Norwegian legislation, the technical measures have been introduced within Danish and Swedish national legislation since 2013[5].

The technical rules were evaluated by STECF in 2015 and are included in the current delegated act, Article 9.

9. Adaptation of the Joint Recommendation

Taking into account that the full application of landing obligation constitutes a wholly new regime in the management of fisheries in Europe, and that joint recommendations for specific discard plans are a management tool to address challenges that this policy implies, in particular with respect to choke species situations in mixed fisheries, this JR shall remain open to revision and adaptation throughout its duration. It is considered to be the joint responsibility of the Commission and Member States to maintain oversight of the implementation of the provisions of the discard plan following this JR and to call into question any element which may be in need of revision and adaptation at any time.

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2 Agreed record of conclusions of fisheries consultations between Norway and the European Union on the regulation of fisheries in Skagerrak and Kattegat for 2012.

3 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.

4 13264/12 PECHE 315 CODEC 2029 - COM(2012) 471 final; Proposal for a Regulation of the European Parliament and of the Council on certain technical and control measures in the Skagerrak and amending Regulation (EC) No 850/98 and Regulation (EC) No 1342/2008.

5 Swedish national legislation: HVMFS 2004:36.
Danish national legislation: Order No. 278 of 24 April 2015 on regulation of fishing activities