

## **Joint Recommendation of the South Western Waters High-Level Group**

### **Revision of Discard Plan for Demersal Fisheries in the South Western Waters for 2019**

Following Article 18 of the Basic Regulation, the Fisheries Directors of the South Western Waters Member States cooperating in the Regional Group established a High Level Group (HLG) in 2014 and agreed on a Memorandum of Understanding setting out the principles and working methods of the Group. Several joint recommendations were developed for discard plans covering pelagic and demersal fisheries since 2014. Members of the Group are Belgium, France, the Netherlands, Portugal and Spain. Spain chairs the Group from 1<sup>st</sup> January 2018 to 31<sup>st</sup> December 2018.

Since 2014, there has been regular cooperation between the South Western Waters (SWW) Member States and the SWW Advisory Council aiming at the development of the joint recommendation, in light of Article 18(2) of the Basic Regulation.

The discard plan for demersal fisheries was implemented as laid down in article 15(1) of Regulation (EU) N<sup>o</sup> 1380/2013, by Commission Delegated Regulation (EU) 2015/2439 of 12 October 2015 establishing a discard plan for certain demersal fisheries in south-western waters. This regulation was amended by the Commission Delegated Regulation (EU) 2016/2374 of 12 October 2016 establishing a discard plan for certain demersal fisheries in South-Western waters, that was amended by the Commission Delegated Regulation (EU) 2017/2167 of 5 July 2017 amending Delegated Regulation (EU) 2016/2374 establishing a discard plan for certain demersal fisheries in South-Western waters; and the 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 present joint recommendation aims to replace the one which was submitted in 2017 to the Commission Delegated Regulation (EU) 2016/2374 for the coming year 2019.

#### **1. Objectives of the discard plan**

- a. Article 18 of Regulation (EU) No 1380/2013 provides that Member States submit, to the European Commission, joint recommendations on regional conservation measures specific to their fisheries for adoption by means of delegated or implementing acts.
- b. The scope of these recommendations is provided for in Article 18 of Regulation (EU) No 1380/2013 by way of reference to Article 15(6) thereof, which outlines the process for adoption of a specific discard plan by the European Commission for a period of no more than three years, to contain any of the specifications referred to in points (a) to (e) of Article 15(5).
- c. Under Article 15(6) of Regulation (EU) No 1380/2013, Member States may cooperate, in accordance with Article 18 thereof, in the drawing up of a specific discard plan with a view to the Commission adopting such a plan by means of delegated or implementing acts or via the Ordinary Legislative Procedure.

- d. The adoption of such specific discard plans is considered important to the successful implementation of the landings obligation as specified in the new Common Fisheries Policy.
- e. As such, this discard plan will establish provisions for any of the specifications referred to in points (a) to (e) of Article 15(5) of Regulation (EU) No 1380/2013, including specific descriptions of any exemptions. In association with this discard plan, complementary changes in technical conservation and control measures may be reflected in revisions of the Technical Conservation Regulation and the Control Regulation. To that extent, discard plans will introduce technical measures which are strictly linked to the implementation of the landing obligation and aiming to increase selectivity to reduce unwanted catches as far as possible.
- f. It is desirable that any technical, control or compliance measures adopted for the demersal fisheries in the South Western Waters be efficient, proportional, and enforceable across all vessels operating under the discard plan.
- g. Member States consider that increased selectivity, wherever possible, is the most desirable way to ensure compliance with the landing obligation.
- h. Member States are furthermore committed to implement measures, where possible, which improve current selectivity practices, particularly when exemptions apply.
- i. South Western Waters Member States wish to achieve consistency between all specific discard plan recommendations being drafted by regional groups in EU waters.

## **2. Definitions**

For the purposes of this discard plan the definitions used shall be those specified in Article 4 of Regulation (EU) No 1380/2013.

## **3. Duration**

- a. As per Article 15.6 of Regulation (EU) No 1380/2013, this specific discard plan shall have a duration of no more than three years.
- d. It is the joint responsibility of the Commission and Member States to maintain oversight of the implementation of the provisions of this discard plan and to consider elements that may need revision and adaptation at any time.
- e. In particular, this discard plan shall remain open to the later inclusion of exemptions under high survivability and *de minimis*, and to the inclusion of specific provisions for MCRS to be specified at any time.

#### 4. Scope and fisheries covered

- a. In accordance with Article 15(1)(c) of Regulation (EU)No1380/2013, the Member States of the North Western Waters Group are committed to the full introduction of the landing obligation for demersal and deep-sea fisheries in the North Western Waters from 1 January 2019.
- b. The obligation to land all catches as specified in part (a) of this paragraph shall not apply in cases when a specific exemption applies, as detailed in paragraph 6 of this discard plan, according to Article 15.4(a) to (d) of Regulation (EU) No 1380/2013.
- c. The Group is committed to continue working with the Advisory Council and the European Commission to examine and apply solutions to “choke” issues prior to the 1<sup>st</sup> of January 2019.

#### 5. High survivability, *de minimis* and Predator damaged fish Exemptions

Situations where landing obligation shall not apply are specified in Article 15.4 (b), (c) and (d) of Regulation (EU) No 1380/2013. This refers to species for which scientific evidence demonstrates high survival rates, and catches falling under the *de minimis* exemption, as outlined in Article 15.5(c) of Regulation (EU) No 1380/2013.

##### High survival exemption

- a. Regarding high survival, as provided in Article 15.4(b) of Regulation (EU) N° 1380/2013, species caught by certain gears and taking into account fishing practices and the ecosystem, may be exempted from the landing obligation based on scientific evidence of high survival. Cases for possible exemptions due to high survivability were discussed and agreed. The South Western Waters Group proposes the following exemptions for reason of high survivability:
  - Nephrops (*Nephrops norvegicus*) caught with trawls (gear codes: OTB, OTT, PTB, TBN, TBS, TB, TBB, OT, PT, TX) in ICES subareas VIII and IX.
  - Skates and rays (*Rajiformes*) caught with all gears in ICES subareas VIII and IX.
  - Red seabream (*Pagellus bogaraveo*) caught with artisanal gear called “voracera” used in the south of Spain in ICES subareas IXa.
  - Red seabream (*Pagellus bogaraveo*) caught in ICES subareas X with hooks and lines.

### De minimis exemptions

- a. Regarding *de minimis*, Article 15.4(c) and further in 15.5(c) of Regulation (EU) No 1380/2013 provides for *de minimis* exemptions of up to 7% in 2016-2017, up to 6% in 2018-2019 and up to 5% of total annual catches of all species subject to the landing obligation in 2020. The *de minimis* shall apply:
  - i. Where scientific evidence indicates that selectivity increases is very difficult to achieve; or
  - ii. To avoid disproportionate costs of handling unwanted catches for those fishing gears where unwanted catches per fishing gear do not represent more than a certain percentage, to be established in a plan, of total annual catch of that gear.
  - iii. For a transitional period of four years, the percentage of the total annual catches specified shall increase: by two percentage points in the first year of application of the demersal landing obligation; and by one percentage point in the subsequent two years.
- b. Although discarded catches under *de minimis* will not be counted against quotas, any amount of catch discarded under application of *de minimis* shall be fully recorded.
- c. Where there is a case for *de minimis* exemptions these should be recommended by Member States in this specific discard plan on a case-by-case basis. These exemptions shall be implemented at Member State level and it shall be for Member States to decide how to allocate this exemption.
- d. The Member States recommend that a *de minimis* exemption should apply in the following cases:
  - i. For common sole (*Solea solea*), up to a maximum of 5 % of the total annual catches made by beam trawl (gear code : TBB) and bottom trawls (gear codes: OTB, OTT, PTB, TBN, TBS, TBB, OT, PT and TX) in directed fishery in ICES subareas VIIIab;
  - ii. For common sole (*Solea solea*), up to a maximum of 3 % of the total annual catches made by trammel nets and gillnets (gear codes: GNS,GN, GND,GNC, GTN,GTR and GEN) in directed fishery in ICES subareas VIIIab;
  - iii. For hake (*Merluccius merluccius*), up to a maximum of 6 % in 2019 and up to 5 % in 2020 and 2021 of the total annual catches made by trawlers (gear codes : OTT, OTB, PTB, OT, PT, TBN, TBS, TX, SSC, SPR, TB, SDN, SX, SV) in directed fishery in ICES divisions VIII and IX.

- iv. For by-catches of the following pelagic species: horse mackerel (*Trachurus spp.*), mackerel (*Scomber scombrus*), anchovy (*Engraulis encrasicolus*) and boarfish (*Caproidae*), a combined *de minimis* for the species up to a maximum of 7% in 2019 and 2020, and up to a 6% in 2021 of the total annual catches of these species made by trawlers (gear codes : OTT, OTB, PTB, OT, PT, TBN, TBS, TX, SSC, SPR, TB,TBB, SDN, SX, SV) in fisheries in ICES divisions VIII and IX.
- v. For by-catches of anglerfish (*Lophiidae*), sole (*Solea spp.*), turbot (*Psetta maxima*), red seabream (*Pagellus bogaraveo*), great forkbeard (*Phycis blennoides*), a combined *de minimis* up to a maximum of 7% in 2019 and 2020, and up to a 6% in 2021 of the total annual catches of these species made by trawlers (gear codes : OTT, OTB, PTB, OT, PT, TBN, TBS, TX, SSC, SPR, TB, SDN, SX, SV) in the Gulf of Cadiz part of ICES subarea IXa.
- vi. For by-catches of the species megrim (*Lepidorhombus spp.*), anglerfish (*Lophiidae*), plaice (*Pleuronectes platessa*), whiting (*Merlangius merlangus*) and pollack (*Pollachius pollachius*), a combined *de minimis* up to a maximum of 5% of the total annual catches of these species made by trawlers (gear codes: OTT, OTB, PTB, OT, PT, TBN, TBS, TX, SSC, SPR, TB,TBB, SDN, SX, SV) in divisions VIII and IX.
- vii. For by-catches of the species megrim (*Lepidorhombus spp.*), anglerfish (*Lophiidae*), plaice (*Pleuronectes platessa*), whiting (*Merlangius merlangus*) and pollack (*Pollachius pollachius*), a combined *de minimis* up to a maximum of 4% of the total annual catches of these species made by gillnetters (gear codes: GNS, GND, GNC, GTR, GTN) in divisions VIII and IX.
- viii. For by-catches of the following pelagic species: horse mackerel (*Trachurus spp.*), mackerel (*Scomber scombrus*), anchovy (*Engraulis encrasicolus*) and boarfish (*Caproidae*), a combined *de minimis* for the species up to a maximum of 3% in 2019 ,2020 and 2021, of the total annual catches of these species made by gillnetters (gear codes: GNS, GND, GNC, GTR, GTN) in fisheries in ICES divisions VIII and IX, X and CECAF areas 34.1.1, 34.1.2, 34.2.0.
- ix. For by-catches of the following pelagic species: horse mackerel (*Trachurus spp.*), mackerel (*Scomber scombrus*), anchovy (*Engraulis encrasicolus*) and boarfish (*Caproidae*), a combined *de minimis* for the species up to a maximum of 1% in 2019 ,2020 and 2021, of the total annual catches of these species made by for longliners (codes: LHP, LHM, LLS, LLD) in fisheries in ICES divisions VIII and IX, X and CECAF areas 34.1.1, 34.1.2, 34.2.0.
- x. For by-catches of all species regulated with TAC and cuota, a combined *de minimis* up to a maximum of 1% in 2019, 2020 and 2021 of the total annual catches made by the artisanal fleet in ICES divisions VIII, IX, X and CECAF areas 34.1.1, 34.1.2, 34.2.0.

- xi. For by-catches of alfonosinos (*Beryx spp.*) a *de minimis* up to a maximum of 5% in 2019, 2020 and 2021 of catches of this species made by hooks and lines (codes: LHP, LHM, LLS, LLD) in division X.
- xii. For by-catches catches of great forkbeard (*Phycis blennoides*) a *de minimis* up to a maximum of 3% in 2019, 2020 and 2021 for catches of this species made by hooks and lines (codes: LHP, LHM, LLS, LLD) in division X.

#### Predator damaged fish

- a. Fish which has been damaged by predators, parasites and isopods can constitute a risk to humans, pets and other fish by virtue of pathogens and bacteria which might be transmitted by such animals. Consequently, as set out in Article 15.4(d) the landing obligation should not apply to such catches and the fish should be immediately disposed of at sea.
- b. 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) n° 853/2004 of the European Parliament and of the Council as well as in Commission Regulation (EC) n° 1881/2006 catches of contaminated fish shall not be kept on board a vessel. This fish has to be disposed directly into the sea.

#### **6. Technical measures to increase gear selectivity or establishment of MCRS.**

Specific provisions regarding fisheries or species covered by the landing obligation such as the technical measures aimed at increasing gear selectivity or reducing or, as far as possible, eliminating unwanted catches can be included in the discard plan.

Technical measures may include, inter alia, the following:

- (a) characteristics of fishing gears and rules concerning their use;
- (b) specifications on the construction of fishing gear, including:
  - (i) modifications or additional devices to improve selectivity or to minimise the negative impact on the ecosystem;
  - (ii) modifications or additional devices to reduce the incidental capture of endangered, threatened and protected species, as well as to reduce other unwanted catches;
- (c) limitations or prohibitions on the use of certain fishing gears, and on fishing activities, in certain areas or periods;

(d) requirements for fishing vessels to cease operating in a defined area for a defined minimum period in order to protect temporary aggregations of endangered species, spawning fish, fish below minimum conservation reference size, and other vulnerable marine resources;

(e) specific measures to minimise the negative impact of fishing activities on marine biodiversity and marine ecosystems, including measures to avoid and reduce, as far as possible, unwanted catches.

Where appropriate, the fixing of minimum conservation reference sizes may also be established in the discard plan with the aim of ensuring the protection of juveniles of marine organisms by derogation of Regulation (UE) N° 850/98 annex where this MCRS is listed or by derogation of a new technical measures regulation replacing it, if published.

## **7. Monitoring compliance**

Member States shall notify officially to the other Member States of the South Western Waters Group, where appropriate, the list of vessels under landing obligation, so as to ensure the control in the area.

## 8. ANNEXES

- ✓ *ANNEX I. Report to support the request of high survival exemption for skates and rays (Rajiformes) caught with all gears in ICES subareas VIII and IX.*
- ✓ *ANNEX II. Report to support the request of high survival exemption for Red (black spotted) seabream (Pagellus bogaraveo) caught with artisanal gear called “voracera” used in the south of Spain in ICES subareas IXa.*
- ✓ *ANNEX III Report to support the request of high survival exemption for Red (black spotted) seabream (Pagellus bogaraveo) caught in ICES subareas X with hooks and lines.*
- ✓ *ANNEX IV Report to support the request for by-catches of the following pelagic species: horse mackerel (Trachurus spp.), mackerel (Scomber scombrus), anchovy (Engraulis encrasicolus) and boarfish (Caproidae), a combined de minimis for the species up to a maximum of 7% in 2019 and 2020, and up to a 6% in 2021 of the total annual catches of these species made by trawlers (gear codes : OTT, OTB, PTB, OT, PT, TBN, TBS, TX, SSC, SPR, TB,TBB, SDN, SX, SV) in fisheries in ICES divisions VIII and IX.*
- ✓ *ANNEX V Report to support the request for by-catches of anglerfish (Lophiidae), sole (Solea spp.), turbot (Psetta maxima), red seabream (Pagellus bogaraveo), great forkbeard (Phycis blennoides), a combined de minimis up to a maximum of 7% in 2019 and 2020, and up to a 6% in 2021 of the total annual catches of these species made by trawlers (gear codes : OTT, OTB, PTB, OT, PT, TBN, TBS, TX, SSC, SPR, TB, SDN, SX, SV) in the Gulf of Cadiz part of ICES subarea IXa.*
- ✓ *ANNEX VI Report to support the request for by-catches of the species megrim (Lepidorhombus spp.), anglerfish (Lophiidae), plaice (Pleuronectes platessa), whiting (Merlangius merlangus) and pollack (Pollachius pollachius), a combined de minimis up to a maximum of 5% of the total annual catches of these species made by trawlers (gear codes: OTT, OTB, PTB, OT, PT, TBN, TBS, TX, SSC, SPR, TB,TBB, SDN, SX, SV) in divisions VIII and IX.*
- ✓ *ANNEX VII Report to support the request for by-catches of the species megrim (Lepidorhombus spp.), anglerfish (Lophiidae), plaice (Pleuronectes platessa), whiting (Merlangius merlangus) and pollack (Pollachius pollachius), a combined de minimis up to a maximum of 4% of the total annual catches of these species made by gillnetters (gear codes: GNS, GND, GNC, GTR, GTN) in divisions VIII and IX.*
- ✓ *ANNEX VIII Report to support the request for by-catches of the following pelagic species: horse mackerel (Trachurus spp.), mackerel (Scomber scombrus), anchovy (Engraulis encrasicolus) and boarfish (Caproidae), a combined de minimis for the species up to a maximum of 3% in 2019 ,2020 and 2021, of the total annual catches of these species made by gillnetters (gear codes: GNS, GND, GNC, GTR, GTN) in fisheries in ICES divisions VIII and IX, X and CECAF areas 34.1.1, 34.1.2, 34.2.0.*



- ✓ *ANNEX IX Report to support the request for by-catches of the following pelagic species: horse mackerel (Trachurus spp.), mackerel (Scomber scombrus), anchovy (Engraulis encrasicolus) and boarfish (Caproidae), a combined de minimis for the species up to a maximum of 1% in 2019, 2020 and 2021, of the total annual catches of these species made by for longliners (codes: LHP, LHM, LLS, LLD) in fisheries in ICES divisions VIII and IX, X and CECAF areas 34.1.1, 34.1.2, 34.2.0.*
- ✓ *ANNEX X Report to support the request for by-catches of all species regulated with TAC and cuota, a combined de minimis up to a maximum of 1% in 2019, 2020 and 2021 of the total annual catches made by the artisanal fleet in ICES divisions VIII, IX, X and CECAF areas 34.1.1, 34.1.2, 34.2.0.*
- ✓ *ANNEX XI Report to support the request for by-catches of alfonsinos (Beryx spp.) a de minimis up to a maximum of 5% in 2019, 2020 and 2021 of catches of this species made by hooks and lines (codes: LHP, LHM, LLS, LLD) in division X.*
- ✓ *ANNEX XII Report to support the request for by-catches catches of great forkbeard (Phycis blennoides) a de minimis up to a maximum of 3% in 2019, 2020 and 2021 for catches of this species made by hooks and lines (codes: LHP, LHM, LLS, LLD) in division X.*