

Joint Recommendation of the South Western Waters High-Level Group
Revision of Discard Plan for Demersal Fisheries
in the South Western Waters for 2020-2021

31 May 2019

(rev09082019)

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. chairs the Group from 1st January 2019 to 31st December 2019.

Since 2014, there has been regular cooperation between the South Western Waters (SWW) Member States and the SWW Advisory Council and Pelagic 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 in South-Western Waters was implemented as laid down in article 15(1) of Regulation (EU) N° 1380/2013, by Commission Delegated Regulation (EU) 2018/2033, of 18 October, for the period 2019-2021.

However, under Article 18 of the Regulation (EU) No 1380/2013, the Commission accepted some exemptions on a temporary basis, on the assumption that not to do so, would prevent necessary data collection indispensable for the proper and informed management of discards in view of full entry into force of the landing obligation.

The present joint recommendation aims to amend the one which was submitted in 2018 to the Commission Delegated Regulation (EU) 2018/2033 for the coming years 2020-2021 on the basis of additional scientific information.

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.

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 13 of Regulation (EU) No 2019/472, Member States may cooperate, in accordance with Article 18 of Regulation (EU) No 1380/2013, in the drawing up of a specific discard plan with a view to the Commission adopting such a plan by means of delegated acts.
- 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, and the definition for “Voracera” published under article 2 of Commission Delegated Regulation (EU) 2018/2033.

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.
- b. 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.
- c. 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) No 1380/2013, the Member States of the South Western Waters Group are committed to the full introduction of the landing obligation for demersal and deep-sea fisheries in the South 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 also committed to continue working with the Advisory Councils and the European Commission to examine and apply solutions to potential “choke” issues that still may occur in the near future.

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

Situations where the 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, catches falling under the *de minimis* exemption, and predator damaged fish, as outlined in Articles 15.4 (d) and 15.5 (c) of Regulation (EU) No 1380/2013. Further studies regarding high survivability and *de minimis* (ANNEX B3 and B4) and further studies on selectivity improvement (ANNEX E1) and on disproportionate costs (ANNEX E4) are ongoing.

High survival exemption

- a. Regarding high survival, as provided in Article 15.4(b) of Regulation (EU) No 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 request to maintain the following exemptions for reason of high survivability, considering that full evidence has previously been made available and positively assessed, as published under Delegated Regulation (EU) 2018/2033, articles 3 and 5:

- **Nephrops (*Nephrops norvegicus*)** caught with trawls (gear codes: OTB, OTT, PTB, TBN, TBS, TB, TBB, OT, PT, TX) in ICES subareas 8 and 9.
 - **Red seabream (*Pagellus bogaraveo*)** caught with artisanal gear called “voracera” used in the south of Spain in ICES division 9a.
 - **Red seabream (*Pagellus bogaraveo*)** caught in ICES subarea 10 with hooks and lines.
- b. The following exemptions were partially documented and have been published under article 4 of Delegated Regulation (EU) 2018/2033 but new evidence has been requested:
- **Skates and rays (*Rajiformes*)** caught with all gears in ICES subareas 8 and 9 for years 2020 and 2021. On the basis of scientific evidence and rationale provided, the South Western Waters 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 species subject to catch limits caught by any fishing gear in the South Western Waters, under the following conditions:
 - Additional information has been made available as requested by the Delegated Act (gathered under ANNEX A) regarding all species other than Cuckoo Ray;
 - In respect of Cuckoo Ray, details the expected timeline for the studies being conducted by France (vitality results expected by the end of July and survivability in the next two years (ANNEX B1), Spain (vitality and survivability results expected in June) (ANNEX B2) and Portugal (vitality results already available and survivability experiments planned for 2020). Therefore, an exemption is requested for two years for vessels using trammel nets in ICES subareas 8, 9 and for one year for vessels using trawls in ICES subarea 8, until the completion of the studies on vitality and survivability.
 - MS and AC are working on Best Practice Guidelines to be distributed among fishers in order to ensure compliance with the known conditions for the best survivability results; some guidelines have been made available by Spain (ANNEX B2; SWW AC will also study the possibility of producing a SWW common version;
- c. Additional data have been gathered in respect of the following Red Seabream request, which the group considers justifies a new exemption for areas 8 and 9a. This may be considered as an area extension of the exemption for the same species and gear

already granted in subarea 10. Annual reporting on progress in survival studies will be provided by 1 May 2020.

- **Red seabream (*Pagellus bogaraveo*)**, in 2020 and 2021, caught with hooks and lines in ICES subarea 8 and division 9a (ANNEX C and D).

De minimis exemptions

- a. Regarding *de minimis*, Article 15.4(c) and further in 15.5(c) of Regulation (EU) n° 1380/2013 provides for *de minimis* exemptions:
 - 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, of total annual catch of that gear, to be established in a plan.
 - 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 South Western Waters Group request to maintain the following *de minimis* exemptions, considering that full evidence has previously been made available and positively assessed, as published under article 6 (b, c and d) of Delegated Regulation (EU) 2018/2033:
 - 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 8ab;
 - 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 8ab;

- For alfonosinos (*Beryx spp.*) a *de minimis* up to a maximum of 5% of catches of this species made by hooks and lines (codes: LHP, LHM, LLS, LLD) in subarea 10;
- e. The South Western Waters Group point out that the *de minimis* for Great forkbeard is no longer required because the Landing Obligation no longer applies to this species.
- f. The South Western Waters Group request that, based on additional scientific evidence, the *de minimis* for the following stocks is maintained:
 - i. For hake (*Merluccius merluccius*), up to a maximum of 5 % in 2020 and 2021 of the total annual catches made by vessels using trawls and seines (gear codes : OTT, OTB, PTB, OT, PT, TBN, TBS, TX, SSC, SPR, TB, SDN, SX, SV) in directed fisheries in ICES subareas 8 and 9 (ANNEX E2 and ANNEX E3). Reporting on progress in the scientific work undertaken will be submitted by 1 May 2020;
 - ii. For horse mackerel (*Trachurus spp.*) up to a maximum of 7% in 2020, of the total annual catches of these species made by vessels using beam trawl, bottom trawls and seines (gear codes : OTB, OTT, PTB, TBN, TBS, TBB, OT, PT, TX, SSC, SPR, SDN, SX, SV) in fisheries in ICES subareas 8 and 9 (ANNEX F and ANNEX E2). Additional work will be undertaken and progress will be submitted by 1 May 2020 to support this exemption for 2021;
 - iii. For horse mackerel (*Trachurus spp.*) up to a maximum of 3%, in 2020, of the total annual catches of these species made by vessels using gillnets (gear codes: GNS, GND, GNC, GTR, GTN) in fisheries in ICES subareas 8, 9, 10 and CECAF areas 34.1.1, 34.1.2, 34.2.0 (ANNEX G and ANNEX E2). Additional information will be submitted by 1 May 2020 to support this exemption for 2021;
 - iv. For mackerel (*Scomber scombrus*) up to a maximum of 7% in 2020, of the total annual catches of these species made by beam trawl, bottom trawls and seines (gear codes : OTB, OTT, PTB, TBN, TBS, TBB, OT, PT, TX, SSC, SPR, SDN, SX, SV) in fisheries in ICES subareas 8 and 9 (ANNEX H and ANNEX E2). Additional work will be undertaken and progress will be submitted by 1 May 2020 to support this exemption for 2021;
 - v. For mackerel (*Scomber scombrus*) up to a maximum of 3%, in 2020, of the total annual catches of these species made by gillnets (gear codes: GNS, GND, GNC, GTR, GTN) in fisheries in ICES subareas 8, 9 and CECAF areas 34.1.1, 34.1.2, 34.2.0 (ANNEX I and ANNEX E2). Additional information will be submitted by 1 May 2020 to support this exemption for 2021 ;
 - vi. For megrim (*Lepidorhombus spp.*) up to a maximum of 5% of the total annual catches in 2020 of these species made by vessels using beam trawl, bottom trawls and seines (gear codes: OTB, OTT, PTB, TBN, TBS, TBB, OT, PT, TX, SSC, SPR, SDN, SX, SV) in ICES subareas 8 and 9 (ANNEX J and ANNEX

E2). Additional work will be undertaken and progress will be submitted by 1 May 2020 to support this exemption for 2021;

- vii. For megrim (*Lepidorhombus* spp.) up to a maximum of 4%, in 2020, of the total annual catches of these species made by gillnets (gear codes: GNS, GND, GNC, GTR, GTN) in ICES subareas 8 and 9 (ANNEX K and ANNEX E2). Additional work will be undertaken differentiated for different gillnet fisheries involved and progress will be submitted by 1 May 2020 to support this exemption for 2021;
- viii. For plaice (*Pleuronectes platessa*) up to a maximum of 5%, in 2020, of the total annual catches of these species made by vessels using beam trawl, bottom trawls and seines (gear codes: OTB, OTT, PTB, TBN, TBS, TBB, OT, PT, TX, SSC, SPR, SDN, SX, SV) in ICES subareas 8 and 9 (ANNEX L and ANNEX E2). Additional work will be undertaken and progress will be submitted by 1 May 2020 to support this exemption for 2021;
- ix. For plaice (*Pleuronectes platessa*) up to a maximum of 3%, in 2020, of the total annual catches of these species made by gillnets (gear codes: GNS, GND, GNC, GTR, GTN) in ICES subareas 8 and 9 (ANNEX M and ANNEX E2). Additional work will be undertaken differentiated for different gillnet fisheries involved and progress will be submitted by 1 May 2020 to support this exemption for 2021;
- x. For anglerfish (Lophiidae) up to a maximum of 5%, in 2020, of the total annual catches of these species made by vessels using beam trawl, bottom trawls and seines (gear codes: OTB, OTT, PTB, TBN, TBS, TBB, OT, PT, TX, SSC, SPR, SDN, SX, SV) in ICES subareas 8 and 9 (ANNEX N and ANNEX E2). Additional work will be undertaken and progress will be submitted by 1 May 2020 to support this exemption for 2021;
- xi. For anglerfish (Lophiidae) up to a maximum of 4%, in 2020, of the total annual catches of these species made by gillnets (gear codes: GNS, GND, GNC, GTR, GTN) in ICES subareas 8 and 9 (ANNEX O and ANNEX E2). Additional work will be undertaken differentiated for different gillnet fisheries involved and progress will be submitted by 1 May 2020 to support this exemption for 2021;
- xii. For whiting (*Merlangius merlangus*) up to a maximum of 5%, in 2020, of the total annual catches of these species made by vessels using beam trawl, bottom trawls and seines (gear codes: OTB, OTT, PTB, TBN, TBS, TBB, OT, PT, TX, SSC, SPR, SDN, SX, SV) in ICES subarea 8 (ANNEX P). Additional work will be undertaken and progress will be submitted by 1 May 2020 to support this exemption for 2021;
- xiii. For whiting (*Merlangius merlangus*) up to a maximum of 4%, in 2020, of the total annual catches of these species made by vessels using gillnets (gear

codes: GNS, GND, GNC, GTR, GTN) in ICES subarea 8 (ANNEX Q). Additional work will be undertaken differentiated for different gillnet fisheries involved and progress will be submitted by 1 May 2020 to support this exemption for 2021;

xiv. For pollack (*Pollachius pollachius*) up to a maximum of 5%, in 2020, of the total annual catches of these species made by vessels using beam trawl, bottom trawls and seines (gear codes: OTB, OTT, PTB, TBN, TBS, TBB, OT, PT, TX, SSC, SPR, SDN, SX, SV) in ICES subareas 8 and 9 (ANNEX R and ANNEX E2). Additional work will be undertaken and progress will be submitted by 1 May 2020 to support this exemption for 2021;

xv. For pollack (*Pollachius pollachius*) up to a maximum of 2% , in 2020, of the total annual catches of these species made by vessels using gillnets (gear codes: GNS, GND, GNC, GTR, GTN) in ICES subareas 8 and 9 (ANNEX S and ANNEX E2). Additional evidence differentiated for different gillnet fisheries involved will be provided to support this exemption for 2021;

g. Concerning the *de minimis* for anchovy (*Engraulis encrasicolus*), boarfish (*Caproidae*), redseabream (*Pagellus bogaraveo*) and sole (*Solea spp.*) for catches made by vessels using beam trawl, bottom trawls and seines) additional information will be provided before the end of October 2019 to support these exemptions for 2020.

Predator damaged fish / sanitary exemptions

- 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.

1. 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 minimize 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 minimize 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.

2. ANNEXES IN SUPPORT OF THE EXEMPTIONS IN THE JOINT RECOMMENDATION.

ANNEX A – Scientific evidences on discard survival of skates and rays (Rajidae) in Portuguese mainland waters (ICES division 27.9.a) (IPMA);

ANNEX B1-Le Projet “Surf”: Etude de la survie des rejets de Raies Fleuries (IFREMER);

ANNEX B2-“Scientific analysis of the vitality and survival of cuckoo ray in SWW” and “Best Practice Guidelines to be distributed among fishers in order to ensure compliance with the known conditions for the best survivability results”;

ANNEX B3- Summary of ongoing and planned studies in support of high survivability and *de minimis* exemptions;

ANNEX B4 - Informations sur les Taux de survie des rejets (IFREMER);

ANNEX C – “Characterization of the Spanish Fleet Catching Red Seabream in ICES Sub-Areas 8 and 9: Similarities with the Portuguese fleet and gears”;

ANNEX D - “Blackspot seabream (*Pagellus bogaraveo*) in Portugal mainland (ICES Division 27.9.a): fisheries characterization and survivability experiments” (IPMA);

ANNEX E1- Informations sur les améliorations de la selectivité des espèces/engins visés par les exemptions *de minimis* (IFREMER);

ANNEX E2- “Supporting evidence of *de minimis* exemptions to the landing obligation of the species captured in the Northeast Atlantic, Portuguese mainland” – hake, horse mackerel, mackerel, anchovy, boardfish, megrims, plaice, anglerfish, pollack, whiting, sole and red seabream (IPMA);

ANNEX E3 (and annexes a) and b))– “De minimis exemption consolidation request of 5% for hake (*merluccius merluccius*) for 2020, 2021 and 2022 in ICES areas VIII and IX.”

ANNEX E4 - Scientific analysis of the stage of the SWW fisheries affected by *de minimis* exemptions to highlight the disproportionate cost of landing undersize individuals - “Proposal and Roadmap for analysing the Economic viability of unwanted catches that are subject to landing obligations in Southwestern waters”;

ANNEX F – *De minimis* request caught by vessels using bottom trawls (gear codes : OTB, OTT, PTB, OT, TBN, TBS, TX, SSC, SPR, TB, TBB, SDN, SX, SV) to catch horse-mackerel in ICES subarea 8 and 9;

ANNEX G - *De minimis* request caught by vessels using gillnets (gear codes GNS, GND, GNC, GTR, GTN) to catch horse-mackerel in ICES subarea 8 and 9;

ANNEX H - *De minimis* request caught by vessels using bottom trawls (gear codes : OTB, OTT, PTB, OT, TBN, TBS, TX, SSC, SPR, TB, TBB, SDN, SX, SV) to catch mackerel in ICES subarea 8 and 9;

ANNEX I - *De minimis* request caught by vessels using gillnets (gear codes GNS, GND, GNC, GTR, GTN) to catch mackerel in ICES subarea 8 and 9;

ANNEX J- *De minimis* request caught by vessels using bottom trawls (gear codes : OTB, OTT, PTB, OT, TBN, TBS, TX, SSC, SPR, TB, TBB, SDN, SX, SV) to catch megrim in ICES subarea 8 and 9;

ANNEX K - *De minimis* request caught by vessels using gillnets (gear codes GNS, GND, GNC, GTR, GTN) to catch megrim in ICES subarea 8 and 9;

ANNEX L - *De minimis* request caught by vessels using bottom trawls (gear codes : OTB, OTT, PTB, OT, TBN, TBS, TX, SSC, SPR, TB, TBB, SDN, SX, SV) to catch plaice in ICES subarea 8 and 9;

ANNEX M - *De minimis* request caught by vessels using gillnets (gear codes GNS, GND, GNC, GTR, GTN) to catch plaice in ICES subarea 8 and 9;

ANNEX N - *De minimis* request caught by vessels using bottom trawls (gear codes : OTB, OTT, PTB, OT, TBN, TBS, TX, SSC, SPR, TB, TBB, SDN, SX, SV) to catch anglerfish in ICES subarea 8 and 9;

ANNEX O- *De minimis* request caught by vessels using gillnets (gear codes GNS, GND, GNC, GTR, GTN) to catch anglerfish in ICES subarea 8 and 9;

ANNEX P - *De minimis* request caught by vessels using bottom trawls (gear codes : OTB, OTT, PTB, OT, TBN, TBS, TX, SSC, SPR, TB, TBB, SDN, SX, SV) to catch whiting in ICES subarea 8;

ANNEX Q - *De minimis* request caught by vessels using gillnets (gear codes GNS, GND, GNC, GTR, GTN) to catch whiting in ICES subarea 8;

ANNEX R - *De minimis* request caught by vessels using bottom trawls (gear codes : OTB, OTT, PTB, OT, TBN, TBS, TX, SSC, SPR, TB, TBB, SDN, SX, SV) to catch pollack in ICES subarea 8 and 9;

ANNEX S - *De minimis* request caught by vessels using gillnets (gear codes GNS, GND, GNC, GTR, GTN) to catch pollack in ICES subarea 8 and 9.