

# Terms of Reference for STECF EWG 24-04: Evaluation of joint recommendations on the landing obligation, technical measures, and conservation measures necessary for compliance with obligations under Union environmental legislation

## Background

### *Joint Recommendations on the landing obligation (exemptions)*

After consulting the relevant Advisory Councils, Member States cooperating at sea-basin level may provide the Commission with joint recommendations requesting exemptions from the landing obligation. Where the STECF's assessment reports that the proposed exemptions contribute to achieving the expected results, the Commission adopts delegated acts implementing these joint recommendations into EU law, in accordance with Article 15(6) of the Common Fisheries Policy (CFP Regulation)<sup>1</sup>. Where there is no multiannual plan for the fishery in question, article 15(6) of the CFP Regulation empowers the Commission to adopt delegated acts laying down on a temporary basis specific discard plans containing the exemptions. The six potential elements that can be contained in a discard plan are the following:

- definitions of fisheries and species;
- provisions for survivability exemptions;
- provisions on *de minimis* exemptions;
- the fixation of minimum conservation reference sizes;
- additional technical measures needed to implement the landing obligation;
- documentation of catches.

The temporary discard plans under Article 15(6) with a maximum of 6 years in 2021 (with the exception to the existing discard plan for turbot fisheries in the Black Sea) **have been replaced by provisions adopted under article 15(5) and specified in multiannual plans**. Under the existing multiannual plans, provisions<sup>2</sup> specify that the Commission is empowered to adopt delegated acts following Article 18 of the CFP Regulation (Regionalisation procedure). Most of the delegated regulations specifying the details of implementation of the landing obligation have been adopted by the Commission under the existing multiannual plans (Western Waters, North Sea and Baltic Sea, Western Mediterranean Sea) and **expire by the end of 2027**.

The STECF has reviewed the joint recommendations submitted annually since 2014-2021 by the regional groups of Member States<sup>3</sup> on fisheries subject to the landing obligation in the subsequent year. The implementation of the landing obligation has entered fully into force as of 1 January 2019. The STECF is requested through these working groups to review and evaluate the Member States' joint recommendations that would continue the implementation of the landing obligation beyond 2024.

### *Joint Recommendations on Technical Measures*

All amendments, supplements, repeal or derogations from technical measures will be based upon Article 15 of the Technical Measures Regulation (Regulation (EU) 2019/1241). The entry into force of this Regulation resulted in the introduction of the process of regionalization in numerous fields as far as technical measures are concerned. In this process, the regional groups should develop joint recommendations that would need

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<sup>1</sup> Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy

<sup>2</sup> Article 13, Regulation (EU) 2019/472 of the European Parliament and of the Council of 19 March 2019 establishing a multiannual plan for stocks fished in the Western Waters and adjacent waters, and for fisheries exploiting those stocks, amending Regulations (EU) 2016/1139 and (EU) 2018/973, and repealing Council Regulations (EC) No 811/2004, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007 and (EC) No 1300/2008

<sup>2</sup> Article 11, Regulation (EU) 2018/973 of the European Parliament and of the Council of 4 July 2018 establishing a multiannual plan for demersal stocks in the North Sea and the fisheries exploiting those stocks, specifying details of the implementation of the landing obligation in the North Sea and repealing Council Regulations (EC) No 676/2007 and (EC) No 1342/2008

<sup>2</sup> Article 7, Regulation (EU) 2016/1139 of the European Parliament and of the Council of 6 July 2016 establishing a multiannual plan for the stocks of cod, herring and sprat in the Baltic Sea and the fisheries exploiting those stocks, amending Council Regulation (EC) No 2187/2005 and repealing Council Regulation (EC) No 1098/2007

<sup>2</sup> Article 14, Regulation (EU) 2019/1022 of the European Parliament and of the Council of 20 June 2019 establishing a multiannual plan for the fisheries exploiting demersal stocks in the western Mediterranean Sea and amending Regulation (EU) No 508/2014

<sup>3</sup> Scheveningen Group, North Western Waters Group, South Western Waters Group, BaltFish, PESCAMED, Adriatica, SudestMed

to go through the STECF in order to assess to what extent the recommendation proposed goes in line with achieving the objectives set out in the Regulation.

***Joint Recommendations on Conservation measures necessary for compliance with obligations under Union environmental legislation (Article 11 CFP Regulation)***

Member States are empowered to adopt conservation measures not affecting fishing vessels of other Member States that are applicable to waters under their sovereignty or jurisdiction and that are necessary for the purpose of complying with their obligations under Article 13(4) of Directive 2008/56/EC, Article 4 of Directive 2009/147/EC or Article 6 of Directive 92/43/EEC, provided that those measures are compatible with the objectives set out in Article 2 of the CFP Regulation, meet the objectives of the relevant Union legislation that they intend to implement, and are at least as stringent as measures under Union law.

Member States can submit joint recommendations with the relevant information on the measures required, including their rationale, scientific evidence in support and details on their practical implementation and enforcement. The Commission shall adopt these measures into delegated acts taken into account the available scientific advice – linked directly to this terms of reference for the STECF.

For this year EWGs, there are 7 joint recommendations to be expected:

**Article 15, CFP Regulation (exemptions to the landing obligation)**

1. North Western Waters:
  - a. High survivability exemption for spurdog
  - b. De minimis exemption for lemon sole (possibly / probably together with Scheveningen Group).
2. North Sea:
  - a. High survivability exemption for Plaice
  - b. De minimis exemption for haddock
  - c. De minimis exemption for lemon sole (possibly / probably together with NWW Group)
3. Western Mediterranean: JR to amend Commission Delegated Regulation (EU) 2023/2462 of 22 August 2023 supplementing Regulation (EU) 2019/1022 of the European Parliament and of the Council by specifying details of the landing obligation for certain demersal stocks in the western Mediterranean Sea
  - a. Norway lobster (*Nephrops norvegicus*) caught with pots and traps (FPO, FIX);
  - b. Norway lobster (*Nephrops norvegicus*) caught with all bottom trawls (OTB, OTT, PTB, TBN, TBS, TB, OT, PT, TX);
  - c. Venus shells (*Venus* spp.) caught with mechanised dredges (HMD).
  - d. Deep-water shrimp (new one)

**Joint Recommendations on Technical measures**

- 4) North Western Waters: Management measures for the scallop fishery.
- 5) North Western Waters / North Sea: Directed fisheries for squid

**Article 11 CFP Regulation Conservation measures necessary for compliance with obligations under Union environmental legislation**

- 6) Joint Recommendation already at final stage of preparation by the Netherlands for six marine protected areas in the Dutch part of the North Sea, namely the Cleaver Bank, Southern Dogger Bank, Central Oyster Grounds, Frisian Front (MSFD), Brown Ridge and Borkum Reef Grounds (expected to be approved by the Scheveningen HLG on 17 April and then submitted in the first half of 2024, so for the EWG)
- 7) Joint Recommendation already at final stage of preparation by Denmark for five sites Natura 2000 in the Danish part of the North Sea and Skagerrak (expected to be approved by the Scheveningen HLG on 17 April and then submitted in the first half of 2024, so for the EWG)

**Main elements of the joint recommendations to be considered by STECF**

### *Landing obligation - de minimis and High Survivability exemptions*

STECF should continue to evaluate the information provided by the Member States regional groups in support of new or prolonging existing exemptions for **de minimis** or on the basis of **high survivability** for species subject to the landing obligation.

### *Technical measures*

Any submitted joint recommendations on technical measures cover (one of) the following:

- Measures modifying the size and characteristics of fishing gear that MS may wish to implement in certain areas to increase selectivity and decrease the negative effects of the activity in the environment;
- Minimum Conservation References Sizes for recreational fisheries;
- Mitigation measures for bycatch of certain sensitive species, such as cetaceans or sea birds;
- Definition of the directed fisheries for each species and sea basin, with a deadline of August 2020.

### *Joint Recommendations on Conservation measures necessary for compliance with obligations under Union environmental legislation (Article 11 CFP Regulation)*

See detailed ToR below.

## **Terms of Reference STECF EWG 24-04**

Based on the previous evaluations of the STECF, the Ad-hoc contract 19-01 on temporary *de minimis* exemptions, the joint recommendations that will be submitted by Member States regional groups, the following terms of reference are proposed:

STECF is requested to:

1. Review the supporting documentation and catch data underpinning the requests for exemptions on the basis of **high survivability, as included in the joint recommendations submitted by the regional groups.**

*In data-poor situations and for exemptions relating to very small quantities, the STECF is requested to look into the possibility to extrapolate the evaluations, studies or any relevant scientific material from other sea-basins. The STECF is requested to assess what further supporting information may be available and how this could be supplied in the future (e.g. survival studies, tagging-release-recapture experiments).*

*Taking into account the proportionality approach (for instance the volume of catches/discards and the difficulty/cost for Member States to undertake studies or experiment for small fisheries).*

*In those cases where not sufficient data could be provided, the STECF is requested to provide recommendations on the future gathering of such data (preferably via existing databases).*

2. Review the supporting documentation (biological, technical and/or economic) for **de minimis** exemptions on the basis that either increasing selectivity is very difficult to achieve, or to avoid handling unwanted catches would create disproportionate cost. This review should focus on the requests for de minimis exemptions as included in the joint recommendations put forward by the regional groups.

*In data poor situations, assess what further supporting information may be available and how this could be supplied in the future (e.g. discard data collection, selectivity studies, test new bycatch reduction devices).*

3. For any joint recommendations submitted on the elements of the Technical Measures Regulation, the STECF is requested to:

*a. Review whether there is sufficient information to support proposed minimum conservation reference size(s) that deviate from existing minimum landing sizes, and whether they are consistent with the objective of ensuring the protection of juveniles; as well taken into account Article 15(5) of the TMR stating mesh size specifications shall not lead to a deterioration of selectivity standards.*

*b. Review the supporting documentation provided for technical measures aimed at increasing gear selectivity for reducing or, as far as possible, eliminating unwanted catches including reducing fishing mortality on stocks in need of remedial measures for rebuilding biomass. This should include, if relevant, an indication of where further selectivity is currently difficult to achieve in a specific fishery, given the current state of technological developments.*

4. For any joint recommendation submitted on the elements of conservation measures under Article 11 of the CFP Regulation, the STECF is requested to:

- Review the suitability and potential effectiveness of the proposed conservation measures to minimise the negative impacts of fishing activities on the marine ecosystem and ensure that fisheries activities avoid the degradation of the marine environment;

- Assess to what extent the proposed conservation measures: a) correspond to the ecological requirements of the habitats and species protected in the relevant sites and contribute towards achieving conservation objectives of the sites; b) Assess to what extent the proposed conservation measures are capable of preventing deterioration of habitat types, habitat of the species and significant disturbance of species protected in the site. If the assessment shows that the proposed measures are insufficient, identify any additional measures needed to: a) prevent deterioration of habitat types, habitat of the species and significant disturbance of species protected in the site; b) achieve conservation objectives of the sites;

- Comment on whether the proposed control and enforcement regime is adequate and sufficient to ensure a proper enforcement of the conservation measures proposed for the management zones;

- Comment on how the proposed conservation measures may affect fishing activity of the fleets that currently operate in the proposed management zones. This should include identification of the fleets concerned, their economic dependence on the proposed management zones, their potential to reallocate the fishing activity and potential economic and ecological consequences.

**Indicative timetable 2024, exemptions landing obligation STECF assessment and delegated acts legislative procedure**

Procedural step	Timetable in 2023	Rationale for date // comments
Joint Recommendations and template with all exemptions transmitted by Member States to C1, C5 & D1	01 May 2024s	
STECF EWG 24-04 Evaluation on the Joint Recommendations exemptions landing obligation, technical measures, and article 11 CFP Regulation	13 - 17 May 2024	<i>Draft EWG report available two weeks after EWG. (31 May or 3 June)</i>
Ad hoc contract to draft STECF advice	Between 4 – 11 June	5 days <b>ad hoc contract</b> for drafting the final STECF advice that will be discussed at 1day Mini PLEN
1-day Mini plenary virtual	Between 12 – 19 June	
<b>Final STECF advice delivered</b>	<b>Around 26 June</b> <b><i>Was on 21.06.2023</i></b>	
Adoption by the Commission	After Expert Group and by 23 August	<b>No transmission possible to EP and Council between recess period 12 July – 23 August.</b>
2+2 month scrutiny EP + Council	20-12-2023	For publication in OJ, SG does not transmit acts for publication after 20-12.

Overview of current Delegated Regulations specifying the details of implementation of the landing obligation ('discard plans') highlighted those that either expire fully next year or have specific exemptions expiring next and require Member States to submit a new joint recommendation by 1 May 2023 containing all the exemptions that need to be assessed

1. Commission Delegated Regulation (EU) 2023/2623 of 22 August 2023 supplementing Regulation (EU) 2019/472 of the European Parliament and of the Council by specifying details of the landing obligation for certain fisheries in Western Waters for the period 2024-2027;
2. Commission Delegated Regulation (EU) 2023/2459 of 22 August 2023 supplementing Regulation (EU) 2018/973 of the European Parliament and of the Council by specifying details of the landing obligation for certain fisheries in the North Sea for the period 2024-2027;
3. Commission Delegated Regulation (EU) 2021/2065 of 25 August 2021 establishing a discard plan for turbot fisheries in the Black Sea, as amended by Commission Delegated Regulation (EU) 2022/2287 of 12 August 2022; **(expires on 21.12.2024)**
4. Commission Delegated Regulation (EU) 2023/2462 of 22 August 2023 supplementing Regulation (EU) 2019/1022 of the European Parliament and of the Council by specifying details of the landing obligation for certain demersal stocks in the western Mediterranean Sea; **It shall apply from 1 January 2024 until 31 December 2027.**
5. **COMMISSION DELEGATED REGULATION (EU) 2021/2066** of 25 August 2021 supplementing Regulation (EU) 2019/1022 of the European Parliament and of the Council regarding details of implementation of the landing obligation for certain demersal stocks in the western Mediterranean Sea for the period 2022-2024; Only 3 exemptions are still in force until 31.12.2024 under this Delegated Regulation: Norway lobster (*Nephrops norvegicus*) caught with all bottom trawls, Norway lobster (*Nephrops norvegicus*) caught with pots and traps, Venus shells (*Venus* spp.) caught with mechanised dredges.
5. Commission Delegated Regulation (EU) 2023/2918 of 22 August 2023 supplementing Regulation (EU) No 1380/2013 of the European Parliament and of the Council as regards the establishment of a de minimis exemption to the landing obligation for certain demersal fisheries in the Adriatic and south-eastern Mediterranean Sea; **It shall apply from 1 January 2024 until 31 December 2027**
6. Commission Delegated Regulation (EU) 2023/2460 of 22 August 2023 supplementing Regulation (EU) No 1380/2013 of the European Parliament and of the Council as regards the establishment of a de minimis exemption to the landing obligation for certain small pelagic fisheries in the Mediterranean Sea; **It shall apply from 1 January 2024 until 31 December 2027**
7. Commission Delegated Regulation (EU) 2018/306 of 18 December 2017 laying down specifications for the implementation of the landing obligation as regards cod and plaice in Baltic Sea fisheries; **Status: article 6 of Regulation states impact of survivability exemption on the stocks and on fisheries concerned shall be evaluated in 2020 (letters with request for data sent to Member States in 2020 and in 2024, DDL by end 2024 for the data. Follow up to TBD 2025)**

8. Commission Delegated Regulation (EU) 2021/1417 of 22 June 2021 supplementing Regulation (EU) 2016/1139 concerning the specifications for the landing obligation as regards salmon in the Baltic Sea for the period 2021-2023 (New delegated act upcoming for 2024-2026 (end of April))