



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.

Member States may cooperate in accordance with Article 18 in drawing up joint recommendations (JR) for “discard plans”. These are to contain details of the implementation of the landing obligation, and may be adopted on a temporary basis for no more than three years, where no multiannual plan has been adopted for the fishery in question. Upon agreeing a JR the Member States may propose them to the Commission for them to be adopted as a delegated act. If Member States cannot reach agreement on a JR that is in line with the objectives of the CFP then the Commission is empowered to adopt delegated acts for discard plans containing only provisions for *de minimis* exemptions.

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 the Netherlands chairing from 1 January 2017 to 31 December 2017.

A Scheveningen technical group developed a first draft for a North Sea JR for demersal fisheries taking into consideration the guidance produced by the Scientific, Technical and Economic Committee for Fisheries (STECF). Coordination with work ongoing in the North Western Waters Group was established in order to ensure a consistent approach to implementation of the landing obligation as far as possible, as many fishing vessels operate between the two areas.

2.2. Consultation with relevant Advisory Councils

The group is aware of the importance of 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) was invited to closely cooperate with the Scheveningen group. There has been regular and detailed engagement between the Scheveningen group and the NSAC 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 Directors group and the Technical group. Additionally, Member State representatives have attended the meetings of the Advisory Council.

In its Work Programme for the North Sea from October 2016 to August 2017 the Scheveningen Group has sought recommendations in writing from the NSAC regarding the phasing of the landing obligation. The NSAC on 30 March 2017 adopted its advice on the implementation of the Landing Obligation, implications for cod, plaice, saithe and whiting in 2018. This is the first part of the advice in 2018, signalling issues that will arise from the implementation of the landing obligation in 2018, following the schedule that was agreed in 2016. The AC continues to work on issues that will arise when the landing obligation is fully implemented in 2019 and aims at finishing this advice June 2017.

The NSAC advice was presented and discussed in both the Technical Group and the High Level Group. The aim of the advice was to identify possible choke issues when the landing obligation is implemented according to the pipeline for 2018 drawn up by the Scheveningen Group in 2016. The AC introduces in its advice the economic choke, a high bycatch of a low value species that makes a fishery unprofitable.

In addition, 10 May the Scheveningen Group received an advice from the NSAC on the phasing in of plaice. The NSAC advises to reschedule plaice to January 2019. The reason is to give additional time to complete research, trials on testing of gear and other measures that will contribute to improve selectivity and reduce discarding, and to finalise an additional group of projects which aim to establish the survival rates of discarded plaice.

A full draft of the Joint Recommendation was forwarded to NSAC before the HLG on 24 May 2017, and discussed with NSAC representatives at that meeting.

The Scheveningen group remains committed to working in close cooperation with the NSAC 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 available information on discards in demersal fisheries (STECF; ICES; NSAC, JRC) suggests that discards in the different fisheries vary significantly from close to 0% up to more than 40% of average catch in weight. The Scheveningen Group in 2014 produced a Demersal Discard Atlas detailing catch compositions, landings data and discards estimates for 2010-2012. Data was sourced from that reported by individual countries.

Discard rates (percentage of catch discarded relative to total volume caught) are estimated to vary between species, fisheries and over time. Discard rate data also varies greatly in quality (measured as the percentage of data derived from reported data instead of from being filled in by assuming average discard ratios from other country submitted data). This may impact on the ability of such data to be used in calculating quota uplifts; however, whilst considering possible limitations, the 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 points (a) to (e) of Article 15(5) of the Basic Regulation, including specific descriptions of any exemptions granted.

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 securing and use of exemptions is to be considered following the acceptable uses specified in Article 15(4) of Regulation (EU) No 1380/2013, further specified under paragraphs 5(b) and (c), and 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 Regulation (EU) no 1380/2013 comprising ICES sea areas IIIa and IV. Additionally, under Article 15(1)(c)(iv) the Scheveningen Group recommends that the discard plan also covers the Union waters of ICES area IIa 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 IIa, IIIa and IV, 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 line with Article 15 of Regulation (EU) No 1380/2013 all catches taken from the relevant fisheries as defined in this JR as fisheries targeting species listed in the fisheries definition tables below made during fishing activities in the North Sea shall be brought and retained on board the fishing vessels, recorded, landed and counted against the quotas where applicable, except when used as live bait.

The landing obligation will be implemented in stages, based on a regionally-agreed interpretation of the Basic Regulation. This states that, from 1st January 2016 there will be a landing obligation for the species which define the fisheries in the North Sea for:

- Cod, haddock, whiting and saithe,
- Norway lobster (*Nephrops*),
- Common sole and plaice,
- Hake,
- Northern prawn.

The landing obligation shall only apply to any catches of those species when caught in a fishery defined by that species. However, at the agreement of the Member States certain bycatches of the listed species are also to be introduced before 2019.

For the purposes of this JR, the following approach, as given in the fisheries definition table A, to the implementation of the landing obligation for demersal species is being recommended for 2018.

Quota adjustments should be based on the best available data on discard levels for the different management areas. For the North Sea, Skagerrak and Kattegat this would mean that fleet specific estimations of discard levels (including but not limited to STECF data) should be used.

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

The gear codes used in Tables A and B refer to those mentioned in the annex XI of the Commission Implementing regulation (EU) No 404/2011 of 8 April 2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy, plus those gear codes from the FAO classification if the codes used by some vessels whose LOA is less than 10 metres are not specified in the aforementioned regulation . The acronyms are explained in Annex A.

These tables are intended to be exhaustive.

The obligation to land all catches shall not apply in cases for which there is a specific exemption, 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 NSAC in its advice from March 2017, did not advice on the phasing, but took the schedule from the JR of 2017 as a basis for its assessment. The AC advised the member states to perform a risk analyses for the different fisheries in order to identify potential problems.

Table A: Fisheries Definition Table for 2018, to be included in the discard plan for 2018

Gear Category	Segment	Landing Obligation
TRAWLS: OTB, OTT, OT, PTB, PT, TBN, TBS, OTM, PTM, TMS, TM, TX, SDN, SSC, SPR, TB, SX, SV	≥100mm	All catches of saithe, plaice, haddock, whiting, cod, Northern prawn, sole and <i>Nephrops</i> to be landed.
TRAWLS: OTB, OTT, OT, PTB, PT, TBN, TBS, OTM, PTM, TMS, TM, TX, SDN, SSC, SPR, TB, SX, SV	70-99mm	All catches of <i>Nephrops</i> , haddock, sole and Northern prawn, whiting, saithe and cod ¹ to be landed.

¹ With the exemption of cod in the Kattegat.

TRAWLS: OTB, OTT, OT, PTB, PT, TBN, TBS, OTM, PTM, TMS, TM, TX, SDN, SSC, SPR, TB, SX, SV	32-69mm	All catches of Northern Prawn, <i>Nephrops</i> , sole, haddock, whiting, plaice, saithe and cod to be landed.
BEAM TRAWLS: TBB	≥120mm	All catches of plaice, Northern prawn, <i>Nephrops</i> , sole, cod, haddock, whiting and saithe to be landed.
BEAM TRAWLS: TBB	80-119mm	All catches of sole, Northern prawn, <i>Nephrops</i> , haddock, saithe, cod and whiting to be landed.
GILLNETS, TRAMMEL NETS & ENTANGLING NETS: GN, GNS, GND, GNC, GTN, GTR, GEN, GNF		All catches of sole, Northern prawn, <i>Nephrops</i> , haddock, whiting, cod ² , and saithe to be landed.
HOOKS & LINES: LLS, LLD, LL, LTL, LX, LHP, LHM		All catches of hake, Northern prawn, <i>Nephrops</i> , sole, haddock, whiting, and cod, plaice and saithe to be landed.
TRAPS: FPO, FIX, FYK, FPN		All catches of <i>Nephrops</i> , Northern prawn, sole, haddock, plaice, saithe, whiting and cod to be landed.

Table B Fisheries Definition Table for 2019 (not to be included in the discard plan):

Gear Category	Segment	Landing Obligation
TRAWLS: OTB, OTT, OT, PTB, PT, TBN, TBS, OTM, PTM, TMS, TM, TX, SDN, SSC, SPR, TB, SX, SV	≥100mm	2019: all catches of all quota species to be landed.

² With the exemption of cod in the Kattegat.

TRAWLS: OTB, OTT, OT, PTB, PT, TBN, TBS, OTM, PTM, TMS, TM, TX, SDN, SSC, SPR, TB, SX, SV	70-99mm	2019: all catches of all quota species to be landed.
- TRAWLS: OTB, OTT, OT, PTB, PT, TBN, TBS, OTM, PTM, TMS, TM, TX, SDN, SSC, SPR, TB, SX, SV	32-69mm	2019: all catches of all quota species to be landed.
BEAM TRAWLS: TBB	≥120mm	2019: all catches of all quota species to be landed.
BEAM TRAWLS: TBB	80-119mm	2019: all catches of all quota species to be landed.
GILLNETS, TRAMMEL NETS & ENTANGLING NETS: GN, GNS, GND, GNC, GTN, GTR, GEN, GNF		2019: all catches of all quota species to be landed.
HOOKS & LINES: LLS, LLD, LL, LTL, LX, LHP, LHM		2019: all catches of all quota species to be landed.
TRAPS: FPO, FIX, FYK, FPN		2019: all catches of all quota species to be landed.

The Scheveningen Group recognises the importance of addressing the challenges of choke species in 2018 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.

4.1 Explanation of approach

The information below explains the rationale for the phased introduction of the landing obligation.

4.1.1. Cod

The conflicts between the Regulation (EU) 1342/2008 (Cod Recovery Plan, CRP) and the landing obligation were addressed by Regulation (EU) 2094/2016.

As the CRP has triggered considerable improvements in selectivity and cod avoidance through Art 11(2) of the plan and through national measures adopted in accordance with Art. 13 the Scheveningen Member States are committed to continuing, or further developing, these measures while the landing obligation is introduced for all catches of cod.

For cod in Kattegat (ICES Division IIIas) the latest ICES scientific advice (2016) shows large unaccounted removals from the stock and with a number of uncertainties in relation to the actual discards from fishing vessels. On this ground, ICES decided to perform a benchmark process on the Kattegat cod stock which demonstrated that it is not possible to convert from a 'data poor stock' to an 'analytical assessment' based on the present scientific knowledge of the stock.

The predominate Danish fishery in Kattegat is a mixed fishery for *Nephrops* and valuable bycatches of demersal fish (cod, haddock, saithe, plaice, sole and other flatfish) either conducted with bottom trawls with a mesh size of 90 mm equipped with "Seltra"-panels or with gillnets with a mesh size 70-99 mm. The Swedish demersal fishery in Kattegat is dominated by *Nephrops*, approximately 75% of the *Nephrops* is caught with creels or trawls equipped with a species selective grid, both are fisheries with only minor fish by-catch. There is also a Swedish mixed fishery with bottom trawls equipped with seltra-panels targeting *Nephrops* and fish, as well as minor gillnet fisheries for a variety of species.

Implementation of the landing obligation requires allocation of quota top ups for cod corresponding to the discards in order to avoid a choke species situation.. Further work should also be undertaken on improving selectivity and avoiding bycatches of cod in the Kattegat.

In light of the current uncertainties in relation to the cod stock in the Kattegat and in order to allow more time for fleets to make practical adjustments changing fishing patterns and improving selectivity where possible, the Scheveningen Group recommends postponing to 2019 the implementation of the landing obligation for by-catches of cod in the Kattegat for the fleet segments fishing with trawls (TR2) and nets (GN etc.). The landing obligation will be introduced in 2018 for other fisheries ("TR3", and creels/traps/pots).

The Scheveningen Group recommends that for all other areas in the North Sea cod is brought under the landing obligation in 2018 for all other gears as listed in table A with the exemption of the fisheries in Kattegat described above. As a further condition, the landing obligation shall only be introduced in accordance with table A if the quota adjustment following Art. 16(2) in Regulation (EC) No. 1380/2013, is based on the discard rates for the

management areas separately and distributed amongst Member States according to relative stability.

4.1.2. Haddock

Haddock was introduced to the landing obligation from 2016 for all large mesh otter trawl ≥ 100 mm and in IIIa also for vessels using 70-99 mm mesh. The landing obligation for the bycatches of haddock was introduced in 2017 across all other gears listed in table A.

4.1.3. Whiting

It has been acknowledged, including by the NSAC, that whiting is for most of the fleets a bycatch in North Sea fisheries. By-catches of whiting can be substantial in certain fisheries and the species is identified by the AC as a possible choke species for which not enough quota is in the system.

The Scheveningen Group recommends to bring whiting under the landing obligation for all gears listed in table A in 2018. However, the Scheveningen Group recommends to include a de minimis exemption for certain gears, where scientific evidence indicates that increases in selectivity are very difficult to achieve and to avoid disproportionate costs of handling of unwanted catches.

4.1.4. Saithe

Saithe was introduced to the landing obligation for the targeted fishery in 2016.

The Scheveningen Group recommends that the by-catches of saithe by all other vessels and gears listed in table A is included in the landing obligation from 2018.

4.1.5. Norway Lobster (*Nephrops*)

Nephrops was introduced to the landing obligation in 2016 for all smaller mesh otter trawl vessels with a mesh of 80-99 mm in IV and with a mesh of 70-99 mm in IIIa and for all vessels using pots in all areas.

The landing obligation for by-catches of *Nephrops* was introduced in 2017 across all other gears listed in table A. The Scheveningen Group recommends the continue application of the landing obligation for *Nephrops* across all gears for 2018 and onwards.

4.1.6. Common sole and plaice

The flatfish fishery consists of large mesh trawl vessels targeting plaice and smaller mesh trawl vessels and nets targeting sole. The landing obligation for sole for all gears was introduced in 2017. The landing for plaice was introduced in 2016 for trawls with a mesh above 99 mm and beamtrawls with a mesh larger than 120 mm. The Scheveningen Group recommends the continued application of the landing obligation in these targeted fisheries as specified in table A.

It has been acknowledged that bycatch of undersized plaice in the smaller mesh trawl is high. Several studies in Belgium and the Netherlands have been conducted in order to try to improve selectivity. It is difficult to significantly improve the selectivity without losing the target species to the extent that the sole fishery becomes unprofitable. Introducing plaice under the landing obligation for gears with small mesh sizes will lead to very high costs for the sector due to the costs of handling the fish on board and to bring it ashore.

The Netherlands, Denmark, France, Belgium and the UK have conducted trials focussing on survivability of plaice. New trials are scheduled as there is a need to improve and consolidate the results. Trials are scheduled for trawls, seines and nets.

The results from on board tests in the Netherlands show a survivability of 16 %. Results in Belgium are similar. Evidence was found that this could be enhanced by measures as shortening the haul. Denmark has conducted trials regarding the survivability of plaice with quite differing survival-rates depending on the type of fisheries.

The NSAC has listed all the work undertaken to improve selectivity and survival and suggests that the results should be reported to the NSAC and the Scheveningen group on a regular basis during 2017.

The Scheveningen Group recommends that the phasing in of plaice will be postponed to 2019 to give the sector the possibility to work on both increasing selectivity and improving and consolidating the work on survivability. The Scheveningen group intends to work closely together with the AC on increasing selectivity and high survivability.

4.1.7. Hake

Hake was introduced to the landing obligation in 2016 for hooks and lines. Hake has been identified as a possible choke species due to the low TAC and the recovery of the stock. For this reason, the Scheveningen Group recommends the continued application of the landing obligation for vessels using hooks and lines in 2018 and recommends that the landing obligation is to be introduced for all other gears listed in table A as from 2019.

4.1.8. Northern prawn

Northern prawn was introduced to the landing obligation in 2016 for all vessels using trawls with 32-69mm mesh. The landing obligation for bycatches of Northern prawn was also introduced across all other gears in 2016. The Scheveningen group recommends the continued application of the landing obligation for Northern prawn for all gears listed in table A in 2018 and onwards.

5. Exemptions

Situations where the landing obligation shall not apply are specified in Article 15(4) of the Basic Regulation.

5.1. High Survivability

The NSAC has previously advanced *Nephrops*, Flatfish and Elasmobranchs for preliminary consideration for high survival exemptions. As further scientific evidence emerges the NSAC will review this list of suggested exemptions.

The Scheveningen Group recommends the following exemptions for reason of high survivability.

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 IIIa and IV, and EU waters of IIa, caught with pots (FPO). The exemption was evaluated by STECF in 2015 and is already included in art 4.1 of the current Discard Plan Regulation (EU) no 2250/2016.

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. The Scottish fisheries for *Nephrops* using pots accounts for around 1,638 tonnes, about 9% of total landings, and mainly takes place in coastal waters around Scotland.

The Swedish fisheries for *Nephrops* using pots accounts for around 350 tonnes and about 30 % of total Swedish *Nephrops* landings, 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 B, C and Ci of the joint recommendation for a discardplan for demersal Fisheries for 2017 and 2018.

5.1.2 *Nephrops* caught with trawl gears in area IIIa

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 IIIa:

- i) when caught 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, or
- ii) when caught with bottom trawls (OTB, TBN) with a mesh size of at least 90 mm equipped with a top panel of at least 270 mm mesh size (diamond mesh) or at least 140 mm mesh size (square mesh);

For *Nephrops* caught using trawls with mesh size 70-89 mm (square mesh) equipped with species-selective grid and with a standard SELTRA codend (90 mm diamond mesh with a 270 mm diamond mesh window), the estimated average yearly survival rate for discards from Swedish fleets operating in the Skagerrak and Kattegat is 55 % for GRID and 46 % for SELTRA.

Discard rates for *Nephrops* in the fisheries using trawls is estimated at 46 % by weight in ICES area IIIa (using 2010-2014 data). The reduced MCRS in 2016 is expected to result in catches of undersized *Nephrops* of less than 10% (based on 2010-2014 data.)]

Nephrops should be discarded swiftly and in the area where they have been caught. *Nephrops* may only be discarded whole.

This exemption was evaluated by STECF in 2015 and 2016 and is included in regulation in the current Discard Plan Regulation (EU) no 2250/2016 in article 4.1.b, 4.1.c. and the Scheveningen group recommends that it should remain. The scientific evidence and rationale was provided in Annex C and Ci of the JR for a demersal discardplan for 2017 and 2018.

5.1.3 *Nephrops* caught with trawl gears in area IV

On the basis of scientific evidence and rationale provided in Annex A, Ai, Aii, Aiii 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 IV caught with bottom trawls (OTB, TBN) with a mesh size of at least 80mm equipped with a Netgrid selectivity device comprising a four panel box section inserted into a two-panel trawl with an inclined sheet of netting (see annex A for a full description and diagram).

A study conducted in fishing grounds off the North East of England (area IVb) reported a survival rate of 62%.

Following STECF's evaluation of evidence submitted in the Scheveningen group's 2016 Joint Recommendation (by STECF Expert Working Group 16-06, see Report EUR 27758 EN), the Scheveningen group notes STECF's view that it is desirable for further work to be carried out on survival rates in warmer weather to take account of greater differences in ambient air and water temperature. No further trials have been conducted, but additional information was gathered on environmental conditions in *Nephrops* Functional Units in area IV.

Based on the new information the Scheveningen Group recommends the exemption shall be applied to the whole of area IV, at all times of the year;

However should STECF judge that the additional information provided is not sufficient to apply the exemption to the entire area, the Scheveningen Group recommends to limit the exemption to the Farn Deep (FU6), Firth of Forth (FU8) and Moray Firth (FU9) *Nephrops* Functional Units in the winter months (October to March).

Nephrops should be discarded swiftly and in the areas where they have been caught.

Discard rates for *Nephrops* in the fisheries using trawls are estimated at less than 9.6% by weight in ICES area IV (using 2014 data).

5.1.4 Sole (undersized only) caught with trawl gears in area IVc

On the basis of scientific evidence and rationale provided in Annex B, 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 IVc 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 IVc) 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 IVc. The exemption is also requested for area VIId in the North Western Waters.

5.1.5 Fish bycatch in pots and fyke nets (FPO, FYK) in area IIIa and IV

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 cod, haddock, whiting, plaice, sole, hake and saithe in ICES area IIIa and IV in fisheries with pots and fyke nets (FPO, FYK). The cases described in Annex C come from Swedish fisheries in area IIIa, 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%. 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 physical arrangements to minimise avian predation, such as fish slides.

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 Annex C.

The UK fishery with creels in area IV is conducted by 603 vessels that land 22,6 ton of fish. No discard data is collected, but discards are estimated at 90% of the catches.

This exemption for high survivability is intended to replace the current de minimis exemption, article 6.g., of the current Discard Plan (Regulation (EU) no 2250/2016).

5.2. De minimis

The NSAC in its advice of 30 March 2017 did not advise on specific de minimis.

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

The supporting evidence is included in annexes D to H.

The exemptions will be examined and reviewed in 2019 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, phasing in of additional species under the Landing Obligation and the results from scientific and technical trials.

5.2.1. Fish bycatch caught in *Nephrops* targeted trawl fishery

On the basis of scientific background 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 following catches below MCRS may be discarded.

For 2018 for common sole, haddock, whiting, cod and saithe below MCRS combined, up to a maximum of 4 % of the total annual catches of species under landing obligation (*Nephrops*, common sole, haddock, whiting, Northern prawn, cod and saithe) in the fishery for *Nephrops* 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 IIIa,

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 *Nephrops* 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 and saithe in 2018 would correspond to total quantities of 45.6 t (based on a 2010-2015 baseline of discarded and caught quantities for the species subject to the landing obligation- (see annex D] for specifications). Per species this would mean approximately 4.9 t of haddock, 0.7 t of sole, 12.2t of whiting, 27.5 t of cod and 0.4 t of saithe in 2018.

The exemption, as requested for 2018, was evaluated by STECF in 2015 and is included in the current delegated act, article 6(e). However, due to phasing of additional species into the landing obligation 2018, the Scheveningen group recommends to revise the exemption. The scientific background is provided in Annex D.

5.2.2. Common sole caught in nets

On the basis of scientific background and rationale provided in Annex G and Gi of the joint recommendation for a discard plan for 2017 and 2018 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 IIIa, IV and EU waters of IIa) 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 6(a).

5.2.3 Common sole caught by beam trawls with a mesh size of 80-119mm with increased mesh sizes in the extension of the beam trawl

For the sole fishery using TBB 80-119 mm gear with increased mesh sizes in the extension of the beam trawl in area IV 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 2018 and 2019 for catches 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 6(b) and the evidence is provided in annex H and Hi of the joint recommendation for 2017 and 2018.

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 minimis*. The Scheveningen Group acknowledges that this is an omission and recommends to include the following provision in the discard plan:

The *de minimis* can be used by vessels with an increased mesh size in the tail of the net from 80 mm to 120 mm, from the codend attachment till 3 meters to the front. The mesh size has to be measured between the knots and the mesh size of the codend remains constant at least 80 mm.

5.2.4. *Nephrops* caught by bottom trawls with a mesh size of 80-99mm in IIA and IV

On the basis of scientific background and rationale provided in Annex I of the Joint Recommendation of 2017/2018, the Scheveningen group recommends that by way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, *Nephrops* below MCRS up to a maximum of 2% of the total annual catches of *Nephrops*, caught in fisheries conducted with bottom trawls (OTB, TBN, OTT, TB) with a mesh size of 80-99mm in ICES area IV and EU waters of IIA.

The request for an exemption for de minimis is based on article 15.5.c.ii, to avoid disproportionate costs of handling unwanted catches for the fisheries concerned, due to the cost of disposing of *Nephrops* below MCRS. The unwanted catches do not represent more than 5% of the total annual catch of that gear.

A de minimis of 2% would represent a maximum amount of allowed discards of *Nephrops* of 173t, in the Scottish fisheries, based on average figures 2012-2014.

The exemption was evaluated by STECF in 2015 and is included in the current discard plan in article 6(c).

The de minimis percentage has been revised to 2% (from 6%) for 2018 due to the very limited use of this exemption in previous years and to minimise the impact on the TAC.

5.2.5 *Whiting and cod caught by bottom trawls 79-99 mm in the North Sea ICES area IVc.*

The Scheveningen Group recommends for 2018 and onwards a de minimis exemption for whiting (*Merlangius merlangus*) and cod (*Gadus morhua*), up to a maximum of 6% in 2018 and 5% after 2018 (on 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 79-99 mm in ICES area IVc.

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, vessels are operating long fishing trips (~3 days in 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, applicable to whiting only, is already included in the delegated act (EU) 2250/2016 for area IVc and was assessed by STECF July 2016. This recommendation is updated and cod is included. The evidence underpinning the recommendation can be found in Annex E.

The Scheveningen Group intends to monitor and assess the impact of this joint de minimis with special attention to control issues. The Scheveningen Group intends to use the

experience with a joint de minimis in area IVc in a future discussion on a possible extension of the de minimis to other areas.

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

5.2.6 Whiting caught in bottom trawls \geq 90mm in IIIa

On the basis of the background and rationale provided for in Annex F 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% in 2018 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 IIIa.

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 IIIa 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 IIIa.

5.2.7 Fish bycatch caught in Northern prawn trawl fishery with sorting grid, with unblocked fish outlet in IIIa

On the basis of scientific background and rationale provided in Annex G the Scheveningen group recommends that by way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, for common sole, haddock, whiting, cod, saithe and plaice below MCRS combined, up to a maximum of 1 % of the total annual catches of species under landing obligation (Norway lobster, common sole, haddock, whiting, Northern prawn, cod, saithe and plaice) 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 IIIa, may be discarded.

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. 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 1 % for haddock, sole, whiting, cod, saithe and plaice below MCRS in 2018 would correspond to total quantities of 5.9 t in 2018 (based on a 2010-2015 baseline of discarded and caught quantities for the species subject to the landing obligation- see annex G for specifications).

This exemption is included in the current discard plan in article 6.f. and the scientific evidence can be found under annex K and Ki of the joint recommendation for a discard plan for 2017 and 2018. However due to phasing in of additional species the Scheveningen group recommends to revise the exemption as described above.

5.2.8 Bycatch of plaice in fisheries caught in the Nephrops trawl fishery with a mesh size \geq 80-99 mm with a SEPNEP in ICES area IIA and IV.

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 2018 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 IV.

A de minimis up to a maximum of 3% of the total annual catches of saithe, plaice, haddock, whiting, cod, Northern prawn, sole and *Nephrops* with this gear is recommended for 2019.

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) 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 H

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.

6. Documentation of catches

In accordance with Article 15(5)(d), specific discard plans can make provisions on documentation of catches.

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. 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 with appropriate codes denoting species discarded. The utilisation of the de minimis exemption shall be monitored by the competent authority.

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.

The Scheveningengroup recommends that the MCRS for Nephrops in area IIIa 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 change of MCRS is included in the current discard plan in article 7.

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 referred to in points (a) to (e) of Article 7(2), 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 has no specific technical measures to propose 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 H of this joint recommendation and for which a de minimis exemption is requested in paragraph 5.2.8. of this JR, the Scheveningen Group recommends to include in the discardplan a provision clarifying that the use of this net is in compliance with the regulation in force. Therefore it is suggested to use the following text:

Recital

The use of trawls constructed with multiple cod-ends with mesh sizes of at least 80 mm (between nods) in the lower cod end and at least 120 mm (between nods) in the upper cod end to separate fish and Nephrops in the Nephrops fishery complies with Article 4 of Regulation (EC) 850/98 and according to Article 11 of Commission Regulation (EC) no. 3440/84 such a trawl may be equipped with a separation panel with a maximum mesh size of 105 mm to segregate fish from Nephrops into the multiple cod-ends. For further selectivity in the Nephrops catches a selection grid with a minimum bar spacing of 17 mm might be used.

Article

It shall be permitted to use the SepNep, that is described in annex [x] of the discardplan in conjunction with an optional selection grid having a bar spacing of at least 17mm provided it is constructed in such a way so as to allow the escape of small Nephrops.

8.2. Measures for Skagerrak

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

These measures were agreed between EU and Norway (in 2011³, and repeated in 2012⁴) 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 proposal⁵ 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 2013⁶.

The technical rules were evaluated by STECF in 2015 and are included in the current delegated act, Article 8.(5).

9. Adaptation of the Joint Recommendation

Taking into account that the landing obligation constitutes a wholly new regime in the management of fisheries in Europe, and that joint recommendations for specific discard plans are a new management tool, 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.

3

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

4

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.

5

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.

6

Swedish national legislation: HVMFS 2004:36.

Danish national legislation: Order No. 278 of 24 April 2015 on regulation of fishing activities