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To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

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Delegations will find attached document C(2023) 5525 final.

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Brussels, 22.8.2023
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COMMISSION DELEGATED REGULATION (EU) No .../..

of 22.8.2023

supplementing Regulation (EU) N° 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

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

A key objective of the Common Fisheries Policy ('CFP') is the gradual elimination of discards in all EU fisheries. Discards constitute a substantial waste of resources and negatively affect the sustainable exploitation of resources as well as the economic viability of fisheries. In the Mediterranean, the landing obligation applies since 1 January 2015 to small pelagic fisheries catching small pelagic subject to a minimum conservation reference size (MCRS), as listed in Annex IX to Regulation (EU) No 2019/1241¹ (Technical Measures Regulation). This proposal concerns anchovy (*Engraulis encrasicolus*), sardine (*Sardina pilchardus*), mackerel (*Scomber* spp.) and horse mackerel (*Trachurus* spp.).

Article 15(4), point (c), read in conjunction with Article 15(5), point (c), of Regulation (EU) No 1380/2013² ('CFP Regulation') provides for a flexibility mechanism granting a specific exemption ('*de minimis*') where scientific evidence indicates that increases in selectivity are very difficult to achieve or to avoid disproportionate costs of handling unwanted catches.

In the absence of a multiannual plan specifying the *de minimis* exemption or a specific discard plan Article 15(7) of the CFP Regulation empowers the Commission to adopt a delegated act establishing a *de minimis* exemption to the landing obligation, limiting such exemption to an amount of no more than 5 % of the total annual catches, in accordance with Article 15(4), point (c), and Article 15(5), point (c), of the CFP Regulation.

Commission Delegated Regulation (EU) No 2018/161³ provides for a combined *de minimis* exemption that applies to small pelagic fisheries catching anchovy, sardine, mackerel and horse mackerel. Commission Delegated Regulation (EU) 2020/2012⁴ extended that exemption until 31 December 2023.

This regulation grants the following exemptions from 1 January 2024 to 31 December 2027:

- a *de minimis* exemption for anchovy, sardine, mackerel and horse mackerel, up to 5% of the total annual catches of those species caught by vessels using mid-water trawls and purse seines in the western Mediterranean Sea (GSAs 1, 2, 5, 6, 7, 8, 9, 10, 11.1, 11.2 and 12);
- a *de minimis* exemption for anchovy, sardine, mackerel and horse mackerel, up to 5% of the total annual catches of those species caught by vessels using mid-water trawls in the Adriatic Sea (GSAs 17 and 18);

¹ Regulation (EU) 2019/1241 of the European Parliament and of the Council of 20 June 2019 on the conservation of fisheries resources and the protection of marine ecosystems through technical measures, amending Council Regulations (EC) No 1967/2006, (EC) No 1224/2009 and Regulations (EU) No 1380/2013, (EU) 2016/1139, (EU) 2018/973, (EU) 2019/472 and (EU) 2019/1022 of the European Parliament and of the Council, and repealing Council Regulations (EC) No 894/97, (EC) No 850/98, (EC) No 2549/2000, (EC) No 254/2002, (EC) No 812/2004 and (EC) No 2187/2005, OJ L 198, 25.7.2019, p. 105.

² Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354, 28.12.2013, p. 22).

³ Commission Delegated Regulation (EU) 2018/161 of 23 October 2017 establishing a *de minimis* exemption to the landing obligation for certain small pelagic fisheries in the Mediterranean Sea, OJ L 30, 2.2.2018, p. 1.

⁴ Commission Delegated Regulation (EU) 2020/2012 of 5 August 2020 amending Delegated Regulation (EU) 2018/161 establishing a *de minimis* exemption to the landing obligation for certain small pelagic fisheries in the Mediterranean Sea, as regards its period of application, OJ L 415, 10.12.2020, p. 1–2

- a *de minimis* exemption for anchovy, sardine, mackerel and horse mackerel, up to 3% of the total annual catches of those species caught by vessels using purse seines in the Adriatic Sea (GSAs 17 and 18);
- a *de minimis* exemption for anchovy, sardine, mackerel and horse mackerel, up to 1% of the total annual catches of those species caught by vessels using mid-water trawls in the South – Eastern Mediterranean (GSAs 15, 16, 19, 20, 22, 23 and 25);
- a *de minimis* exemption for anchovy, sardine, mackerel and horse mackerel, up to 3% of the total annual catches of those species caught by vessels using purse seine in the South-Eastern Mediterranean (GSAs 20, 22 and 23); and
- a *de minimis* exemption for anchovy, sardine, mackerel and horse mackerel, up to 1% of the total annual catches of those species caught by vessels using purse seine in the South-Eastern Mediterranean (GSAs 15, 16, 19 and 25).

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

In May 2023, the Pescamed High-Level Group in the western Mediterranean (Spain, France and Italy), the Adriatica High-Level Group in the Adriatic Sea (Croatia, Italy and Slovenia) and the Sudestmed High-Level Group in the south-eastern Mediterranean Sea (Cyprus, Greece, Italy and Malta) submitted initial joint recommendations requesting the extension of the *de minimis* exemptions laid down in Delegated Regulation (EU) 2018/161

The Pescamed High-Level group, the Adriatica High-Level Group and the Sudestmed High-Level Group respectively agreed that the chair of each group should submit scientific evidence to the Commission, supporting the exemptions sought in the initial joint recommendations, taking into account the opinion of the Mediterranean Advisory Council ('MEDAC').

On 15 June 2023, the STECF evaluated the scientific evidence supporting the initial joint recommendations and advised as follows:

- in the case of the *de minimis* exemption for anchovy, sardine, mackerel and horse mackerel caught by vessels using mid-water trawls and purse seines in the western Mediterranean Sea (GSAs 1, 2, 5, 6, 7, 8, 9, 10, 11.1, 11.2 and 12), credible arguments for the inability to increase selectivity have been provided, as well as a detailed economic analysis of disproportionate costs;
- in the case of the *de minimis* exemption for anchovy, sardine, mackerel and horse mackerel caught by vessels using mid-water trawls in the Adriatic Sea (GSAs 17 and 18), studies conducted indicate the inability to increase selectivity and the disproportionate costs for the management of unwanted catches;
- in the case of the *de minimis* exemption for anchovy, sardine, mackerel and horse mackerel caught by vessels using purse seines in the Adriatic Sea (GSAs 17 and 18), studies conducted indicate the inability to increase selectivity and the disproportionate costs for the management of unwanted catches;
- in the case of the *de minimis* exemption for anchovy, sardine, mackerel and horse mackerel caught by vessels using mid-water trawls in the south-eastern Mediterranean (GSAs 15, 16, 19, 20, 22, 23 and 25), while limited new information has been provided, the discard rates are very low in this fishery and there are constraints in improving the selectivity. The level of *de minimis* requested (5 %) is not well justified; and

- in the case of the *de minimis* exemption for anchovy, sardine, mackerel and horse mackerel, caught by vessels using purse seine in the South-Eastern Mediterranean (GSAs 15, 16, 19, 20, 22, 23 and 25), while new information was provided by Greece and the economic analysis strengthens the justification for the exemption, it is not clear how representative it is for the other fleets of other Member States operating in the south-eastern Mediterranean.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

Summary of the proposed action

The main action is to adopt measures that would help to implement the landing obligation.

The Regulation specifies the species and fisheries to which the *de minimis* exemption would apply.

Legal basis

Article 15(7) of Regulation (EU) No 1380/2013.

COMMISSION DELEGATED REGULATION (EU) No .../..

of 22.8.2023

supplementing Regulation (EU) N° 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

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC¹, and in particular Article 15(7) thereof,

Whereas:

- (1) Regulation (EU) No 1380/2013 aims to eliminate progressively discards in all Union fisheries through the introduction of a landing obligation for catches of species subject to catch limits. In the Mediterranean Sea, it also applies to catches of species subject to minimum conservation reference sizes as listed in Annex IX to Regulation (EU) 2019/1241 of the European Parliament and of the Council².
- (2) Pursuant to Article 15(1)(a) of Regulation (EU) No 1380/2013, the landing obligation applies to small pelagic fisheries from 1 January 2015.
- (3) In order to avoid disproportionate costs of handling unwanted catches, Commission Delegated Regulation (EU) 2018/161³ allowed the discarding of a small percentage of catches of species subject to minimum conservation reference sizes. It provided for a combined *de minimis* exemption that applies to small pelagic fisheries using pelagic mid-water trawl and/or purse seines and catching anchovy, sardine, mackerel and horse mackerel in the General Fisheries for the Commission of the Mediterranean (GFCM) geographical sub-areas 1, 2, 5, 6, 7, 8, 9, 10, 11.1, 11.2, and 12 (western Mediterranean Sea); 17 and 18 (Adriatic Sea); and 15, 16, 19, 20, 22, 23 and 25

¹ Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354, 28.12.2013, p. 22).

² Regulation (EU) 2019/1241 of the European Parliament and of the Council of 20 June 2019 on the conservation of fisheries resources and the protection of marine ecosystems through technical measures, amending Council Regulations (EC) No 1967/2006, (EC) No 1224/2009 and Regulations (EU) No 1380/2013, (EU) 2016/1139, (EU) 2018/973, (EU) 2019/472 and (EU) 2019/1022 of the European Parliament and of the Council, and repealing Council Regulations (EC) No 894/97, (EC) No 850/98, (EC) No 2549/2000, (EC) No 254/2002, (EC) No 812/2004 and (EC) No 2187/2005 (OJ L 198, 25.7.2019, p. 105).

³ Commission Delegated Regulation (EU) 2018/161 of 23 October 2017 establishing a *de minimis* exemption to the landing obligation for certain small pelagic fisheries in the Mediterranean Sea (OJ L 30, 2.2.2018, p. 1).

(south-eastern Mediterranean Sea). Commission Delegated Regulation 2020/2012⁴ extended the application of the combined *de minimis* exemption until 31 December 2023.

- (4) In May 2023, the Pescamed High-Level Group in the western Mediterranean (Spain, France and Italy), the Adriatica High-Level Group in the Adriatic Sea (Croatia, Italy and Slovenia) and the Sudestmed High-Level Group in the south-eastern Mediterranean Sea (Cyprus, Greece, Italy and Malta) submitted initial joint recommendations requesting the extension of the *de minimis* exemptions laid down in Delegated Regulation (EU) 2018/161.
- (5) On 15 June 2023, the Scientific, Technical and Economic Committee for Fisheries (‘STECF’) assessed the scientific evidence supporting those initial joint recommendations⁵.
- (6) Regarding the disproportionate costs of handling unwanted catches and the levels of unwanted catches, while the STECF noted that such information has improved, further work on data collection for specific fleets is needed.
- (7) Regarding the data and information on disproportionate costs of handling unwanted catches provided by the Adriatica High-Level Group and the Pescamed High-Level Group, the STECF noted that the studies conducted indicated the inability to increase selectivity and the disproportionate costs of managing the unwanted catches.
- (8) Regarding the data and information on disproportionate costs of handling unwanted catches provided by the Sudestmed High-Level Group for purse seiners, the STECF noted that while the information sent by Greece strengthens the justification for the exemption, further work is needed to assess the representativeness of that information for the other fleets of the Sudestmed High-Level Group operating in the south-eastern Mediterranean. The STECF also noted the low level of discards.
- (9) On 27 June 2023, the Sudestmed High-Level Group and on 28 June 2023, the Adriatica High-Level Group and Pescamed High-Level Group submitted updated joint recommendations.
- (10) Under Article 18 of Regulation (EU) No 1380/2013 of the European Parliament and of the Council⁶, the Commission has considered the updated joint recommendation of Pescamed, Adriatic and Sudestmed High-Level Groups in light of the STECF’s assessment of the initial joint recommendation to ensure that the updated joint recommendations are compatible with the relevant Union conservation measures, including the landing obligation.
- (11) The Commission has also taken into account that: (i) the upcoming evaluation of the landing obligation⁷ is expected to provide more information on the effectiveness, efficiency, coherence, relevance and added value of the landing obligation; and (ii) the

⁴ Commission Delegated Regulation (EU) 2020/2012 of 5 August 2020 amending Delegated Regulation (EU) 2018/161 establishing a *de minimis* exemption to the landing obligation for certain small pelagic fisheries in the Mediterranean Sea, as regards its period of application (OJ L 415, 10.12.2020).

⁵ Scientific, Technical and Economic Committee for Fisheries (STECF) – Evaluation of Joint Recommendations on the landing obligation and on Technical Measures Regulation (STECF-23-04 & 23-06).

⁶ Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354, 28.12.2013, p. 22).

⁷ COM(2023) 103 final.

Scientific, Technical and Economic Committee for Fisheries (STECF) has noted that the current process of evaluating joint recommendations is inefficient, that further reflection is necessary as to how it can be further improved and that such reflection would allow discussion on data issues and on finding new ways to improve the implementation of the landing obligation.

- (12) The Commission also notes that in the Mediterranean Sea, species are caught at the same time, at highly varying quantities, making a single stock approach challenging. Those species are furthermore caught by small-scale fishing vessels and landed in many different landing points spread out geographically along the coast. This results in disproportionate costs of handling unwanted catches.
- (13) In their updated joint recommendations, Member States renewed their commitment to improve further the data collection for specific fleets to have a better representativity of the data.
- (14) For the reasons set out in recitals (4)-(13) above, and to avoid disproportionate costs of handling unwanted catches and the interruption of the activities of the fisheries concerned and of related economic activities, the Commission therefore considers the exemptions should be granted from 1 January 2024 to 31 December 2027.
- (15) Since the measures provided for in this Regulation impact directly on the planning of the fishing season of Union vessels and on related economic activities and for reasons of legal certainty this Regulation should apply from 1 January 2024,

HAS ADOPTED THIS REGULATION:

Article 1

Implementation of the landing obligation

The landing obligation provided for in Article 15(1) of Regulation (EU) No 1380/2013 shall apply in Union waters of the Mediterranean Sea in accordance with this Regulation.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

- (a) ‘species subject to a minimum size’ means any species listed in Annex IX to Regulation (EU) 2019/1241 of the European Parliament and of the Council;
- (b) ‘Mediterranean Sea’ means maritime waters of the Mediterranean to the east of line 5°36’ West;
- (c) ‘GFCM Geographical Sub-Area’ means General Fisheries Commission for the Mediterranean (GFCM) Geographical Sub-Area as defined in Annex I to Regulation (EU) No 1343/2011 of the European Parliament and of the Council⁸ ;
- (d) ‘western Mediterranean Sea’ means GFCM Geographical Sub-Areas 1, 2, 5, 6, 7, 8,

⁸ Regulation (EU) No 1343/2011 of the European Parliament and of the Council of 13 December 2011 on certain provisions for fishing in the GFCM (General Fisheries Commission for the Mediterranean) Agreement area and amending Council Regulation (EC) No 1967/2006 concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea (OJ L 347, 30.12.2011, p. 44).

- 9, 10, 11.1, 11.2 and 12;
- (e) ‘south-eastern Mediterranean Sea’ means GFCM Geographical Sub-Areas 15, 16, 19, 20, 22, 23 and 25;
- (f) ‘Adriatic Sea’ means GFCM Geographical Sub-Areas 17 and 18.
- (g) ‘Southern Adriatic and Ionian Sea’ means GFCM Geographical Sub-Areas 18, 19 and 20.

Article 3
De minimis exemptions

By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, the following quantities of species may be discarded pursuant to Article 15(4), point (c) of Regulation (EU) No 1380/2013:

- for anchovy, sardine, mackerel and horse mackerel, up to 5% of the total annual catches of those species caught by vessels using mid-water trawls and purse seines in the western Mediterranean Sea (GSAs 1, 2, 5, 6, 7, 8, 9, 10, 11.1, 11.2 and 12).
- for anchovy, sardine, mackerel and horse mackerel, up to 5% of the total annual catches of those species caught by vessels using mid-water trawls in the Adriatic Sea (GSAs 17 and 18).
- for anchovy, sardine, mackerel and horse mackerel, up to 3% of the total annual catches of those species caught by vessels using purse seines in the Adriatic Sea (GSAs 17 and 18).
- for anchovy, sardine, mackerel and horse mackerel, up to 1% of the total annual catches of those species caught by vessels using mid-water trawls in the south – eastern Mediterranean (GSAs 15, 16, 19, 20, 22, 23 and 25).
- for anchovy, sardine, mackerel and horse mackerel, up to 3% of the total annual catches of those species caught by vessels using purse seine in the south-eastern Mediterranean (GSAs 20, 22 and 23).
- for anchovy, sardine, mackerel and horse mackerel, up to 1% of the total annual catches of those species caught by vessels using purse seine in the south-eastern Mediterranean (GSAs 15, 16, 19 and 25).

Article 4
Entry into force and application

This Regulation shall enter into force on the day following that of its publication in the Official Journal of the European Union.

It shall apply from 1 January 2024 until 31 December 2027.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 22.8.2023

For the Commission
The President
Ursula VON DER LEYEN