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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
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To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

No. Cion doc.:	C(2026) 6205 final
Subject:	COMMISSION DELEGATED REGULATION (EU) .../... amending Regulation (EU) 2019/1241 of the European Parliament and of the Council as regards measures to reduce incidental catches of common dolphin (<i>Delphinus delphis</i>) and other small cetaceans in the Bay of Biscay

Delegations will find attached document C(2026) 6205 final.

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EUROPEAN
COMMISSION

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COMMISSION DELEGATED REGULATION (EU) .../...

of 4.9.2026

amending Regulation (EU) 2019/1241 of the European Parliament and of the Council as regards measures to reduce incidental catches of common dolphin (*Delphinus delphis*) and other small cetaceans in the Bay of Biscay

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Article 3(2) of Regulation (EU) 2019/1241¹ provides that technical measures should contribute, inter alia, to the objective of ensuring that incidental catches of sensitive marine species, including those listed under Directives 92/43/EEC² and 2009/147/EC³, that are a result of fishing, are minimised and where possible eliminated so that they do not represent a threat to the conservation status of these species.

Article 15(2) of Regulation (EU) 2019/1241 empowers the Commission to adopt delegated acts to take into account regional specificities of the relevant fisheries, by amending, supplementing, repealing or derogating from the technical measures set out in the Annexes, in accordance with Article 29 of that Regulation and Article 18 of Regulation (EU) No 1380/2013⁴.

Annex XIII to Regulation (EU) 2019/1241 sets out technical measures established at regional level for sensitive species. Point 3 of that Annex requires Member States to submit joint recommendations for additional mitigation measures to reduce incidental catches of sensitive species where validated scientific evidence indicates the negative impacts of fishing gear on such species. Points 2 and 4 of that Annex also require that Member States take the necessary steps to collect scientific data on incidental catches of sensitive species and to monitor and assess the effectiveness of the mitigation measures established under the Annex.

Article 21 of Regulation (EU) 2019/1241 provides that a joint recommendation submitted for the purpose of adopting the measures referred to in Article 15(2), in relation to the protection of sensitive species and habitats, may (i) specify the use of additional or alternative measures to those referred to in Annex XIII to minimise the incidental catches of the species referred to in Article 11; (ii) provide information on the effectiveness of existing mitigation measures and monitoring arrangements and; (iii) specify restrictions on the operation of certain gear or introduce a total prohibition on the use of certain fishing gear within an area where such gear represent a threat to the conservation status of species in that area as referred to in Articles 10 and 11 or other sensitive habitats. Article 11(1) of Regulation (EU) 2019/1241 refers to marine mammals or marine reptiles listed in Annexes II and IV to Directive 92/43/EEC and species of seabirds covered by Directive 2009/147/EC.

The common dolphin (*Delphinus delphis*) is a strictly protected species according to Annex IV to Directive 92/43/EEC, which lists all cetaceans as species of Community interest in need of strict protection. Between 2017 and 2023, the estimated annual mortality of

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, ELI: <http://data.europa.eu/eli/reg/2019/1241/oj>).

² Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7, ELI: <http://data.europa.eu/eli/dir/1992/43/oj>).

³ Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7, ELI: <http://data.europa.eu/eli/dir/2009/147/oj>).

⁴ 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, ELI: <http://data.europa.eu/eli/reg/2013/1380/oj>).

common dolphins along the French coast of the Bay of Biscay averaged 4700⁵. In addition, 66 % of stranded cetacean carcasses in France showed evidence of interaction with fishing gear. Incidental catches are therefore considered a threat to the conservation of these species.

On 30 September 2024, in accordance with Article 18 of Regulation (EU) 1380/2013, the Commission adopted Commission Delegated Regulation (EU) 2024/3089⁶ amending Annex III to Regulation (EU) 2019/1241. That Delegated Regulation introduced, until 31 December 2025, a fixed fishing closure period from 22 January to 20 February, the mandatory use of acoustic deterrent devices for certain gears to reduce incidental catches of common dolphin, and monitoring measures to improve knowledge of interactions between cetaceans and fishing activities in the Bay of Biscay (ICES subarea 8). Commission Delegated Regulation (EU) 2025/2593⁷ extended those measures until 31 December 2026.

According to Pelagis, the French observatory for the conservation of marine megafauna and seabirds, the total number of strandings of common dolphin decreased in 2024 and 2025 compared with the reference period (2017-2023)⁵.

On 12 June 2026, the South Western Waters High-Level Group (Belgium, Spain, France, the Netherlands, and Portugal) submitted a joint recommendation to the Commission in accordance with Article 18 of Regulation (EU) 1380/2013. The joint recommendation proposes a fishing closure regime whereby masters of Union vessels can choose an alternative closure period of 30 consecutive days between 15 January and 27 February 2027, provided that they notify it to the competent authorities no later than 8 January 2027. In the absence of such notification, the default closure period from 22 January to 20 February 2027 should apply. The fishing closure regime is intended to increase operational flexibility for the fishing sector, thereby reducing economic impacts while continuing to cover the period when the risk of bycatch is high; and responds to a direct request from the fishing sector to better adapt the fishing closure with fishing activities⁸. In the joint recommendation, the Member States also proposed the extension, until 31 December 2027, of the use of acoustic deterrent devices and monitoring measures provided for in Delegated Regulation (EU) 2025/2593.

In its plenary meeting on 6-10 July 2026⁹, the Scientific, Technical and Economic Committee for Fisheries (the ‘STECF’) considered the measures proposed in the joint recommendation and concluded that the assessment of the previous joint recommendation made during PLEN 24-02 still applies, namely that the proposed measures should contribute to reducing incidental catches. However, STECF noted that these measures are less stringent than the

⁵ Peltier Hélène, Authier Matthieu, Dars Cécile, Wund Sarah, Spitz Jérôme. Pelagis, University of La Rochelle (2025). Bilan des mortalités par capture : hiver 2025 (<https://www.actu-environnement.com/media/pdf/news-47155-bilan-pelagis-mortalite-cetaces-golfe-gascogne-2025.pdf>).

⁶ Commission Delegated Regulation (EU) 2024/3089 of 30 September 2024 amending Regulation (EU) 2019/1241 as regards measures to reduce incidental catches of common dolphin (*Delphinus delphis*) and other small cetaceans in the Bay of Biscay (OJ L, 2024/3089, 9.12.2024, ELI: http://data.europa.eu/eli/reg_del/2024/3089/oj).

⁷ Commission Delegated Regulation (EU) 2025/2593 of 11 August 2025 amending Regulation (EU) 2019/1241 of the European Parliament and of the Council as regards the prolongation of the measures to reduce incidental catches of common dolphin (*Delphinus delphis*) and other small cetaceans in the Bay of Biscay (OJ L, 2025/2593, 23.12.2025, ELI: http://data.europa.eu/eli/reg_del/2025/2593/oj).

⁸ SWWAC(2026). Opinion 187 issued in the context of the development of the joint recommendation on measures to reduce accidental catches of common dolphins in the Bay of Biscay (<https://cc-sud.eu/wp-content/uploads/2026/05/Avis187-cetaces-0526-FR.pdf>).

⁹ STECF(2026). 82nd Plenary report (STECF-PLN-26-02), Publications Office of the European Union, Luxembourg, 2026, https://stecf.jrc.ec.europa.eu/documents/d/stecf/stecf_plen_26-02.

measures advised by the International Council for the Exploration of the Sea (the ‘ICES’)¹⁰, as well as raised concerns regarding the impact on dolphins’ mortality originating from the gears and areas exempted from the closure. The STECF also considered that a two-month closure, as recommended by ICES, would allow a better coverage but is likely to have significant social and economic impacts. The STECF further concluded that it is not possible to predict the effect of the proposed modification in the design of the spatio-temporal closure as the timing of the peak of interaction between fishing fleet and dolphins is too variable across years. The STECF noted that introducing flexibility of the timing of the closure might smooth the economic impacts on the fishing fleet and promote compliance, and that early notification of the chosen fishing periods to the authorities of the Member States is crucial to leave enough time to implement the necessary control measures. Finally, the STECF acknowledges that the extensive research conducted in recent years has significantly improved understanding on the species’ ecology and its interaction with fisheries, including through a more precise spatial delineation of high-risk areas; and that the development and testing of electronic monitoring system appears to offer a cost-effective solution of collecting reliable data with significantly broader coverage.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

On 22 May 2026, the South Western Waters Advisory Council (SWWAC) issued an opinion on a near-final draft of the joint recommendation. In its opinion, the SWWAC recommended, among others, a flexible fishing closure where fishers may choose a 30 consecutive days closure within the high-bycatch risk period.

Both the SWWAC and the Pelagic Advisory Council attended in part the technical meetings of the South Western Waters High-Level Group.

The Expert Group on Fisheries and Aquaculture was consulted on 26 August 2026.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

Summary of the action

The delegated act amends the measures set out in Annex XIII to Regulation (EU) 2019/1241 by setting a fishing closure period and extending the use of acoustic deterrent devices and monitoring measures until 31 December 2027, in the Bay of Biscay (ICES subarea 8).

Legal Basis

Article 15(2) of Regulation (EU) 2019/1241.

¹⁰ ICES(2023). EU request on mitigation measures to reduce bycatches of common dolphin (*Delphinus delphis*) in the Bay of Biscay (ICES Subarea 8), <https://doi.org/10.17895/ices.advice.23515176>.

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THE EUROPEAN COMMISSION,

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

Having regard to 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 2187/2005¹, and in particular Article 15(2) thereof,

Whereas:

- (1) Regulation (EU) 2019/1241 lays down technical measures concerning fishing activities in Union waters. Annex XIII thereto provides for rules at regional level regarding mitigation measures to reduce incidental catches of sensitive species including cetaceans, by detailing restricted areas, periods and gear limitations.
- (2) Among others, that Regulation provides for specific measures to reduce incidental catches of the common dolphin and other small cetaceans in the Bay of Biscay (ICES subarea 8). These measures include: (i) the use of acoustic deterrent devices for all mid-water pelagic trawls and demersal twin trawls, (ii) a fishing closure from 22 January to 20 February, and (iii) a set of ancillary measures to collect scientific data on incidental catches of small cetaceans in the logbook, as well as recordings made by covering certain percentages of the fishing effort with observers or electronic monitoring systems incorporating cameras on board.
- (3) Those specific measures, introduced in Regulation (EU) 2019/1241 by Commission Delegated Regulation (EU) 2024/3089² and extended by Commission Delegated Regulation (EU) 2025/2593³, expire on 31 December 2026.

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, ELI: <http://data.europa.eu/eli/reg/2019/1241/oj>).

² Commission Delegated Regulation (EU) 2024/3089 of 30 September 2024 amending Regulation (EU) 2019/1241 as regards measures to reduce incidental catches of common dolphin (*Delphinus delphis*) and other small cetaceans in the Bay of Biscay (OJ L, 2024/3089, 9.12.2024, ELI: http://data.europa.eu/eli/reg_del/2024/3089/oj).

- (4) On 12 June 2026, the South Western Waters High-Level Group (Belgium, Spain, France, the Netherlands, and Portugal) submitted a joint recommendation to the Commission in accordance with Article 18 of Regulation (EU) 1380/2013. The joint recommendation proposes a fishing closure regime whereby masters of Union vessels can choose an alternative closure period of 30 consecutive days between 15 January and 27 February 2027, provided that they notify it to the competent authorities no later than 8 January 2027. In the absence of such notification, the default closure period from 22 January to 20 February 2027 should apply. The fishing closure regime is intended to increase operational flexibility for the fishing sector, thereby reducing economic impacts while continuing to cover the period when the risk of bycatch is high. In the joint recommendation, the Member States also proposed the extension, until 31 December 2027, of the use of acoustic deterrent devices and of the monitoring measures provided for in Delegated Regulation (EU) 2025/2593.
- (5) During the preparation of the joint recommendation, the South Western Waters Advisory Council (the ‘SWWAC’) provided an opinion on the near-final draft⁴. In its opinion, the SWWAC recommended, among others, a flexible fishing closure where fishers may choose a 30 consecutive days closure within the high-bycatch risk period.
- (6) In its plenary meeting on 6-10 July 2026⁵, the Scientific, Technical and Economic Committee for Fisheries (the ‘STECF’) considered the measures proposed in the joint recommendation and concluded that the assessment of the previous joint recommendation made during PLEN 24-02 still applies, namely that the proposed measures should contribute to reducing incidental catches. However, STECF noted that these measures are less stringent than the measures advised by the International Council for the Exploration of the Sea (the ‘ICES’)⁶, and raised concerns regarding the impact on dolphins’ mortality originating from the gears and areas exempted from the closure. The STECF also considered that a two-month closure, as recommended by the ICES, would allow a better coverage but is likely to have significant social and economic impacts. The STECF further concluded that it is not possible to predict the effect of the proposed modification in the design of the spatio-temporal closure as the timing of the peak of interaction between fishing fleet and dolphins is too variable across years. The STECF noted that introducing flexibility of the timing of the closure might smooth the economic impacts on the fishing fleet and promote compliance, and that early notification of the chosen fishing periods to the authorities of the Member States is crucial to leave enough time to implement the necessary control measures.
- (7) The STECF acknowledged that the extensive research conducted in recent years has significantly improved understanding on the species’ ecology and its interaction with fisheries, including through a more precise spatial delineation of high-risk areas. It also noted that the development and testing of electronic monitoring systems appear to

³ Commission Delegated Regulation (EU) 2025/2593 of 11 August 2025 amending Regulation (EU) 2019/1241 of the European Parliament and of the Council as regards the prolongation of the measures to reduce incidental catches of common dolphin (*Delphinus delphis*) and other small cetaceans in the Bay of Biscay (OJ L, 2025/2593, 23.12.2025, ELI: http://data.europa.eu/eli/reg_del/2025/2593/oj).

⁴ SWWAC(2026). Opinion 187 issued in the context of the development of the joint recommendation on measures to reduce accidental catches of common dolphins in the Bay of Biscay (<https://cc-sud.eu/wp-content/uploads/2026/05/Avis187-cetaces-0526-FR.pdf>).

⁵ STECF(2026). 82nd Plenary report (STECF-PLN-26-02), Publications Office of the European Union, Luxembourg, 2026, https://stecf.jrc.ec.europa.eu/documents/d/stecf/stecf_plen_26-02.

⁶ ICES(2023). EU request on mitigation measures to reduce bycatches of common dolphin (*Delphinus delphis*) in the Bay of Biscay (ICES Subarea 8), <https://doi.org/10.17895/ices.advice.23515176>.

offer a cost-effective solution of collecting reliable data with significantly broader coverage. The STECF further noted that available data cover only the period up to 2024 and that definitive conclusions as regards the effect of the closure cannot be drawn. Therefore, Member States concerned should review and assess all available and most recent data and information on incidental catches of common dolphin in order to consider possible adjustments to the fishing closure.

- (8) Following the STECF advice, on 5 August 2026, the South Western Waters High-Level Group updated the joint recommendation to allow for a possible review of the measures, based on new data on incidental catches or any new relevant scientific advice.
- (9) The Expert Group on Fisheries and Aquaculture was consulted on 26 August 2026.
- (10) The Commission considers that, while the measures proposed in the joint recommendation are less stringent than the measures advised by the ICES, they will contribute to reducing incidental catches of common dolphin in the Bay of Biscay in 2027.
- (11) Regulation (EU) 2019/1241 should therefore be amended accordingly.
- (12) This Regulation is without prejudice to additional measures for the protection of the common dolphin and other small cetaceans that the Commission may adopt under Union law, including in relation to the enforcement of Council Directive 92/43/EEC⁷ or, in case of duly justified imperative grounds of urgency relating to a serious threat to the conservation of marine biological resources or to the marine ecosystem pursuant to Article 12 of Regulation (EU) No 1380/2013 of the European Parliament and of the Council⁸, and to more stringent national measures that Member States may adopt for that purpose in their waters in accordance with Regulation (EU) No 1380/2013 and Regulation (EU) 2019/1241.
- (13) As the measures provided for in this Regulation have a direct impact on the planning of the fishing season of Union vessels and on related economic activities, this Regulation should enter into force as soon as possible. Since the current measures expire on 31 December 2026, this Regulation should apply from 1 January 2027 in order to ensure legal continuity.
- (14) In order to enable operators and fisheries control authorities to plan their activities and make the necessary arrangements, masters of Union fishing vessels should notify the closure period in a timely manner before the beginning of such closure.
- (15) Regulation (EU) 2019/1241 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annex XIII to Regulation (EU) 2019/1241 is amended in accordance with the Annex to this Regulation.

⁷ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7, ELI: <http://data.europa.eu/eli/dir/1992/43/oj>).

⁸ 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, ELI: <http://data.europa.eu/eli/reg/2013/1380/oj>).

Article 2

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 2027 until 31 December 2027.

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

Done at Brussels, 4.9.2026

For the Commission
The President
Ursula VON DER LEYEN