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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

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Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 23.3.2022 correcting and amending Regulation (EU) 2019/1241 of the European Parliament and of the Council as regards exemptions from the plaice box

Delegations will find attached document C(2022) 1698 final.

Encl.: C(2022) 1698 final



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

of 23.3.2022

**correcting and amending Regulation (EU) 2019/1241 of the European Parliament and of
the Council as regards exemptions from the plaice box**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Regulation (EU) 2019/1241¹ came into force on 14 August 2019. It establishes the framework of technical measures that should contribute to achieving the Common Fisheries Policy (CFP) objectives to fish at maximum sustainable yield levels, reduce unwanted catches and eliminate discards, and contribute to the achievement of good environmental status as set out in Directive 2008/56/EC² of the European Parliament and of the Council. Such technical measures should contribute to the protection of juveniles and spawning aggregations of marine species through the use of selective gear. Annex V of this Regulation establishes regional technical measures for the North Sea.

Article 18 of Regulation (EU) No 1380/2013³ (the Basic Regulation) provides that Member States with a direct management interest may submit joint recommendations (JRs) to achieve the objectives of the relevant Union conservation measures, the multiannual plans or the specific discard plans. Upon agreeing a JR the Member States may propose to the Commission to adopt it by means of a delegated act.

Article 15(2) of Regulation (EU) 2019/1241 empowers the Commission to adopt delegated acts in order to amend, supplement, repeal or derogate from the technical measures set out in the Annexes, aiming to take into account regional specificities of the relevant fisheries. The Commission adopts such delegated acts on the basis of JRs submitted by Member States.

In accordance with Article 18 of Regulation (EU) No 1380/2013 and Article 15(2) of Regulation (EU) 2019/1241, the proposed delegated act is based on a JR developed and submitted to the Commission by the Member States concerned, i.e. Belgium, Denmark, Germany, France, the Netherlands and Sweden ('Scheveningen Group'), who have a direct management interest in the relevant fisheries.

In accordance with Article 15(6) of Regulation (EU) 2019/1241, the JR was assessed at the request of the Commission by the Scientific, Technical and Economic Committee for Fisheries (STECF).

The JR was transposed into EU legislation through Commission Delegated Regulation (EU) 2021/1160⁴. However, since then it has become clear that the wording of one of the corresponding provisions does not adequately reflect the intention of the Scheveningen Group as expressed in the JR submitted, and on the basis of which the STECF assessed the JR.

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, 25.07.2019, p. 105).

² Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive) (OJ L 164, 25.6.2008, p. 19).

³ 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).

⁴ Commission Delegated Regulation (EU) 2021/1160 of 12 May 2021 amending Regulation (EU) 2019/1241 of the European Parliament and of the Council as regards the sprat box and the plaice box in the North Sea (OJ L 250, 15.07.2021, p. 4).

This provision concerns vessels that are permitted to fish in the closed area to protect juvenile plaice in ICES subarea 4 (the ‘plaice box’), and refers to ‘Danish seine’. The definition of ‘Danish seine’ included in Art. 6(18) of Regulation (EU) 2019/1241 covers both Danish seines and Scottish seines (‘flyshooters’), which, although having the same characteristics and using the same gear, operate differently. The Scheveningen Group only wanted to allow vessels using Danish seines that do the hauling of the fishing gear while the vessel is at anchor (Danish anchor seines). As a result, while the Scheveningen Group requested to re-insert a limited exemption for Danish anchor seines that existed under the repealed Regulation (EC) No 850/98⁵, and the STECF assessed that request, the resulting Commission Delegated Regulation (EU) 2021/1160 broadens the exemption by potentially opening it up to Scottish seines (‘flyshooters’).

This Commission Delegated Regulation therefore seeks to amend the corresponding provision to bring it in line with the Member States’ intention and the STECF assessment.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

For the purpose of implementing the regionalised approach, the North Sea Member States having a direct management interest have agreed on a JR regarding the plaice box. The chair of the regional group of North Sea Member States (‘Scheveningen Group’) submitted the JR on the plaice box to the Commission on 19 October 2020, requesting to amend the relevant provision of Regulation (EU) 2019/1241.

The North Sea Advisory Council (NSAC) and the Pelagic Advisory Council (PELAC) were invited to closely cooperate with the Scheveningen Group and were invited to attend, in part, meetings of the Scheveningen High Level Group and the technical group. A draft of the JR was sent to the NSAC for consultation.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

Summary of the proposed action

The main legal action is to modify the current plaice box provisions that are set out in Annex V of Regulation (EU) 2019/1241. In particular, this act would amend the exemption allowing vessels using Danish seines to access the plaice box. The proposed change clarifies that the exemption applies only to Danish anchor seines and excludes Scottish seines/flyshooters. This is in line with the Member States’ intentions as expressed in the JR and supported by the subsequent STECF assessment.

Legal basis

Article 15(2) of Regulation (EU) 2019/1241. The proposal in the JR aims to amend Annex V of Regulation (EU) 2019/1241.

⁵ Council Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms (OJ L 125, 27.4.1998, p.1), no longer in force.

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

of 23.3.2022

correcting and amending Regulation (EU) 2019/1241 of the European Parliament and of the Council as regards exemptions from the plaice box

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 on the conservation of fisheries resources and the protection of marine ecosystems through technical measures contains an error in Annex V Part C which must be corrected.
- (2) While recital 5 of Delegated Regulation (EU) 2021/1160² refers to ‘Danish anchor seines’, the corresponding provision in the annex refers to ‘Danish seines’ only. Given that Article 6(18) of Regulation (EU) 2019/1241 does not distinguish between Danish seines and Scottish seines/‘flyshooters’, the provision in Annex V as it stands can therefore be read as incorrectly applying to both Danish anchor seines and Scottish seines.
- (3) Delegated Regulation (EU) 2021/1160 is based on a joint recommendation submitted on 19 October 2020 by Belgium, Denmark, Germany, France, the Netherlands and Sweden (Scheveningen Group), who have a direct fisheries management interest in the North Sea. Section 3.1.2 of the joint recommendation specifically distinguished between Danish seine that does the hauling of the fishing gear while the vessel is at anchor (anchor seining) and Scottish seine, confirming that Member States intended the requested exemption to apply to Danish anchor seine only.
- (4) The STECF assessment, concluding that the introduction of the specific exemption for Danish seine is not expected to have any significant effect on the level of protection inside

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, 25.07.2019, p. 105).

² Commission Delegated Regulation (EU) 2021/1160 of 12 May 2021 amending Regulation (EU) 2019/1241 of the European Parliament and of the Council as regards the sprat box and the plaice box in the North Sea (OJ L 250, 15.07.2021, p. 4).

the area, referred only to Danish ‘anchor seine’ (gear code SDN³) and not to ‘Scottish’ or flyshooter/flydragger seines (gear code SSC⁴).

- (5) Annex V of Regulation (EU) 2019/1241 should therefore be corrected to clarify that the proposed exemption applies only to those Danish seines that do the hauling of the fishing gear while the vessel is at anchor (Danish anchor seine (gear code SDN)).
- (6) 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 immediately after its publication,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

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

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

Done at Brussels, 23.3.2022

For the Commission
The President
Ursula VON DER LEYEN

³ Annex XI of 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 (OJ L 112, 30.04.2011, p. 64).

⁴ Annex XI of 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 (OJ L 112, 30.04.2011, p. 64).