EUROPEAN
COMMISSION

Brussels, 27.3.2023
COM(2023) 170 final

REPORT FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT

in respect of the delegation of powers referred to in Article 11(2), Article 15(2), (3), (6), (7) and Article 45(4) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy

1. Introduction

The Common Fisheries Policy Regulation (EU) No 1380/2013[1] ('CFP Regulation'), covers:

(a) the conservation of marine biological resources and the management of fisheries and fleets exploiting such resources; and

(b) in relation to measures on markets and financial measures in support of the implementation of the CFP: fresh water biological resources, aquaculture and the processing and marketing of fisheries and aquaculture products.

This Regulation has been amended five times: in 2014[2], 2015[3], 2017[4], 2019[5] and 2022[6].

To fulfil the objectives of the CFP Regulation, and in particular to ensure that fishing and aquaculture activities are environmentally and socio-economically sustainable in the long term, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union is delegated to the Commission. This power[7] can be used by the Commission to adopt conservation measures accompanying certain environmental obligations for Member States[8] for the purpose of complying with their obligations under Article 13(4) of the Marine strategy framework directive[9] (MSFD), Article 4 of the Birds directive[10] or Article 6 of the Habitats directive[11], to implement the landing obligation and to establish detailed

---

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 Council Regulation (EU) No 1385/2013 of 17 December 2013 amending Council Regulations (EC) No 850/98 and (EC) No 1224/2009, and Regulations (EC) No 1069/2009, (EU) No 1379/2013 and (EU) No 1380/2013 of the European Parliament and of the Council, following the amendment of the status of Mayotte with regard to the European Union.

3 Regulation (EU) 2015/812 of the European Parliament and of the Council of 20 May 2015 amending Council Regulations (EC) No 850/98, (EC) No 2187/2005, (EC) No 1967/2006, (EC) No 1098/2007, (EC) No 254/2002, (EC) No 2347/2002 and (EC) No 1224/2009, and Regulations (EU) No 1379/2013 and (EU) No 1380/2013 of the European Parliament and of the Council, as regards the landing obligation, and repealing Council Regulation (EC) No 1434/98.

4 Regulation (EU) 2017/2092 of the European Parliament and of the Council of 15 November 2017 amending Regulation (EU) No 1380/2013 on the common fisheries policy.

5 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.

6 Regulation (EU) 2022/2495 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 1380/2013 as regards restrictions to the access to Union waters.

7 Provided for by recital (67) of the CFP Regulation.

8 Provided for by Article 11 of the CFP Regulation

9 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)

10 Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds

11 Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora

rules on the functioning of the Advisory Councils. An Advisory Council has been set up[12] for each geographical area or field of competence in order to promote a balanced representation of all stakeholders and to contribute to the achievements of the objectives provided for in Article 2 of the CFP Regulation. Advisory Councils are composed of organisations representing the fisheries and aquaculture operators and of processing and marketing sectors, as well as other interest groups (such as environmental organisations and consumer groups).

Article 46 of the CFP Regulation sets out the conditions under which the Commission can adopt delegated acts.

2. Legal basis

This report is required under Article 46(2) of the CFP Regulation. According to this provision, the powers to adopt delegated acts referred to in Article 11(2), Article 15(2), (3), (6), (7) and Article 45(4) are conferred on the Commission for a period of 5 years from 29 December 2013. The Commission is required to prepare a report on the delegation of powers no later than 9 months before the end of the 5-year period. The first report, covering the period from the publication of the CFP Regulation (11 December 2013) to 1 December 2017, was published on 26 February 2018[13] and adopted before the end of the 5-year period of 29 December 2018. The delegated powers are automatically extended for 5-year periods, unless the European Parliament or the Council opposes such an extension in accordance with Article 46 of the CFP Regulation. In the absence of any opposition by the co-legislators, the delegation of powers was tacitly prolonged for another 5 years, until 29 December 2023.

The CFP Regulation empowers the Commission to adopt delegated acts for:

a) conservation measures necessary for compliance with certain obligations under EU environmental legislation (Article 11(2) of the CFP Regulation);

b) integrating the EU's international obligations into EU law, including, in particular derogations from the landing obligation (Article 15(2) of the CFP Regulation);

c) extending the application of the landing obligation to species other than those listed in Article 15(1) where a joint recommendation for this purpose is submitted to the Commission (Article 15(3) of the CFP Regulation);

d) establishing specific temporary discard plans containing, among other exemptions, *de minimis* and high survivality exemptions from the landing obligation for a temporary period of no more than 3 years that may be renewed for a further total period of 3 years, where no multiannual plan or management plan is adopted for the fishery in question (Article 15(6) of the CFP Regulation);

e) setting *de minimis* exemptions from the landing obligation of no more than 5% of total annual catches of all species to which the landing obligation applies under Article 15(1), where no measures have been adopted for this purpose either in a multiannual plan or in a specific discard plan (Article 15(7) of the CFP Regulation); and

[12] Provided for by Article 43 – 45 of the CFP Regulation.

[13] COM(2018) 79 final.

f) laying down detailed rules on the functioning of Advisory Councils (Article 45(4) of the CFP Regulation).

Delegated acts with similar content, but which were adopted based on empowerments of regulations other than the CFP Regulation are not covered by this report. This is in particular the case for technical measures adopted on the basis of the relevant articles of the Technical Measures Regulation[14]. Delegated acts setting out measures to implement the landing obligation adopted on the basis of the following articles are also not covered by this report:

1) Article 7 of the Baltic multiannual plan[15];
2) Article 11 of the North Sea multiannual plan[16];
3) Article 13 of the Western Waters multiannual plan[17];
4) Article 14 of the Western Mediterranean multiannual plan[18].

The Commission will draw up reports on the delegation of powers conferred to it by those regulations following their respective conditions.

3. Exercise of the delegation of powers

3.1. Procedural aspects

The Commission's delegated powers, granted under Article 11(2) and Article 15(3) and (6) of the CFP Regulation, are subject to regionalisation provided for under Article 18. Member States having a direct management interest affected by the measures concerned may agree to submit joint recommendations for achieving the objectives of the relevant EU conservation measures or the specific discard plan. When shaping joint recommendations for Commission delegated acts under regionalisation, Member States have to consult the relevant Advisory Councils. If Member States do not agree on joint recommendations or if the joint recommendations are deemed incompatible with the objectives and quantifiable targets of the conservation measures in question, the Commission may submit a proposal for appropriate

[14] 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).

[15] Regulation (EU) 2016/1139 of the European Parliament and of the Council of 6 July 2016 establishing a multiannual plan for the stocks of cod, herring and sprat in the Baltic Sea and the fisheries exploiting those stocks, amending Council Regulation (EC) No 2187/2005 and repealing Council Regulation (EC) No 1098/2007 (OJ L 191, 15.7.2016, p. 1).

[16] Regulation (EU) 2018/973 of the European Parliament and of the Council of 4 July 2018 establishing a multiannual plan for demersal stocks in the North Sea and the fisheries exploiting those stocks, specifying details of the implementation of the landing obligation in the North Sea and repealing Council Regulations (EC) No 676/2007 and (EC) No 1342/2008 (OJ L 179, 16.7.2018).

[17] Regulation (EU) 2019/472 of the European Parliament and of the Council of 19 March 2019 establishing a multiannual plan for stocks fished in the Western Waters and adjacent waters, and for fisheries exploiting those stocks, amending Regulations (EU) 2016/1139 and (EU) 2018/973, and repealing Council Regulations (EC) No 811/2004, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007 and (EC) No 1300/2008 (OJ L 83, 25.3.2019, p. 1.).

[18] Regulation (EU) 2019/1022 of the European Parliament and of the Council of 20 June 2019 establishing a multiannual plan for the fisheries exploiting demersal stocks in the western Mediterranean Sea and amending Regulation (EU) No 508/2014 (OJ L 172, 26.6.2019).

measures in accordance with the Treaty. In each sea basin, except for the Black Sea with only two Member States, multiple Member States collaborate on conservation measures for their fisheries within Member States regional groups. Seven such groups are in place: BaltFish; the North-Western Waters Group; the Scheveningen Group; the South-Western Waters Group; PescaMed; ADRIATICA; and SudEstMed.

Where relevant and in accordance with the requirements, the draft delegated acts based on Articles 11(2) and 15(3), (6) and (7) of the CFP Regulation have been submitted to the Scientific, Technical and Economic Committee for Fisheries (STECF) established by Commission Decision 2005/629/EC[19] to take into account the best available scientific advice.

Member States also consulted the relevant Advisory Councils when formulating the joint recommendations. Some acts were also discussed during the Commission's regular coordination meetings with all Advisory Councils (Inter-AC coordination meetings).

Finally, the draft delegated acts based on the empowerments included in the CFP Regulation have all been submitted to the Expert Group for Fisheries and Aquaculture that was set up to ensure appropriate expert consultation for the preparation of delegated acts. The European Parliament and the European Fisheries Control Agency are invited to the meetings of this Expert Group as observers. The documents relevant to these consultations were submitted simultaneously to the European Parliament and to the Council in line with the Common Understanding on delegated acts. After adoption, the delegated acts were all notified to the European Parliament and to the Council. To date, the European Parliament has objected to one delegated act adopted by the Commission under the CFP Regulation concerning the protection of the marine environment in the North Sea[20]. It did so within 2 months, in line with Article 46(5) of the CFP Regulation. This proposal has therefore not entered into force. For some other delegated acts, the European Parliament has requested to extend the deadline for 2 more months.

3.2. List of delegated acts adopted under the CFP Regulation

All delegated acts adopted by the Commission since 2 December 2017 are listed below. They are classified by legal status (in force, under scrutiny and repealed or expired). The list was last updated and reflects the state of play on 1 January 2023.

3.2.1. DELEGATED ACTS IN FORCE

a) Under Article 11(2) of the CFP Regulation

- **Commission Delegated Regulation (EU) 2023/340** of 8 December 2022 amending Delegated Regulation (EU) 2017/118 as regards conservation measures in Sylter Aussenriff, Borkum-Riffgrund, Doggerbank and Östliche Deutsche Bucht, and in Klaverbank, Friese Front and Centrale Oestergronden[21].

[19] Commission Decision 2005/629/EC of 26 August 2005 establishing a Scientific, Technical and Economic Committee for Fisheries (OJ L 225, 31.8.2005, p. 18).

[20] Commission Delegated Regulation (EU) …/… of 2 March 2018 amending Delegated Regulation (EU) 2017/118 establishing fisheries conservation measures for the protection of the marine environment in the North Sea (C(2018)01194).

[21] OJ L 48, 16.2.2023, p. 1.

- **Commission Delegated Regulation (EU) 2022/952** of 9 February 2022 amending Delegated Regulation (EU) 2017/118 establishing fisheries conservation measures for the protection of the marine environment in the North Sea[22].

b) Under Article 15(2) of the CFP Regulation

- **Commission Delegated Regulation (EU) 2022/824** of 15 March 2022 amending Delegated Regulation (EU) 2015/98 on the implementation of the Union's international obligations, as referred to in Article 15(2) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council, under the International Convention for the Conservation of Atlantic Tunas and the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries[23].
- **Commission Delegated Regulation (EU) 2019/2200** of 10 July 2019 amending Delegated Regulation (EU) 2015/98 on the implementation of the Union's international obligations, as referred to in Article 15(2) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council, under the International Convention for the Conservation of Atlantic Tunas and the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries[24].
- **Commission Delegated Regulation (EU) 2018/191** of 30 November 2017 amending Commission Delegated Regulation (EU) 2015/98 on the implementation of the Union's international obligations, as referred to in Article 15(2) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council, under the International Convention for the Conservation of Atlantic Tunas, regarding the Mediterranean stock of swordfish[25].

c) Under Article 15(3), (6) of the CFP Regulation

- **Commission Delegated Regulation (EU) 2022/2287** of 12 August 2022 amending Delegated Regulation (EU) 2021/2065 establishing a discard plan for turbot fisheries in the Black Sea as regards the extension of the high survivability exemption to the landing obligation for turbot in the Black Sea[26];
- **Commission Delegated Regulation (EU) 2021/2065** of 25 August 2021 establishing a discard plan for turbot fisheries in the Black Sea[27].

d) Under Article 15(7) of the CFP Regulation

- **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[28];
- **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[29]
- **Commission Delegated Regulation (EU) 2021/2064** of 25 August 2021 supplementing Regulation (EU) No 1380/2013 of the European Parliament and of the Council as regards the

22 OJ L 165, 21.6.2022, p. 1-22.
23 OJ L 147, 30.5.2022, p. 1.
24 OJ L 332, 23.12.2019, p. 1.
25 OJ L 36, 9.2.2018, p. 13.
26 OJ L 303, 23.11.2022, p. 1.
27 OJ L 421, 26.11.2021, p. 14.
28 OJ L 30, 2.2.2018, p. 1.
29 OJ L 415, 10.12.2020, p. 1.

establishment of a *de minimis* exemption to the landing obligation for certain demersal fisheries in the Adriatic and south-eastern Mediterranean[30].
- **Commission Delegated Regulation (EU) 2022/2564** of 16 August 2022 amending Commission Delegated Regulation (EU) 2021/2064 supplementing Regulation (EU) No 1380/2013 of the European Parliament and of the Council as regards the establishment of a *de minimis* exemption to the landing obligation for certain demersal fisheries in the Adriatic and south-eastern Mediterranean[31].

e) Under Article 45(4) of the CFP Regulation

- **Commission Delegated Regulation (EU) 2022/204** of 8 December 2021 amending Delegated Regulation (EU) 2015/242 laying down detailed rules on the functioning of the Advisory Councils under the Common Fisheries Policy[32].

3.2.2. DELEGATED ACTS ADOPTED BY THE COMMISSION BUT NOT YET IN FORCE (UNDER SCRUTINY)

a) Under Article 11(2) of the CFP Regulation

None

b) Under Article 15(2) of the CFP Regulation

None

c) Under Article 15(3), (6) of the CFP Regulation

None

d) Under Article 15(7) of the CFP Regulation

None

e) Under Article 45(4) of the CFP Regulation

None

3.2.3. DELEGATED ACTS REPEALED OR EXPIRED

a) Under Article 11(2) of the CFP Regulation

None

b) Under Article 15(2) of the CFP Regulation

None

30 OJ L 421, 26.11.2021, p. 9.
31 OJ L 330, 23.12.2022, p. 126.
32 OJ L 34, 16.2.2022, p. 1.

c) Under Article 15(3), (6) of the CFP Regulation

- **Commission Delegated Regulation (EU) 2018/44** of 20 October 2017 amending Delegated Regulation (EU) 2016/2374 establishing a discard plan for certain demersal fisheries in South-Western waters[33];
- **Commission Delegated Regulation (EU) 2018/45** of 20 October 2017 establishing a discard plan for certain demersal fisheries in the North Sea and in Union waters of ICES Division IIa for the year 2018[34];
- **Commission Delegated Regulation (EU) 2018/46** of 20 October 2017 establishing a discard plan for certain demersal and deep sea fisheries in North-Western waters for the year 2018[35];
- **Commission Delegated Regulation (EU) 2018/153** of 23 October 2017 amending Delegated Regulation (EU) 2017/86 establishing a discard plan for certain demersal fisheries in the Mediterranean Sea[36].
- **Commission Delegated Regulation (EU) 2018/211** of 21 November 2017 establishing a discard plan as regards salmon in the Baltic Sea[37];
- **Commission Delegated Regulation (EU) 2018/188** of 21 November 2017 amending Delegated Regulation (EU) No 1394/2014 establishing a discard plan for certain pelagic fisheries in South-Western waters[38];
- **Commission Delegated Regulation (EU) 2018/189** of 23 November 2017 amending Delegated Regulation (EU) No 1395/2014 establishing a discard plan for certain small pelagic fisheries and fisheries for industrial purposes in the North Sea[39];
- **Commission Delegated Regulation (EU) 2018/190** of 24 November 2017 amending Delegated Regulation (EU) No 1393/2014 establishing a discard plan for certain pelagic fisheries in North-Western waters[40];
- **Commission Delegated Regulation (EU) 2018/2033** of 18 October 2018 establishing a discard plan for certain demersal fisheries in South-Western waters for the period 2019-2021[41].
- **Commission Delegated Regulation (EU) 2018/2034** of 18 October 2018 establishing a discard plan for certain demersal fisheries in North-Western waters for the period 2019-2021[42].
- **Commission Delegated Regulation (EU) 2018/2035** of 18 October 2018 specifying details of implementation of the landing obligation for certain demersal fisheries in the North Sea for the period 2019-2021[43].
- **Commission Delegated Regulation (EU) 2018/2036** of 18 October 2018 amending Delegated Regulation (EU) 2017/86 establishing a discard plan for certain demersal fisheries in the Mediterranean Sea[44].

33 OJ L 7, 12.1.2018, P.1.
34 OJ L 7, 12.1.2018, p. 6.
35 OJ L 7, 12.1.2018, p. 13.
36 OJ L 29, 1.2.2018, p. 1.
37 OJ L 41, 14.2.2018, p. 1.
38 OJ L 36, 9.2.2018, p. 1.
39 OJ L 36, 9.2.2018, p. 4.
40 OJ L 36, 9.2.2018, p. 8.
41 OJ L 327, 21.12.2018, p. 1.
42 OJ L 327, 21.12.2018, p. 8.
43 OJ L 327, 21.12.2018, p. 17.
44 OJ L 327, 21.12.2018, p. 27.

- **Commission Delegated Regulation (EU) 2019/905** of 13 March 2019 amending Delegated Regulation (EU) 2018/2034 establishing a discard plan for certain demersal fisheries in North-Western waters for the period 2019-2021[45].
- **Commission Delegated Regulation (EU) 2019/906** of 13 March 2019 amending Delegated Regulation (EU) 2018/2035 specifying details of implementation of the landing obligation for certain demersal fisheries in the North Sea for the period 2019-2021[46].
- **Commission Delegated Regulation** (EU) 2020/1759 of 28 August 2020 correcting Delegated Regulation (EU) No 1394/2014 establishing a discard plan for certain pelagic fisheries in South-Western waters[47].
- **Commission Delegated Regulation (EU) 2020/3** of 28 August 2019 establishing a discard plan for Venus shells (Venus spp.) in certain Italian territorial waters[48].
- **Commission Delegated Regulation (EU) 2020/4** of 29 August 2019 amending Delegated Regulation (EU) 2017/86 establishing a discard plan for certain demersal fisheries in the Mediterranean Sea[49].
- **Commission Delegated Regulation (EU) 2019/2237** of 1 October 2019 specifying details of the landing obligation for certain demersal fisheries in South-Western waters for the period 2020-2021[50].
- **Commission Delegated Regulation (EU) 2020/2237** of 13 August 2020 amending Delegated Regulation (EU) 2020/3 as regards the derogation for the minimum conservation reference size of Venus shells (Venus spp.) in certain Italian territorial waters[51]
- **Commission Delegated Regulation (EU) 2020/1759** of 28 August 2020 correcting Delegated Regulation (EU) No 1394/2014 establishing a discard plan for certain pelagic fisheries in South-Western waters[52].

d) Under Article 15(7) of the CFP Regulation

None

e) Under Article 45(4) of the CFP Regulation

None

4. Conclusion

The Commission considers that it has exercised its delegated powers within the remit of the CFP Regulation.

The delegation of powers conferred on the Commission by Article 11(2), Article 15(2), (3), (6), (7) and Article 45(4) of the CFP Regulation should be extended in accordance with Article 46(2) of the same Regulation, to contribute to the achievement of its objectives.

The Commission invites the European Parliament and the Council to take note of this report.

---

45 OJ L 145, 4.6.2019, p. 2.
46 OJ L 145, 4.6.2019, p. 4.
47 OJ L 397, 26.11.2020, p. 4.
48 OJ L 2, 6.1.2020, p. 1.
49 OJ L 2, 6.1.2020, p. 5.
50 OJ L 336, 30.12.2019, p. 26.
51 OJ L 436, 28.12.2020, p. 1.
52 OJ L 397, 26.11.2020, p. 4.