# REGULATIONS

##### 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

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43 thereof, having regard to the proposal from the European Commission, after transmission of the draft legislative act to the national parliaments, having regard to the opinion of the European Economic and Social Committee, acting in accordance with the ordinary legislative procedure, whereas:

1. Regulation (EU) No 1380/2013 of the European Parliament and of the Council established as one of its objectives the gradual elimination of discards through the introduction of a landing obligation for catches of species subject to catch limits and species subject to minimum sizes in the Mediterranean. Certain provisions of existing regulations establishing technical and control measures are contradictory to the landing obligation and oblige fishermen to discard fish. In order to remove the incompatibilities between those regulations and the landing obligation, and to make the landing obligation operational, those provisions should be amended or repealed.
2. In particular, in order to ensure the implementation of the landing obligation, Council Regulation (EC) No 850/98 should be amended by requiring that all unintended catches of marine organisms of species subject to the landing obligation and caught in excess of catch composition limits be landed and counted against quotas; by replacing minimum landing sizes for marine organisms subject to the landing obligation with minimum conservation reference sizes; by requiring that all unintended catches of marine organisms of species subject to the landing obligation and caught in excess of by-catch limits in specific areas, at specific times and for specified gear types, be landed and counted against quotas; and by making it clear that the prohibition on high grading is not to apply where exemptions are introduced under the landing obligation.
3. In line with scientific advice provided by the Scientific, Technical and Economic Committee for Fisheries (STECF), according to which the rule on effort limitation in the existing management plan for cod in the Baltic Sea is not required to meet the objectives of the reformed Common Fisheries Policy in respect of the stocks subject to the landing obligation, fishing effort limits for cod stocks in the Baltic Sea should be removed.
4. In order to ensure the implementation of the landing obligation, Council Regulation (EC) No 254/2002 should be amended by requiring that, in the trawl fishery for queen scallop, all unintended catches of marine organisms of species subject to the landing obligation and caught in excess of by-catch limits be landed and counted against quotas.
5. In order to ensure the implementation of the landing obligation, Council Regulation (EC) No 2347/2002 should be amended by requiring that unintended catches of deep-sea species subject to the landing obligation be landed and counted against quotas.
6. In order to ensure monitoring and enforcement of the landing obligation, Council Regulation (EC) No 1224/2009 should be amended by requiring data on catches below the minimum conservation reference size to be recorded separately, by requiring catches to be stowed separately and by including provisions on the marketing of catches below minimum conservation reference sizes and on the deployment of control observers.
7. As discards constitute a substantial waste and affect negatively the sustainable exploitation of marine organisms and marine ecosystems, and as compliance by operators with the landing obligation is essential for its success, infringements of the landing obligation should be categorized as serious under Regulation (EC) No 1224/2009. The landing obligation represents a fundamental change for operators. Accordingly, it is appropriate to postpone for 2 years the application of the rules on serious infringements as regards infringements of that type.

# Article 1

##### Amendments to Regulation (EC) No 850/98

1. Regulation (EC) No 850/98 is amended as follows:
2. in point (c) of Article 4(2), point (b) of Article 46(1) and in Annex I, footnote (5), the noun ‘Community’, or the corresponding adjective, is replaced by ‘Union’, with any necessary grammatical changes being made;
3. Article 1a is deleted;
4. in Article 10, the following paragraph is added:
5. ‘Point (b) of the first paragraph shall not apply to unintended catches of species subject to the landing obligation set out in Article 15 of Regulation (EU) No 1380/2013. Those unintended catches shall be landed and counted against quotas.’;
6. in Article 11(1), the following subparagraph is)added:
7. ‘Point (a) of the first subparagraph shall not apply to unintended catches of species subject to the landing obligation set out in Article 15 of Regulation (EU) No 1380/2013. Those unintended catches shall be landed and counted against quotas.’;
8. Article 15 is replaced by the following:   
   *‘Article 15*Where marine organisms of a species subject to the landing obligation are caught in excess of permitted percentages or quantities specified in Articles 20(2), 21(2), 22(2)(b), 27(2), 29(4)(b), 29b(2), 29b(4), 29d(5)(d), 29d(6)(d), 29d(7)(c), 29f(1), 34b(2)(c) and 34b(10) of this Regulation and Annexes I to VII, X and XI hereto, Article 15 of Regulation (EU) No 1380/2013 shall apply. Those unintended catches shall be landed and counted against quotas.   
   Marine organisms of a species not subject to the landing obligation set out in Article 15 of Regulation (EU) No 1380/2013 which are caught in excess of permitted percentages specified in Articles 20(2), 21(2), 22(2)(b), 27(2), 29(4)(b), 29b(2), 29b(4), 29d(5)(d), 29d(6)(d), 29d(7)(c), 29f(1), 34b(2)(c) and 34b(10) of this Regulation and Annexes I to VII, X and XI hereto, shall not be landed but shall be returned immediately to the sea.’;
9. Article 17 is replaced by the following:   
   *‘Article 17*A marine organism is undersized if its dimensions are below the minimum conservation reference size specified in Annexes XII and XIIa for the relevant species and the relevant geographical area, or a minimum conservation reference size otherwise fixed in accordance with Union law. Except where minimum conservation reference sizes have been established in an act adopted in accordance with Article 15(6) of Regulation (EU) No 1380/2013, the minimum conservation reference sizes established in Annexes XII and XIIa to this Regulation shall apply.’;
10. Article 19 is replaced by the following:   
    *‘Article 19*For catches of undersized marine organisms of a species subject to the landing obligation, Article 15 of Regulation (EU) No 1380/2013 shall apply.   
    Where catches as referred to in paragraph 1 have been landed, Member States shall have in place measures to facilitate their storage or for finding outlets for them, such as support for investment in the construction and adaptation of landing sites and shelters, or support for investments to add value to fishery products.   
    Undersized marine organisms of a species not subject to the landing obligation set out in Article 15 of Regulation (EU) No 1366/2013 shall not be retained on board, trans-shipped, landed, transported, stored, sold, displayed or offered for sale, but shall be returned immediately to the sea.   
    Paragraphs 1 and 3 shall not apply to sardine, anchovy, herring, horse mackerel and mackerel, within a limit of 10 % by live weight of the total catches retained on board of each of those species.   
    The percentage of undersized sardine, anchovy, herring, horse mackerel or mackerel shall be calculated as the proportion by live weight of all marine organisms on board after sorting or on landing.   
    The percentage may be calculated on the basis of one or more representative samples. The limit of 10 % shall not be exceeded during trans-shipment, landing, transportation, storage, display or sale.   
    Paragraph 3 shall not apply to undersized sardine, anchovy, horse mackerel and mackerel caught for use as live bait, which may be retained on board provided they are retained alive.’;
11. in Article 19a, the following paragraph is added:   
    ‘3. Paragraphs 1 and 2 shall not apply to catches or species which are exempted from the application of the landing obligation in accordance with Article 15(4) of Regulation (EU) No 1380/2013.’;
12. in Article 20, the following paragraph is added:   
    ‘4. Where herring is subject to the landing obligation set out in Article 15 of Regulation (EU) No 1380/2013, paragraph 1 of this Article shall not apply.   
    Fishing for herring within the geographical areas and during the periods referred to in paragraph 1 shall be prohibited when using:   
    a towed gear with a mesh size of less than 55 mm;   
    purse seines;   
    gillnets, entangling nets, trammel nets with a mesh size of less than 55 mm; or   
    drift nets with a mesh size of less than 55 mm except when in accordance with paragraph 3.’;

# Article 2

**Amendments to Regulation (EC) No 2187/2005**

Regulation (EC) No 2187/2005 is amended as follows:

1. in Article 2, the following point is added:   
   ‘(p) “unintended catches” means incidental catches of marine organisms which, under Article 15 of Regulation (EU) No 1380/2013 of the European Parliament and of the Council , must be landed and counted against quotas either because they are below the minimum conservation reference size or because they exceed the quantities permitted under the catch composition and by-catch rules.
2. Article 3 is amended as follows:   
   in paragraph 1, the following subparagraph is added:   
   ‘Fishing for any species listed in Annexes II and III using trawls, Danish seines and similar gears, gillnets, entangling nets and trammel nets with a mesh size smaller than the range specified for the target species listed in those Annexes shall be prohibited.’;   
   in paragraph 3, the following subparagraph is added:   
   ‘The first subparagraph shall not apply to unintended catches of species subject to the landing obligation set out in Article 15 of Regulation (EU) No 1380/2013. Those unintended catches shall be landed and counted against quotas.’;   
   in paragraph 6, the following subparagraph is added:   
   ‘The first subparagraph shall not apply to unintended catches of species subject to the landing obligation set out in Article 15 of Regulation (EU) No 1366/2013. Those unintended catches shall be landed and counted against quotas.’;
3. in Annex IV, the term ‘Minimum landing sizes’ is replaced by the term ‘Minimum conservation reference sizes’ and the term ‘Minimum size’ is replaced by the term ‘Minimum conservation reference size’.

# Article 3

**Amendments to Regulation (EC) No 1967/2006**

Regulation (EC) No 1967/2006 is amended as follows:

1. in point (a)(ii) of Article 1(1), the title of Article 6, Article 7(1), Article 8(2), Article 16(2), the title of Article 18, Article 26(1), Article 27(3) and Annex I, section B, paragraph 7, the noun ‘Community’ or the corresponding adjective is replaced by ‘Union’, with any necessary grammatical changes being made;
2. in Article 2, the following point is added:

‘18. “unintended catches” means incidental catches of marine organisms which, under Article 15 of Regulation (EU) No 1380/2013 of the European Parliament and of the Council must be landed because they are below the minimum conservation reference sizeArticle 15 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. A marine organism is undersized if its dimensions are below the minimum conservation reference size specified in Annex III for the relevant species and the relevant geographical area or a minimum conservation reference size otherwise fixed in accordance with Union law. Except where minimum conservation reference sizes have been established in an act adopted in accordance with Article 15(6) of Regulation (EU) No 1380/2013, the minimum conservation reference sizes established in Annex III to this Regulation shall apply.

1a. For catches of undersized marine organisms of a species subject to the landing obligation, Article 15 of Regulation (EU) No 1380/2013 shall apply.

1b. Where catches as referred to in paragraph 1a have been landed, Member States shall have in place measures to facilitate their storage or for finding outlets for them, such as support for investment in the construction and adaptation of landing sites and shelters, or support for investments to add value to fishery products.

1c. Undersized marine organisms of a species not subject to the landing obligation set out in Article 15 of Regulation (EU) No 1380/2013 shall not be retained on board, trans-shipped, landed, transferred, stored, sold, displayed or offered for sale, but shall be returned immediately to the sea.’;

(b) in paragraph 3, the phrase ‘Paragraph 1’ is replaced by the phrase ‘Paragraph 1a’;

1. in Annex III, the term ‘Minimum sizes of marine organisms’ is replaced by the term ‘Minimum conservation reference sizes’ and the term ‘Minimum size’ is replaced by the term ‘Minimum conservation reference size’.

# Article 4

**Amendments to Regulation (EC) No 1098/2007**

Regulation (EC) No 1098/2007 is amended as follows:

1. in Articles 2 and 10, Article 11(1), Article 16(2) and Article 17(1), (2) and (5), the noun ‘Community’ or the corresponding adjective is replaced by ‘Union’, with any necessary grammatical changes being made;
2. in Article 3, the following point is added:   
   ‘(g) “unintended catches” means incidental catches of marine organisms which, under Article 15 of Regulation (EU) No 1380/2013 of the European Parliament and of the Council , must be landed and counted against quotas either because they are below the minimum conservation reference size or because they exceed the quantities permitted under the catch composition and by-catch rules.
3. the title of Chapter IV is replaced by the following:   
   ‘PERIODS OF FISHING’;
4. Article 8 is amended as follows:   
   the title is replaced by the following:   
   ‘Periods when fishing with certain types of gear is not allowed’;   
   in paragraph 2, the following subparagraphs are added:   
   ‘Where cod is subject to the landing obligation set out in Article 15 of Regulation (EU) No 1380/2013, the first subparagraph of this paragraph shall not apply. Unintended catches of cod shall be landed and counted against quotas.   
   Fishing for cod using drifting lines within the areas and during the periods referred to in paragraph 1 shall be prohibited.’;   
   paragraphs 3, 4 and 5 are deleted;   
   paragraph 6 is replaced by the following:   
   ‘6. By way of derogation from paragraph 1, fishing vessels with an overall length of less than 12 metres shall be permitted to fish for up to 5 days per month divided into periods of at least 2 consecutive days during the closed periods referred to in paragraph 1. During those days, fishing vessels may only immerse their nets and land fish from 6.00 on Monday to 18.00 on Friday the same week.   
   Article 16 shall apply to the fishing vessels referred to in the first subparagraph of this paragraph without holding a permit for fishing for cod.’;   
   paragraph 7 is deleted;
5. in Article 9(3), the following subparagraphs are added:   
   ‘Where cod is subject to the landing obligation set out in Article 15 of Regulation (EU) No 1380/2013, the first subparagraph of this paragraph shall not apply. Unintended catches of cod shall be landed and counted against quotas.   
   Fishing for cod using the gear types referred to in paragraph 2 within the areas and during the periods referred to in paragraph 1 shall be prohibited.’.

# Article 5

**Repeal**

Regulation (EC) No 1434/98 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation.

# Article 6

**Entry into force**

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

Points (14) and (15) of Article 7 shall apply from 1 January 2017.

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

Done at Strasbourg, 20 May 2015.

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| *For the European Parliament*  *The President*  M. SCHULZ | *For the Council*  *The President*  Z. KALNIŅA-LUKAŠEVICA |

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