Notes

Numbering of documents
Three separate numbering systems are used in this Report for European Union documents:

Numbers in brackets are the Committee's own reference numbers.

Numbers in the form “5467/05” are Council of Ministers reference numbers. This system is also used by UK Government Departments, by the House of Commons Vote Office and for proceedings in the House.

Numbers preceded by the letters COM or SEC or JOIN are Commission reference numbers.

Where only a Committee number is given, this usually indicates that no official text is available and the Government has submitted an “unnumbered Explanatory Memorandum” discussing what is likely to be included in the document or covering an unofficial text.

Abbreviations used in the headnotes and footnotes
AFSJ  Area of Freedom Security and Justice
CFSP  Common Foreign and Security Policy
CSDP  Common Security and Defence Policy
ECA   European Court of Auditors
ECB   European Central Bank
EEAS  European External Action Service
EM    Explanatory Memorandum (submitted by the Government to the Committee) *
EP    European Parliament
EU    European Union
JHA   Justice and Home Affairs
OJ    Official Journal of the European Communities
QMV   Qualified majority voting
SEM   Supplementary Explanatory Memorandum
TEU   Treaty on European Union
TFEU  Treaty on the Functioning of the European Union

Euros
Where figures in euros have been converted to pounds sterling, this is normally at the market rate for the last working day of the previous month.

Further information
Documents recommended by the Committee for debate, together with the times of forthcoming debates (where known), are listed in the European Union Documents list, which is published in the House of Commons Vote Bundle each Monday, and is also available on the parliamentary website. Documents awaiting consideration by the Committee are listed in “Remaining Business”: www.parliament.uk/escom. The website also contains the Committee's Reports. *Explanatory Memoranda (EMs) and letters issued by the Ministers can be downloaded from the Cabinet Office website: http://europeanmemoranda.cabinetoffice.gov.uk/.
Staff

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Meeting Summary

The Committee looks at the significance of EU proposals and decides whether to clear the document from scrutiny or withhold clearance and ask questions of the Government. The Committee also has the power to recommend documents for debate.

Summary

Fisheries discard plans

The EU’s ban on the discarding of unwanted fish is now fully in place for all species subject to quotas. The Committee considered documents setting down detailed arrangements for the implementation of the discard ban. In particular, they identify exemptions from the discard ban for “highly survivable” species and for a small percentage of particular species. The arrangements are set out in delegated acts from the Commission based on joint recommendations by the interested Member States (including the UK). As there is no opposition to them from the Council or European Parliament, the Committee has cleared them from scrutiny, while asking for further information from the Minister on a series of Brexit-related issues: UK involvement in making any changes to these delegated acts during any post-Brexit transition period when the UK is subject to the rules but outside the decision-making structures; the Minister’s view of the process, involving agreement among the interested Member States followed by a system of review and challenge from the Commission; and whether the Minister would like to see a similar process of review and challenge built into the UK’s post-Brexit fisheries decision-making.

Cleared; further information requested; drawn to the attention of the Environment, Food and Rural Affairs Committee

Documents drawn to the attention of select committees:

(‘NC’ indicates document is ‘not cleared’ from scrutiny; ‘C’ indicates document is ‘cleared’)

Environment, Food and Rural Affairs Committee: Fisheries discard plans [Commission Delegated Regulations (C)].
1 Fisheries discard plans

Committee’s assessment Politically important

Committee’s decision Cleared from scrutiny; further information requested; drawn to the attention of the Environment, Food and Rural Affairs Committee

Document details (a) Commission Delegated Regulation of 1.10.2019 specifying details of the landing obligation for certain demersal fisheries in North-Western waters for the period 2020–2021; (b) Commission Delegated Regulation of 1.10.2019 specifying details of implementation of the landing obligation for certain demersal fisheries in the North Sea for the period 2020–2021


Department Environment, Food and Rural Affairs

Document Numbers (a) (40857), 12739/19, C(19) 7048; (b) (40858), 12741/19, C(19) 7078

Summary and Committee’s conclusions

1.1 Since 1 January 2019, in line with the Common Fisheries Policy (CFP), the Landing Obligation (“discard ban”) has applied to fish that are subject to catch limits. These Commission Delegated Regulations set out specific provisions to facilitate the implementation of the discard ban for certain fisheries in the North Sea1 and in North-Western waters (NWW)2 for the period 2020–21. They have been adopted by the Commission on the basis of joint recommendations made by those Member States with a direct management interest in the respective areas, including the UK in both instances. The Council and European Parliament may raise concerns within two months of adoption (by the end of November 2019) with a view to entry into force from 1 January 2020.

1.2 The plans set out:

- the precise geographical areas covered, the species involved and the fishing gears that are employed;

- “survivability exemptions” to the discard ban based on high survival rates when fish that have been caught are returned to the sea post-capture; and

- “de minimis exemptions” to the discard ban, where landing unwanted fish would have resulted in a disproportionate cost for the businesses affected or where further selectivity was not possible in the short term.

1 North Sea, Norwegian Sea, Kattegat and Skagerrak.
2 West of Scotland, Irish Sea, English Channel and Celtic Sea.
1.3 The Minister of State (George Eustice MP) sets out details of the measures in his *Explanatory Memorandum* (EM) on the North Sea plan and in his *Explanatory Memorandum* (EM) on the North-Western Waters plan. Some of the exemptions and technical measures were included in previous discard plans while others are the result of new recommendations.

1.4 In the North Western Waters plan, the survivability exemptions are largely unchanged, applying—in specific areas and using specific gear—to: Norway lobster; common sole; skates and rays; and plaice. All fish caught with pots, traps and creels are also subject to a survivability exemption, as long as they are released immediately. There are several new *de minimis* exemptions, allowing the accidental capture of a small percentage of fish. These new exemptions, such as for megrim and boarfish, apply only for 2020 and will need to be re-assessed by 31 July 2020 based on evidence supplied by 1 May 2020. Finally, specific technical measures are identified for the Celtic Sea, Irish Sea and West of Scotland. Measures in the West of Scotland are new.

1.5 In the North Sea plan, turbot is added to the survivability exemptions (subject to the gear used) and the survivability exemption for plaice is expanded. Other such exemptions remain in place, applying to: Norway lobster; common sole; skates and rays; and all species caught in pots and fyke nets as long as they are released below the sea’s surface immediately. The range of existing *de minimis* exemptions were largely extended, applying to common sole, whiting, cod, plaice, horse mackerel and mackerel among others. New exemptions are proposed for ling and for combined catches of industrial species (sprat, sandeel, Norway pout and blue whiting) in specific fisheries and with specific gear. Several of the exemptions apply only for 2020 and will need to be re-assessed by 31 July 2020 based on evidence supplied by 1 May 2020.

1.6 Among the North Sea high survivability exemptions, those of greatest interest to the UK are the exemption for skates and rays and the exemption for Norway lobster caught in bottom trawls with a cod end greater than 80mm. Both exemptions have been renewed for one year pending further information by 1 May 2020. Scientific work on both of these is already underway says the Minister. On skates and rays, the Minister reports that a Member States’ expert level meeting was held in London at which all North Sea States were represented. The aim was to develop a shared understanding of the key gaps in the evidence base for the survivability of these species and to plan work to address those gaps. Such co-operation is continuing.

1.7 The Minister explains that the plans were developed by Member States in the relevant regional groupings in consultation with relevant regional Advisory Councils, representing stakeholders, and scientific bodies. The UK contributed to discussions by, for example, providing evidence to ensure the exemptions are fit for purpose and help support the UK fishing industry’s implementation of the discard ban. According to the Minister, the Commission highlighted a number of concerns with the original recommendations and these were subsequently reviewed and revised. Member States struggled, says the Minister, to meet the timelines imposed by the Commission.

1.8 The Minister observes that the discard plans are temporary as the nature of fisheries can change over time and will be subject to further review by the relevant Member States.
Whilst the majority of the exemptions will apply for three years unless otherwise repealed or replaced, a number have been restricted by the Commission to one year, with further extension conditional on provision of further supporting evidence by 1 May 2020.

1.9 The Minister indicates that the UK’s position was informed by consultation with environmental and industry stakeholders. He confirms that the devolved administrations actively contributed to the development of the plans. Generally, he says, the fishing industry was supportive of the plans as they should provide the flexibility required to implement the discard ban.

1.10 Turning to UK exit from the EU, the Minister acknowledges that the existing body of EU regulations will continue to apply to the UK until at least December 2020 under any post-Brexit transition period. Beyond then, the UK will become an independent coastal state and will have the flexibility to introduce measures not contained within the CFP toolkit to reduce discarding.

1.11 We note with interest the Minister’s comments about the process that led to the delegated act, involving: formulation of a joint recommendation by the interested Member States; review by the Commission; and further work by the Member States in response to the Commission comments. The Minister indicates that Member States struggled to meet the timelines imposed by the Commission. We ask the Minister to expand on this comment and explain:

- whether the Commission expressed concern about any proposals or evidence tabled by the UK specifically; and

- whether, as a result, any UK suggestions were excluded or amended and, if so, what those suggestions were.

1.12 Of some relevance in this regard is the recent Report from the House of Lords Secondary Legislation Scrutiny Committee. It draws attention to an EU Exit Statutory Instrument on fisheries due to concerns expressed by Green Alliance that a move away from the EU joint recommendation model, including Commission review, would remove a layer of scrutiny. In that context, we ask the Minister if he considers that policy-making is enhanced or weakened by the current process involving review and challenge by the European Commission. If he sees any merit in review and challenge, we ask how that will be incorporated into future domestic fisheries management once the UK is outside the EU.

1.13 As the Minister notes, a number of the exemptions are limited to a year with a requirement for further evidence to be provided by 1 May 2020. We would welcome information on how the UK would engage in such dialogue with the Commission during any post-Brexit transition period when the UK would be subject to the rules but outside of the decision-making process. What assurances has the UK received about its continued involvement in relevant groupings of Member States working on fisheries management measures? We note the UK’s engagement with other North Sea States on skates and rays survivability and ask the Minister to clarify whether Norway was included.

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4 Common Fisheries Policy and Animals (Amendment etc.) (EU Exit) Regulations 2019 (SI 2019/1312).
1.14 We are content to clear the documents from scrutiny but ask for a response to our queries within ten working days. We draw this chapter to the attention of the Environment, Food and Rural Affairs Committee.

Full details of the documents

(a) Commission Delegated Regulation of 1.10.2019 specifying details of the landing obligation for certain demersal fisheries in North-Western waters for the period 2020–2021: (40857), 12739/19, C(19) 7048; (b) Commission Delegated Regulation of 1.10.2019 specifying details of implementation of the landing obligation for certain demersal fisheries in the North Sea for the period 2020–2021: (40858), 12741/19, C(19) 7078.

Previous Committee Reports

None.
2 Documents not raising questions of sufficient legal or political importance to warrant a substantive report to the House

Department for Business, Energy and Industrial Strategy

11228/19 + ADDs 1–3
COM(19) 331

11227/19 + ADDs 1–3
COM(19) 330

Cabinet Office

(40856) Report from the Commission: Results of the interim evaluation of the ISA² programme.
1244/19
COM(19) 615

Department for Digital, Culture, Media and Sport

10253/19
COM(19) 250

11535/19
COM(19) 374
Department for Environment, Food and Rural Affairs

(40869) Proposal for a Council Regulation fixing for 2020 the fishing opportunities for certain fish stocks and groups of fish stocks in the Mediterranean and Black Seas.
+ ADD 1
COM(19) 453

Department for Exiting the European Union

(40828) Court of Auditors Special Report 2019 no.15: Implementation of the 2014 staff reform package at the Commission—Big savings but not without consequences for staff.

Department of Health and Social Care

+ ADD 1
COM(19) 365

Department for International Development

(40571) Proposal for a Council Decision on the position to be taken on behalf of the European Union in the ACP-EU Council of Ministers as regards the delegation of powers to the ACP-EU Committee of Ambassadors on the decision to adopt transitional measures to extend the ACP-EU Partnership Agreement.

Department for International Trade

+ ADD 1
SWD(2019) 102

+ ADD 1
COM(19) 158

HM Revenue and Customs

Proposal for a Council Decision on the position to be taken on behalf of the European Union within the Administrative Committee for the International Convention on the Harmonization of Frontier Controls of Goods.

HM Treasury

Report from the Commission on the implementation of macro-financial assistance to third countries in 2018.
Formal Minutes

Wednesday 30 October 2019

Members present:

Sir William Cash, in the Chair

Martyn Day  Kate Hoey
Richard Drax  Mr David Jones

Scrutiny Report

Draft Report, proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1.1 to 2 read and agreed to.

Summary agreed to.

Resolved, That the Report be the Third Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

[The Committee adjourned.]
Standing Order and membership

The European Scrutiny Committee is appointed under Standing Order No.143 to examine European Union documents and—

a) to report its opinion on the legal and political importance of each such document and, where it considers appropriate, to report also on the reasons for its opinion and on any matters of principle, policy or law which may be affected;

b) to make recommendations for the further consideration of any such document pursuant to Standing Order No. 119 (European Committees); and

c) to consider any issue arising upon any such document or group of documents, or related matters.

The expression “European Union document” covers—

i) any proposal under the Community Treaties for legislation by the Council or the Council acting jointly with the European Parliament;

ii) any document which is published for submission to the European Council, the Council or the European Central Bank;

iii) any proposal for a common strategy, a joint action or a common position under Title V of the Treaty on European Union which is prepared for submission to the Council or to the European Council;

iv) any proposal for a common position, framework decision, decision or a convention under Title VI of the Treaty on European Union which is prepared for submission to the Council;

v) any document (not falling within (ii), (iii) or (iv) above) which is published by one Union institution for or with a view to submission to another Union institution and which does not relate exclusively to consideration of any proposal for legislation;

vi) any other document relating to European Union matters deposited in the House by a Minister of the Crown.

The Committee’s powers are set out in Standing Order No. 143.

The scrutiny reserve resolution, passed by the House, provides that Ministers should not give agreement to EU proposals which have not been cleared by the European Scrutiny Committee, or on which, when they have been recommended by the Committee for debate, the House has not yet agreed a resolution. The scrutiny reserve resolution is printed with the House’s Standing Orders, which are available at www.parliament.uk.
Current membership

Sir William Cash MP (Conservative, Stone) (Chair)
Geraint Davies MP (Labour/Cooperative, Swansea West)
Martyn Day MP (Scottish National Party, Linlithgow and East Falkirk)
Steve Double MP (Conservative, St Austell and Newquay)
Richard Drax MP (Conservative, South Dorset)
Mr Marcus Fysh MP (Conservative, Yeovil)
Kate Hoey MP (Labour, Vauxhall)
Kelvin Hopkins MP (Independent, Luton North)
Darren Jones MP (Labour, Bristol North West)
Mr David Jones MP (Conservative, Clwyd West)
Stephen Kinnock MP (Labour, Aberavon)
Andrew Lewer MP (Conservative, Northampton South)
Michael Tomlinson MP (Conservative, Mid Dorset and North Poole)
David Warburton MP (Conservative, Somerton and Frome)
Dr Philippa Whitford MP (Scottish National Party, Central Ayrshire)