Commission Delegated Regulation (EU) 2020/2015 of 21 August 2020 specifying details of the implementation of the landing obligation for certain fisheries in Western Waters for the period 2021-2023

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THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2019/472 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[(1)], and in particular Article 13 thereof,

Whereas:

(1) Regulation (EU) No 1380/2013 of the European Parliament and of the Council[(2)] aims to progressively eliminate discards in all Union fisheries through the introduction of a landing obligation for catches of species subject to catch limits.

(2) Article 9 of Regulation (EU) No 1380/2013 provides for the adoption of multiannual plans containing conservation measures for fisheries exploiting certain stocks in a relevant geographical area.

(3) Such multiannual plans specify details of the implementation of the landing obligation and may empower the Commission to further specify those details on the basis of joint recommendations developed by Member States.

(4) Regulation (EU) 2019/472 establishes a multiannual plan for stocks fished in the Western Waters, and for fisheries exploiting those stocks. Article 13 of that Regulation empowers the Commission to adopt delegated acts in order to supplement that Regulation by specifying details of the landing obligation for all stocks of species in the Western Waters to which the landing obligation applies under Article 15(1) of Regulation (EU) No 1380/2013, as provided for in points (a) to (e) of Article 15(5) of Regulation (EU) No 1380/2013, on the basis of joint recommendations developed by Member States.

(5) Commission Delegated Regulation (EU) 2019/2239[(3)] specifies details of the implementation of the landing obligation for certain demersal fisheries in the North-Western waters for the period 2020-2021, following a joint recommendation submitted by Belgium, Spain, France, Ireland, the Netherlands and the United Kingdom[(4)] which have a direct fisheries management interest in the North-Western waters.

(6) Belgium, Spain, France, Ireland and the Netherlands, after consulting the North-Western Waters Advisory Council and the Pelagic Advisory Council, submitted on 5 May 2020 a joint recommendation to the Commission concerning a discard plan for certain fisheries in the North-Western Waters for the period 2021-2023. The Member States reviewed the joint recommendation on 29 July 2020.

(7) Commission Delegated Regulation (EU) 2019/2237[(5)] specifies details of the implementation of the landing obligation for certain demersal fisheries in the South-Western waters for the period 2020-2021, following a joint recommendation submitted by Belgium, Spain, France, the Netherlands and Portugal which have a direct fisheries management interest in the South-Western waters.

(8) Belgium, Spain, France, the Netherlands and Portugal, after consulting the South Western Waters Advisory Council and the Pelagic Advisory Council on 24 April 2020, submitted on 5 May 2020 a joint recommendation to the Commission concerning a discard plan for certain fisheries in the South-Western Waters for the period 2021-2023. The Member States reviewed the joint recommendation on 16 July 2020.

(9) Scientific contributions were obtained from relevant scientific bodies and reviewed by the Scientific, Technical and Economic Committee for Fisheries ('STECF')[(6)]. The Commission presented the measures concerned to an expert group consisting of representatives of the Member States on 28 July 2020 in a meeting attended by the European Parliament as an observer.

(10) Under Article 18 of Regulation (EU) No 1380/2013, the Commission has considered both the STECF's assessment and the need for Member States to ensure the full implementation of the landing obligation. In several cases, new evidence has been submitted but STECF has considered that improvements in the information provided are required. In those cases, it is approriate to grant exemptions on a temporary basis. By continuing fishing activities, data collection will improve and STECF considerations will be addressed.

(11) The regional groups of Member States have based most of their *de minimis* exemption requests on a potential increase in costs as a consequence of handling unwanted catches. The information provided by the Member States in this regard has improved. However, STECF notes that improving data collection is still needed and that improving selectivity should be the priority to reduce the level of unwanted catches. Therefore, in such cases the exemptions should be granted on a case-by-case basis for 1 or 2 years. Member States should provide additional data resulting from trials and scientific studies that are ongoing.

(12) The following high survivability exemptions to the landing obligation should apply to the North-Western Waters.

(13) Delegated Regulation (EU) 2019/2239 included a survivability exemption, as provided for by Article 15(4)(b) of Regulation (EU) No 1380/2013, for Norway lobster caught with pots, traps or creels in International Council for the Exploration of the Sea ('ICES') subareas 6 and 7. Member States requested that the exemption be continued. The STECF evaluated the evidence submitted by the Member States in previous years and

concluded[7] that the exemption is justified. Considering that the circumstances have not changed, that exemption should be maintained.

(14) Delegated Regulation (EU) 2019/2239 included a survivability exemption for Norway lobster caught using bottom trawls with a mesh size equal to or larger than 100 mm and for Norway lobster caught with bottom trawls with a mesh size of 70 to 99 mm in combination with selective gear options (TRI and TR2 fisheries) in ICES subarea 7. The Member States requested that the exemption be continued. The STECF reviewed in previous years the evidence provided by the Member States and concluded[8] that the survival study made with Seltra trawl provided sufficient data, but that the overall effect on the extensive fishery of Norway lobster with other fishing gears remains difficult to assess. The STECF noted that assuming that a relatively high survival rate applies to all gears, a relatively low discard rate is implied in that fishery. Considering that the circumstances have not changed, that exemption should therefore be maintained with gear specificities for the Celtic Sea Protection Zone and the Irish Sea.

(15) Delegated Regulation (EU) 2019/2239 included a survivability exemption for Norway lobster caught in ICES division 6a, within twelve nautical miles of the coast, using otter trawls with a mesh size of 80 to 110 mm in combination with selective gear options. The Member States requested that the exemption be continued. The STECF analysed the evidence submitted by the Member States in previous years and concluded[9] that the survivability study is robust and indicates a relatively high survival rate. Considering that the circumstances have not changed, that exemption should be maintained.

(16) Delegated Regulation (EU) 2019/2239 included a survivability exemption for common sole below the minimum conservation reference size ('MCRS') caught with 80 to 99 mm otter trawl gears in ICES division 7d within six nautical miles from the coast and outside identified nursery areas. The Member States requested that the exemption be continued. The STECF evaluated in previous years the evidence submitted by the Member States and concluded[10] that the evidence was sufficient. Considering that the circumstances have not changed, that exemption should therefore be maintained.

(17) Delegated Regulation (EU) 2019/2239 granted a survivability exemption for skates and rays caught with any gear in ICES subareas 6 and 7. The Member States requested that the exemption be continued. The STECF analysed the new evidence submitted by the Member States and concluded[11] that survival varies across species and fisheries. The STECF noted that there are projects ongoing that should provide useful information about this exemption. This conclusion applies to cuckoo ray (*Leucoraja naevus*). STECF noted that the evidence indicated lower survival rates for cuckoo ray. Member States should submit additional scientific information resulting from these studies as soon as possible, but not later than 1 May every year.

(18) Delegated Regulation (EU) 2019/2239 granted a survivability exemption for plaice caught in ICES divisions 7a to 7k by vessels using beam trawls, with a maximum engine power of 221 kW, a maximum length of 24 metres, fishing within 12 nautical miles of the coast and with tow durations of no more than ninety minutes, and by vessels using beam trawls with an engine power of more than 221 kW, using a flip-up rope or benthic release panel. The Member States requested that the exemption be

continued. The STECF analysed the new evidence provided by the Member States and concluded[12] that the discard survival estimates are variable between trips and evidence was insufficient for ICES divisions 7h, 7j, and 7k. Under those circumstances, the exemption for plaice should be maintained only in ICES divisions 7a to 7g. The Member States concerned should submit evidence as soon as possible, but not later than 1 May every year. The Commission also notes that Member States committed in the joint recommendation to submit a timetable for the completion of the agreed roadmap with the next annual report by 1 May 2021.

(19) Delegated Regulation (EU) 2019/2239 included a survivability exemption for plaice caught with trammel nets or otter trawls in ICES divisions 7d to 7g. The Member States requested that the exemption be continued. The STECF analysed the evidence submitted by the Member States in previous years and concluded[13] that the survivability study is robust and indicates a relatively high survival rate. Considering that the circumstances have not changed, that exemption should therefore be maintained.

(20) Delegated Regulation (EU) 2019/2239 granted a survivability exemption for plaice caught with Danish seines in ICES division 7d. The Member States requested that the exemption be continued. The STECF analysed in previous years the evidence submitted by the Member States and concluded[14] that the data of the study on survival rates are reliable and give robust survival estimates for that fishery. Considering that the circumstances have not changed, that exemption should therefore be maintained.

(21) Delegated Regulation (EU) 2019/2239 included a survivability exemption for species caught in pots, traps and creels in North-Western Waters (ICES subareas 5, 6 and 7). The Member States requested that the exemption be continued. Member States provided scientific evidence in order to demonstrate high discard survival rates for species caught in that fishery. The STECF analysed the evidence in previous years and concluded[15] that the survival of the species discarded from trap and pot fishing is likely to be substantial. Considering that the circumstances have not changed this exemption should therefore be maintained.

(22) Commission Delegated Regulation (EU) No 1393/2014[16] included a survivability exemption for mackerel and herring caught with purse seines under certain conditions in ICES subarea 6. The Member States requested that the exemption be continued. The STECF reviewed the supporting evidence in previous years and concluded[17] that survival rates depend on the crowding time and the density of fish within the net, which are typically limited in these fisheries. Assuming the results of the survival study are representative of survival rates under commercial fishing operations, the proportion of slipped mackerel surviving would likely be around 70 %. The densities would also be lower than the density where mortality of herring was observed to increase. Considering that the circumstances have not changed, this exemption should therefore be maintained in this Regulation.

(23) Delegated Regulation (EU) No 1393/2014 included a survivability exemption for mackerel and herring caught in the ring net fishery targeting pelagic species not subject to quotas in ICES divisions 7e and 7f. The Member States requested that the exemption

be continued. The STECF reviewed the evidence provided by the Member States in previous years and concluded[18] that the survival rates were likely to be similar to survival rates from purse seine fishery and the supporting evidence was similar to the evidence justifying other exemptions included in previous discard plans. Considering that the circumstances have not changed, the exemption should therefore be maintained.

(24) The following high survivability exemptions from the landing obligation should apply to the South-Western Waters.

(25) Delegated Regulation (EU) 2019/2237 included an exemption from the landing obligation for Norway lobster caught with bottom trawls in ICES subareas 8 and 9 and for red seabream caught with the artisanal gear '*voracera*' in ICES division 9a. The Member States requested that the exemption be continued. The STECF evaluated the exemption on Norway lobster in the previous years and concluded[19] that the evidence was robust. For red seabream, the STECF concluded in previous assessments[20] that the studies represented reasonably sound scientific evidence for the survival of red seabream. Considering that the circumstances have not changed, these two exemptions should therefore be maintained.

(26) Delegated Regulation (EU) 2019/2237 granted a survivability exemption for skates and rays caught with all gears in ICES subareas 8 and 9. The Member States requested that the exemption be continued and provided new evidence. The STECF concluded[21] that there was a significant effort in addressing data gaps, with several projects still ongoing. However, improvements in data collection are required. Member States with a direct management interest should submit as soon as possible, but not later than 1 May 2022, additional scientific evidence resulting from the ongoing projects. The exemption should therefore be maintained.

(27) Delegated Regulation (EU) 2019/2237 granted an exemption for cuckoo ray caught with trammel nets in ICES subareas 8 and 9 and caught with bottom trawls in ICES subarea 8. The Member States requested that the exemption be continued and provided new evidence. The STECF analysed the evidence and noted[22] that there was a significant effort in addressing data gaps and that there are significant number of ongoing projects. However, improvements in data collection are required. Given that in the past survival rates for cuckoo ray revealed to be lower than for other skates and rays, the exemption should be maintained until 31 December 2022 for cuckoo ray caught by trammel nets in ICES subareas 8 and 9, and until 31 December 2021 for cuckoo ray caught with bottom trawls in ICES subarea 8. Member States should submit additional scientific information resulting from the ongoing projects as soon as possible.

(28) Delegated Regulation (EU) 2019/2237 granted a survivability exemption for red seabream caught with the artisanal gear *voracera* in ICES division 9a and with hooks and lines in ICES subareas 8 and 10 and ICES division 9a. The Member States requested to continue this exemption and provided new evidence. However, improvements in data collection are required. The STECF noted[23] that several scientific projects on survivability planned for the period 2019-2020 were not performed due to constraints acquiring material. The exemption may be granted until 31 December 2022. Member