Commission Delegated Regulation (EU) 2020/2014 of 21 August 2020 specifying details of implementation of the landing obligation for certain fisheries in the North Sea 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) 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[(1)], and in particular Article 11 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. 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.

(3) Regulation (EU) 2018/973 establishes a multiannual plan for demersal stocks in the North Sea and the fisheries exploiting those stocks. Article 11 of that Regulation empowers the Commission to adopt delegated acts to supplement that Regulation by specifying details of the landing obligation for all stocks of species in the North Sea 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 that Regulation on the basis of joint recommendations developed by Member States.

(4) As set out in Regulation (EU) 2018/973, the North Sea comprises International Council for the Exploration of the Sea ('ICES') divisions 2a, 3a and subarea 4.

(5) Commission Delegated Regulation (EU) 2019/2238[(3)] specifies details of implementation of the landing obligation for certain demersal fisheries in the North Sea for the period 2020-2021, following a joint recommendation submitted by Belgium, Denmark, France, Germany, the Netherlands, Sweden and the United Kingdom[(4)] which have a direct fisheries management interest in the North Sea.

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2020/2014. (See end of Document for details)*

(6) Belgium, Denmark, France, Germany, the Netherlands and Sweden, after consulting the North Sea Advisory Council and the Pelagic Advisory Council, submitted a joint recommendation to the Commission on 04 May 2020 establishing a discard plan for pelagic and demersal species in the North Sea for the period 2021-2023. The Member States submitted a revised version of the joint recommendation on 23 July 2020.

(7) Scientific contributions were obtained from relevant scientific bodies and reviewed by the Scientific, Technical and Economic Committee for Fisheries ('STECF')[(5)]. The Commission presented the measures concerned to an expert group consisting of representatives of 27 Member States on 28 July 2020 in a meeting attended by the European Parliament as an observer.

(8) Under Article 18 of the Regulation (EU) No 1380/2013, the Commission has considered both the STECF assessment and the need for Member States to ensure the full implementation of the landing obligation. The regional group 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 in some of the cases and that improving selectivity should be the priority to reduce the level of unwanted catches. Therefore, in such cases the exemptions will 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.

(9) Commission Delegated Regulation (EU) 2019/2238 included a survivability exemption, as provided for by Article 15(4)(b) of Regulation (EC) No 1380/2013, for Norway lobster caught with pots in ICES divisions 2a, 3a and ICES subarea 4, based on the scientific evidence which demonstrated high discard survival rates. Member States requested that the exemption be continued. The STECF evaluated the evidence submitted by the Member States in previous years and concluded[(6)] that the exemption is justified. Considering that the circumstances have not changed, that exemption should be maintained.

(10) Delegated Regulation (EU) 2019/2238 included a survivability exemption for Norway lobster caught in ICES subarea 4 and ICES divisions 2a and 3a using bottom trawls, including some with a selectivity device. The Member States requested that the exemption be continued and provided new evidence. The STECF analysed the new evidence submitted by the Member States and concluded[(7)] that additional information had been provided for the East coast otter-trawl fishery for Nephrops, as required by STECF[(8)]. The STECF concluded in previous years that the supporting information was robust and the validation technique used in the context of the wider fleets was reasonable[(9)]. Considering that the circumstances have not changed, that exemption should be maintained.

(11) Delegated Regulation (EU) 2019/2238 included a survivability exemption for common sole below minimum conservation reference size ('MCRS') caught by otter trawls in ICES division 4c, based on scientific evidence which demonstrated high discard survival rates. The Member States requested International Council for the Exploration

of the Sea that the exemption be continued. The STECF evaluated the evidence in previous years and concluded[10] that it was sufficient. Considering that the circumstances have not changed, that exemption should be maintained.

(12) Delegated Regulation (EU) 2019/2238 included a survivability exemption for the by-catch of species subject to catch limits in the fishery carried out with pots and fyke nets, based on the scientific evidence that demonstrated high discard survival rates. The STECF evaluated the evidence in previous years and concluded[11] that the available data indicates that mortality of discarded fish is likely to be low; however, the actual catches in the fishery are negligible. The exemption should continue to apply given that the catches are not significant and considering that the circumstances have not changed.

(13) Delegated Regulation (EU) 2019/2238 included a survivability exemption for plaice in the fishery carried out with gillnets and trammel nets in ICES division 3a and ICES subarea 4. The Member States requested that the exemption be continued. The STECF assessed the evidence in previous years and concluded[12] that the information was reasonable, showing considerably high survivability. Considering that the circumstances have not changed, that exemption should therefore be maintained in this Regulation.

(14) Delegated Regulation (EU) 2019/2238 included a survivability exemption for plaice in the fishery carried out with Danish seines in ICES division 3a and ICES subarea 4. The Member States requested that the exemption be continued. The STECF assessed the evidence in previous years and concluded[13] that the data of the study on the survival rates are reliable. Considering that the circumstances have not changed, that exemption should therefore be maintained.

(15) Delegated Regulation (EU) 2019/2238 included a survivability exemption for catch and by-catch of plaice in the fishery targeting flatfish or roundfish carried out with trawls with a mesh size of at least 120 mm in ICES division 3a and ICES subarea 4. The Member States requested that the exemption be continued. The joint recommendation also requested a new high survivability exemption for plaice caught with trawls with mesh size of 100 to 119 mm in ICES division 3a and ICES subarea 4. The Member States provided additional scientific evidence in order to demonstrate high discard survival rates for plaice in that fishery. The STECF noted that the supporting studies were performed with a 90 mm mesh size; therefore, it is unlikely that the survival rates are lower with a mesh size of at least 100 mm. Given that the season and air exposure are main factors influencing plaice survival and that survival rates may be lower after 60 minutes of air exposure, the exemptions should be included in this Regulation and the unwanted catches of plaice should be released immediately.

(16) Delegated Regulation (EU) 2019/2238 included survivability exemptions for:

— plaice caught with trawls with a mesh size of at least 90 to 99 mm equipped with Seltra panel targeting flatfish or roundfish in Union waters of ICES division 3a,

— plaice caught with trawls with a mesh size of at least 80 to 99 mm targeting flatfish or roundfish in Union waters of ICES subarea 4.

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2020/2014. (See end of Document for details)*

(17) The Member States requested that the exemption be continued and submitted new scientific evidence resulting from ongoing studies. The STECF observed[14] that improvements in the definition to distinguish the flatfish and roundfish fishery from the fishery targeting nephrops are still needed. The Commission noted that Member States committed in the joint recommendation to carry out further work in this regard. This exemption should therefore be maintained.

(18) Delegated Regulation (EU) 2019/2238 included a survivability exemption for catches of plaice below the MCRS caught with 80 to 119 mm beam trawl gears (BT2) in ICES division 2a and ICES subarea 4:

— for plaice caught with gears equipped with the flip-up rope or Benthos release panel (BRP) and caught by vessels with an engine power of more than 221 kW,

— for plaice caught by the vessels of Member States implementing the roadmap for the Fully Documented Fisheries,

— for flatfish caught with beam trawl gears (BT2) and by vessels with an engine power of not more than 221kw or less than 24 m in length overall, which are constructed to fish in the twelve miles zone, if the average trawl duration is less than ninety minutes.

(19) The Member States requested that the exemption be continued and submitted new evidence. The STECF noted[15] that there are substantial reasearch projects ongoing that should provide useful information about this exemption. Therefore, these exemptions should be maintained. Member States should submit relevant data resulting from the ongoing projects as soon as possible and 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 roadmap with the next annual report by 1 May 2021.

(20) Delegated Regulation (EU) 2019/2238 included a survivability exemption for turbot caught by TBB gears with a codend more than 80 mm in ICES subarea 4. The Member States requested that the exemption be continued and submitted new scientific information. The STECF noted[16] that it is unclear whether the survival estimates provided are applicable to this request. The Commission notes that Member States have committed in the joint recommendation to carrying out further research to observe the survival of discarded turbot and to provide more detailed information on survivability in a new scientific project, ongoing until the end of 2021. Therefore, this exemption should be maintained until 31 December 2022. Member States should submit annual reports on the progress of the ongoing work by 1 May every year.

(21) Delegated Regulation (EU) 2019/2238 included a survivability exemption for skates and rays caught with all fishing gears in ICES divisions 2a and 3a, and ICES subarea 4. The Member States requested that the exemption be continued and submitted new scientific information. The STECF concluded[17] that significant efforts have been made in addressing data gaps to meet the objectives of the roadmap. That exemption should therefore be maintained. However, improvements in data collection are required. Member States having a direct management interest should submit additional scientific information by 1 May each year, in particular for cuckoo ray that were found to have

a lower survival rate. The Commission notes that following STECF's request, Member States have committed in the joint recommendation to report on the agreed roadmap, including for cuckoo ray.

(22) Commission Delegated Regulation (EU) No 1395/2014[(18)] included a survivability exemption for mackerel and herring caught with purse seines under certain conditions following a positive STECF evaluation[(19)]. The studies found that survival rates depend on the crowding time and the density of fish within the net, which are typically limited in these fisheries. The Member States requested that the exemption be continued. Considering that the circumstances have not changed, the exemption should be maintained. Member States having a direct management interest should submit updated data on the fishery not later than 1 May 2022.

(23) Delegated Regulation (EU) 2019/2238 included *de minimis* exemptions for:

— common sole caught with trammel nets and gillnets in ICES divisions 2a and 3a, ICES subarea 4,

— common sole caught with certain beam trawls equipped with a Flemish panel in ICES subarea 4,

— combined catches of common sole, haddock, whiting, cod, saithe and hake made with certain bottom trawls in ICES division 3a,

— combined catches of common sole, haddock, whiting, cod, saithe, plaice, herring, Norway pout, greater silver smelt and blue whiting made with certain bottom trawls in ICES division 3a,

— whiting caught with certain bottom trawls in ICES division 3a,

— plaice caught with certain bottom trawls in ICES subarea 4,

— all species subject to catch limits caught with certain beam trawls in ICES divisions 4b and 4c,

— ling caught with certain bottom trawls in ICES subarea 4.

(24) Member States requested that the exemption be continued. The STECF reviewed that evidence in previous years and concluded[(20)(21)(22)] that the documents submitted by the Member States contained reasoned arguments demonstrating that further improvements in selectivity are difficult to achieve or imply disproportionate costs in handling unwanted catches. Considering that the circumstances have not changed, it is appropriate to continue the *de minimis* exemptions in accordance with the percentage level and the necessary modifications suggested in the new joint recommendation pursuant to Article 15(5)(c) of Regulation (EU) No 1380/2013.

(25) Delegated Regulation (EU) 2019/2238 included a *de minimis* exemption for whiting and cod caught with bottom trawls in ICES division 4c. Member States requested that the exemption be continued. The STECF reviewed this exemption in previous years[(23)] and the exemption was granted on the grounds that selectivity was difficult to improve. However, given the current status of cod[(24)], the STECF noted in its report 20-04 that Member States should take measures to reduce the level of unwanted catches. The exemption should therefore be granted for one year and Member States with an interest