Commission Delegated Regulation (EU) 2020/2013 of 21 August 2020 amending Regulation (EU) 2019/1241 of the European Parliament and of the Council as regards technical measures for certain demersal and pelagic fisheries in the North Sea and in the South Western Waters

COMMISSION DELEGATED REGULATION (EU) 2020/2013

of 21 August 2020

amending Regulation (EU) 2019/1241 of the European Parliament and of the Council as regards technical measures for certain demersal and pelagic fisheries in the North Sea and in the South Western Waters

THE EUROPEAN COMMISSION,

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

Having regard to 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[(1)], and in particular Articles 2(2), 10(4) and 15(2) thereof,

Whereas:

(1) On 14 August 2019 a new Regulation (EU) 2019/1241 on the conservation measures of fisheries resources and the protection of marine ecosystems through technical measures entered into force. It establishes in Annex I a list of prohibited species, in Annex V specific provisions regarding technical measures established at regional level for the North Sea and in Annex VII specific provisions regarding technical measures established at regional level for the South Western Waters.

(2) Article 2(2) of Regulation (EU) 2019/1241 empowers the Commission to adopt delegated acts in accordance with Article 15 and Article 29 to amend this Regulation by providing that the relevant provisions of Article 13 or parts A or C of Annexes V to X also apply to recreational fishing.

(3) Article 10(4) of Regulation (EU) 2019/1241 empowers the Commission to adopt delegated acts in accordance with Article 29 to amend the list of prohibited species, set out in Annex I.

(4) Article 15(2) of Regulation (EU) 2019/1241 empowers the Commission to adopt delegated acts in accordance with Article 29 of this Regulation and Article 18 of Regulation (EU) No 1380/2013 of the European Parliament and of the Council[(2)] to amend, supplement, repeal or derogate from the technical measures set out in the

Annexes to Regulation (EU) 2019/1241, including when implementing the landing obligation.

(5) Annex I sets out the list of prohibited species. Annex V and Annex VII of Regulation (EU) 2019/1241 set out specific technical measures for the North Sea and for the South Western Waters, respectively.

(6) Belgium, Denmark, Germany, France, the Netherlands and Sweden have a direct fisheries management interest in the North Sea. After consulting the North Sea Advisory Council and the Pelagic Advisory Council, those Member States submitted on 4 May 2020 a joint recommendation to the Commission for a delegated act.

(7) Belgium, Spain, France, the Netherlands and Portugal have a direct fisheries management interest in the South Western Waters. After consulting the South Western Waters Advisory Council and the Pelagic Advisory Council, those Member States submitted on 4 May 2020 a joint recommendation to the Commission for a delegated act.

(8) This Regulation aims at incorporating into one single act existing provisions on technical measures that were in the past adopted as part of the discard plans for the North Sea and South-Western Waters, and newly proposed technical measures.

(9) Based on the information provided by the Member States, the Scientific, Technical and Economic Committee for Fisheries (STECF) positively assessed the evidence provided by the regional groups in support of the technical measures included in both joint recommendations[(3)].

(10) The measures included in this Regulation have been evaluated in accordance with Article 2(2), 10, 15 and Article 18 of Regulation (EU) 2019/1241. Member States provided evidence to demonstrate that the proposals comply with Articles 15(4) and (5) of Regulation (EU) 2019/1241.

(11) The Fisheries Expert Group was consulted on the joint recommendation on 28 July 2020. The European Parliament attended the meeting as an observer.

(12) The joint recommendation submitted by the Member States with an interest in the North Sea (NS joint recommendation) suggested to include berried lobster in the list of species in Annex I of Regulation (EU) 2019/1241 for which there is a prohibition to fish for, retain on board, tranship, land, store, sell, display or offer for sale. The STECF analysed the evidence presented by the Member States and concluded that there is compelling evidence to support the introduction of this measure. The STECF noted that similar measures have been taken in other areas and have produced long-term economic benefits from increased landings of lobster due to stock recovery. The proposed measure should therefore be included in this Regulation.

(13) The NS joint recommendation suggested increasing the minimum conservation reference size for European lobster in the Swedish exclusive economic zone (EEZ) in ICES division 3a. The STECF pointed out that despite no specific evidence for this request, the measure represents an increase of the minimum conservation reference size. With such a measure, the stock will be exploited at a lower intensity, with obvious

subsequent benefits for the conservation of the stock. The proposed measure should therefore be included in this Regulation.

(14) The NS joint recommendation also suggested to harmonise the minimum conservation reference size for seabass caught in recreational fisheries in ICES division 3a and ICES subarea 4 with the minimum conservation reference size of seabass for commercial fisheries, as included in Article 10, paragraph 5 of Council Regulation (EU) 2020/123[(4)]. The STECF noted in its report 20-04 that given recreational fisheries contributes to the overall fishing mortality, applying the minimum conservation reference size for commercial fisheries also to recreational fisheries is a positive management measure. The proposed measure should therefore be included in this Regulation.

(15) The NS joint recommendation further suggested the continuation of a number of additional technical measures agreed between the Union and Norway in 2011[(5)] and 2012[(6)]. Certain of these specific technical measures were already included in Annex V of Regulation (EU) 2019/1241, others were included pursuant to Article 15(5)(a) of Regulation (EU) No 1380/2013 for the years 2019-2021 in Commission Delegated Regulation (EU) 2019/2238[(7)]. These measures aim at increasing selectivity and reduce unwanted catches for fisheries or species covered by the landing obligation and should be incorporated into Annex V of Regulation (EU) 2019/1241. These measures should therefore be included in this Regulation.

(16) The NS joint recommendation suggested also continuation of the use of SepNep nets permitted by Delegated Regulation (EU) 2019/2238. The STECF concluded that the information presented was detailed and credible and supporting evidence of the effectiveness of the SepNep was provided. The device was analysed by STECF in previous years and its conclusion remains valid[(8)]. On the basis of the provided information STECF also concluded that the SepNep complies with Article 15(5) of Regulation (EU) 2019/1241 as an equivalent selectivity device in the context of the technical provisions set out for Nephrops directed fisheries and will not lead to deterioration of selectivity standards. The measure should therefore be included in this Regulation.

(17) The NS joint recommendation also suggested a seasonal closure for commercial and recreational fishery for European lobster in the Swedish exclusive economic zone (EEZ) in ICES division 3a. The STECF analysed the evidence provided by the Member States and noted that, although no specific supporting information was provided allowing to quantify its potential benefit, the measure will represent a reduction in fishing mortality that is likely to have positive benefits on lobster stocks in combination with the other measures proposed. The proposed measure should therefore be included in this Regulation.

(18) The NS joint recommendation suggested a prohibition to fish lobster with gears other than lobster pots in the Swedish exclusive economic zone (EEZ) in ICES division 3a. STECF concluded that, although no specific supporting information was provided allowing to quantify its potential benefit, banning the use of gillnets for targeting lobster and crawfish has had positive effects in other areas and that the measure is likely to

have positive benefits on lobster stocks. This measure should therefore be included in this Regulation.

(19) The joint recommendation submitted by the Member States with an interest in the South Western Waters (SWW joint recommendation) suggested maintaining the minimum conservation reference size of the horse mackerel caught by a small artisanal fishery in Xávega region in ICES division 8c and subarea 9 that is currently included in Commission Delegated Regulation (EU) No 1394/2014[9]. The STECF referred to its previous assessment where it assessed this measure positively and concluded[10] that, with the conditions laid down in the joint recommendation, the proposal was not likely to change the historical exploitation pattern of the stock. Given that the conditions of this request have not changed and that the STECF noted that the exploitation pattern has been stable for at least 20 years, this measure should therefore be included in this Regulation.

(20) The SWW joint recommendation suggested to harmonise the minimum conservation reference size for the following species caught in recreational fisheries in the South Western Waters with the minimum conservation reference size applicable to commercial fisheries: haddock, saithe, pollack, hake, megrim, sole, plaice, whiting, ling, blue ling, mackerel, herring, horse mackerel, anchovy and sardine. The joint recommendation suggested higher minimum conservation reference sizes for cod, red seabream and seabass for recreational fisheries. The STECF analysed the evidence provided and concluded[11] that given recreational fisheries contributes to the overall fishing mortality, applying the minimum conservation reference size for commercial fisheries also to recreational fisheries is a positive management measure. This measure should therefore be included in this Regulation.

(21) In order to optimise exploitation patterns, increase gear selectivity and reduce unwanted catches it is therefore appropriate to adopt the technical measures submitted by the Member States.

(22) As the measures provided for in this Regulation have a direct impact on the planning of the fishing season of Union vessels and on related economic activities, this Regulation should enter into force immediately after its publication. Given that certain technical measures adopted as part of discard plans expire at the end of 2020, this Regulation should apply from 1 January 2021,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) 2019/1241 is amended as follows:

(1) in Annex I, the following point is added:

(q) berried female European lobster (*Homarus gammarus*) in ICES divisions 3a, 4a and 4b;

(2) Annex V is amended as follows:

(a) Part A is amended as follows:

(i) the following entry is added to the table:

European lobster (*Homarus gammarus*)	90 mm (Carapace length) in the Swedish exclusive economic zone in ICES division 3a

(ii) the following point is inserted below the table:

— 1. The minimum conservation reference sizes specified in this Part for seabass (*Dicentrarchus labrax*) in the North Sea and European lobster (*Homarus gammarus*) in Swedish exclusive economic zone in the Skagerrak and Kattegat (ICES division 3a) shall apply to recreational fisheries.;

(b) the following points are added in Part B:

— 1.3. By way of derogation from the specifications in the table, a fish retention device may be used in Northern prawn fisheries in the Skagerrak (ICES division 3an) provided that there are adequate fishing opportunities to cover by-catch and that the retention device is:

— constructed with a top panel with a minimum mesh size of 120 mm square mesh;

— at least 3 metres long; and

— at least as wide as the sorting grid.

— 1.4. The use of SepNep[(12)] as referred to in Annex I of this Regulation shall be permitted as an equivalent selectivity device in the directed fisheries for Norway lobster (*Nephrops norvegicus)*.;

(c) the following point is added to Part C:

7. Measures on European lobster in ICES division 3a

7.1. In the Swedish exclusive economic zone of ICES division 3a, European lobster *(Homarus gammarus*) may only be fished with lobsterpots (FPO).

The lobsterpot shall have at least two circular escape openings with a diameter of at least 60mm which are situated in the lower part of each compartment of the lobsterpot. Lobster accidentally caught with other fishing gear shall not be harmed and shall be promptly released back into the sea.

7.2. It shall be prohibited to fish for, retain on board, tranship and land European lobster (*Homarus gammarus*) in the Swedish exclusive economic zone of ICES division 3a:

(a) in commercial fisheries during the period 1 January to first Monday after 20 September;

(b) in recreational fisheries during the period 1 December to first Monday after 20 September.