Regulation (EU) 2020/1781 of the European Parliament and of the Council of 25 November 2020 amending Regulation (EU) 2016/1139 as regards fishing capacity reduction in the Baltic Sea, and Regulation (EU) No 508/2014 as regards permanent cessation of fishing activities for fleets fishing for Eastern Baltic cod, Western Baltic cod and Western Baltic herring

REGULATION (EU) 2020/1781 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 25 November 2020

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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(2) 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[(1)],

Acting in accordance with the ordinary legislative procedure[(2)],

Whereas:

(1) Regulation (EU) 2016/1139 of the European Parliament and of the Council[(3)] establishes a multiannual plan for the stocks of cod, herring and sprat in the Baltic Sea ('the Baltic Multiannual Plan'). The Baltic Multiannual Plan is to implement the ecosystem-based approach to fisheries management in order to ensure that negative impacts of fishing activities on the marine ecosystem are minimised. It is to be coherent with Union environmental legislation, in particular with the objective of achieving good environmental status in the marine environment by 2020 as set out in Directive 2008/56/EC of the European Parliament and of the Council[(4)].

(2) The provisions of the Baltic Multiannual Plan regarding the adoption of details for the implementation of the landing obligation provided for in Regulation (EU) No 1380/2013 of the European Parliament and of the Council[(5)] in Union waters of the Baltic Sea should also apply to Atlantic salmon (*Salmo salar*) as regards the high survivability exemption.

(3) According to scientific assessment carried out by the International Council for the Exploration of the Sea (ICES), many species and habitats of the Baltic Sea are not in good condition. Annual nutrient inputs still exceed regionally agreed goals in the central Baltic Sea, the Archipelago Sea and the Gulf of Finland. Nutrient concentrations

remain relatively high, as does the extent of deep-water areas with poor or no oxygen. Contaminant levels remain elevated compared with most European seas. That overall environmental situation affects food web functionality, reduces resilience and resistance against further environmental changes, and diminishes prospects for socioeconomic benefits, including fishing opportunities.

(4) The declining condition of Eastern Baltic cod (*Gadus morhua*) has been linked to that situation. According to ICES, the stock of Eastern Baltic cod suffers from an unsustainably low biomass due to a combination of declining recruitment, low availability of prey species, environmental factors and changes in the ecosystem – such as oxygen depletion, increased temperature or pollution – leading to a high natural mortality approximately three times the fishing mortality, and an excessive fishing mortality given the status of the stock. The biomass of commercial sized Eastern Baltic cod is currently at the lowest level observed since the 1950s. Moreover, ICES estimated that the Eastern Baltic cod spawning stock biomass will remain below the sustainability reference point in the medium-term (until 2024) even with no fishing at all, and therefore advised zero catches in its stock advice for 2020.

(5) The Baltic Multiannual Plan requires that, when scientific advice indicates that a stock is under threat, remedial measures are to be taken, including the reduction of fishing opportunities and specific conservation measures, and that those measures are to be supplemented by all other appropriate measures. Remedial measures may include suspending the targeted fishery for the stock and the adequate reduction of fishing opportunities. The choice of measures is to be made in accordance with the nature, seriousness, duration and repetition of the situation.

(6) Based on the stock assessment for Eastern Baltic cod, the Commission adopted Implementing Regulation (EU) 2019/1248[(6)], prohibiting Union fishing vessels from fishing for cod in ICES Subdivisions 24, 25 and 26 until 31 December 2019. That prohibition has had a significant impact on the Eastern Baltic region, especially on the small artisanal fishing sector. It has also had an impact on the Western Baltic fisheries.

(7) Council Regulation (EU) 2019/1838[(7)] provides for a necessary and unprecedented reduction of 92 % of fishing opportunities for 2020 compared to 2019 for Eastern Baltic cod, and limits the use of the total allowable catch ('TAC') to by-catches only. No targeted fishery for that stock is therefore to be allowed. Fishing operations conducted for the purpose of scientific investigations are allowed to follow the trends in stock biomass. Since in ICES Subdivision 24 mostly Eastern Baltic cod is present, the use of the Western Baltic cod TAC in ICES Subdivision 24 has also been limited to by-catches of cod.

(8) The fishing fleets currently dependent on Eastern Baltic cod do not have the possibility to fish for other stocks as an alternative. It is estimated that offsetting the economic losses caused by the Eastern Baltic cod closure would require additional catches of around 20 000 tonnes in alternative species. However, Regulation (EU) 2019/1838 provides for major reductions for other stocks for 2020, in particular in respect of Western Baltic cod, with a reduction of 60 %, and in respect of Western Baltic herring

(*Clupea harengus*), with a reduction of 65 % for the western stock and of 27 % in the Gulf of Bothnia.

(9) Analysis shows that the fleet segments with the highest dependency on Eastern Baltic cod encompass more than 300 vessels, mainly trawlers and netters in Lithuania, Latvia and Poland, and to a lesser extent, in Denmark and Germany. Those fleet segments are of significant socioeconomic importance, representing between approximately 20 % and 50 % of the respective national fleet in Lithuania, Latvia and Poland, expressed in full-time equivalents. Only a minority of fleet segments seem resilient enough to survive a short-term, but not a medium or long-term, closure. The rest either already suffer from a poor situation that will be made worse by the closure or will see their profitability erode completely. Indeed, the quota uptake for Eastern Baltic cod has been below 60 % for many years already, dropping further to 40 % in 2018 and even lower in 2019; the quota uptake until the start of the Commission emergency measures in mid-July 2019 was 19 %, reflecting the biological problem with that fishery. Given that Eastern Baltic cod is not expected to recover to healthy levels even in the medium term, there will be a persistent structural imbalance for those fleet segments, thus justifying the restructuring of the fleet.

(10) Restructuring of the fleets is to be carried out in line with Regulation (EU) No 1380/2013, which requires Member States to put in place measures to adjust the fishing capacity of their fleets to their fishing opportunities over time, taking into account trends and based on the best available scientific advice, with the objective of achieving a stable and enduring balance between them. In order to achieve that objective, Member States are to send to the Commission, by 31 May each year, a report in which the balance between the fishing capacity of their fleets and their fishing opportunities is assessed. If the assessment clearly demonstrates that the fishing capacity is not effectively balanced with the fishing opportunities, the Member State concerned is to prepare and include in its report an action plan for the fleet segments with identified structural overcapacity.

(11) In the political agreement of the Council of 15 October 2019 on 2020 catch limits in the Baltic Sea, the Member States concerned declared that, if they need to reduce the fishing capacity of the fleet to manage the adverse socioeconomic consequences of the decline of the fisheries, they will present an action plan to the Commission in accordance with Regulation (EU) No 1380/2013. On 17 October 2019, the Member States concerned also recognised that, in view of the need to reduce the fishing capacity of the fleet, it is important to avoid public aid for investments in additional fishing capacity. Member States should be allowed at any time to send to the Commission their annual reports on fishing capacity and fishing opportunities or amendments to those reports in order to introduce or amend such an action plan.

(12) The fishing capacity levels of Member States implementing permanent cessation measures in fleet segments that have targeted Eastern Baltic cod, Western Baltic cod or Western Baltic herring (‘the three stocks concerned’) should not exceed the average fishing capacity levels of vessels with fishing opportunities for the three stocks concerned in the years 2015 to 2019. Those fishing capacity levels should be reduced when vessels are withdrawn with public aid, with the aim of rebuilding the three stocks

concerned. Those Member States should ensure that vessels from other fleet segments cannot be transferred to the fleet segments that fish for any of the three stocks concerned by not re-allocating fishing capacity to those vessel groups before five years following the date of withdrawal, or before the stock concerned has been above MSY $B_{trigger}$ for a period of three years, whichever occurs earlier. In order to ensure that fishing capacity levels are not exceeded, Member States should inform the Commission about their initial fishing capacity level and any changes to it.

(13) Given the serious condition of the three stocks concerned, Member States should enhance monitoring and control of vessels with by-catch quota for Eastern Baltic cod or with fishing opportunities for Western Baltic cod or Western Baltic herring. Furthermore, the threshold quantity as of which a fishing vessel is required to send prior notification of landing and to land its catch in a specific place should be reduced to 250 kilograms for Eastern Baltic cod and Western Baltic cod.

(14) Regulation (EU) 2016/1139 should therefore be amended accordingly.

(15) ICES issued an analytical assessment of the stock of Eastern Baltic cod, but could neither provide fishing mortality ranges nor various reference points because of a lack of required data. Therefore, data collection should be improved.

(16) The European Maritime and Fisheries Fund ('EMFF') established by Regulation (EU) No 508/2014 of the European Parliament and of the Council[(8)] provided for permanent cessation of fishing activities until 31 December 2017 as a tool to reduce identified structural overcapacity. Where Member States identified a structural imbalance, the resulting action plan under Regulation (EU) No 1380/2013 therefore allowed them to include permanent cessation of fishing activities as a way to meet the objectives of the action plan.

(17) In order to mitigate the seriously harmful socioeconomic consequences for communities and businesses engaged in fishing caused by the persistent and negative environmental situation in the Baltic Sea and the resulting severe reductions in fishing opportunities, and in view of the specific measures provided for in the Baltic Multiannual Plan, public support for the permanent cessation of fishing activities through the scrapping of fishing vessels should be available to allow Member States to meet the objectives of their action plans under Regulation (EU) No 1380/2013 and reduce any structural imbalance identified in the fleet segments concerned. Regulation (EU) No 508/2014 should therefore be amended accordingly to reintroduce support for permanent cessation for the vessels in the fleet segments concerned.

(18) In order to ensure the consistency of fleet structural adaptation in the Baltic Sea with the conservation objectives laid down in the Baltic Multiannual plan, support for the permanent cessation of fishing activities through the scrapping of fishing vessels in the fleet segments concerned should be strictly conditional upon compliance with Regulation (EU) No 1380/2013 and with the specific fishing capacity ceilings for the fleet segments concerned.

(19) Given the fragile ecosystem in the Baltic Sea, support for the permanent cessation of fishing activities should not be granted for the retrofitting of fishing vessels for

activities other than commercial fishing, such as recreational fishing, which could have a detrimental impact on the ecosystem. Therefore, the support should only be granted for the scrapping of fishing vessels.

(20) Regulation (EU) No 1380/2013 provides that the fishing capacity corresponding to the fishing vessels withdrawn with public aid is not to be replaced. Moreover, that Regulation provides that the entry into the fleet of new fishing capacity without public aid is to be compensated for by the prior withdrawal of fishing capacity without public aid of at least the same amount.

(21) Since support under Regulation (EU) No 508/2014 may be provided until the end of 2023, the last annual report on the implementation of the operational programmes should be submitted by 31 May 2024. Regulation (EU) No 508/2014 should therefore be amended accordingly.

(22) In view of the bad economic situation of Union fishing vessels which are significantly dependent on the three stocks concerned and the need to ensure the availability of support under the EMFF for permanent cessation of fishing activities of those vessels in 2020, this Regulation should enter into force as a matter of urgency on the day following that of its publication in the *Official Journal of the European Union*,

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EU) 2016/1139

Regulation (EU) 2016/1139 is amended as follows:

(1) in Article 1, the following paragraph is added:

3. This Regulation also specifies details for the implementation of the landing obligation in the Union waters of the Baltic Sea for Atlantic salmon (*Salmo salar*) in ICES Subdivisions 22-32.;

(2) in Article 7(1), the following subparagraph is added:

However, in respect of Atlantic salmon, the delegated powers conferred upon the Commission under the first subparagraph shall be limited to the measures referred to in point (a) of that subparagraph.;

(3) the following Chapter is inserted: