Commission Delegated Regulation (EU) 2020/1758 of 28 August 2020 amending Delegated Regulation (EU) 2019/2238 as regards high survivability and de minimis exemptions applicable to certain demersal fisheries in the North Sea

COMMISSION DELEGATED REGULATION (EU) 2020/1758

of 28 August 2020

amending Delegated Regulation (EU) 2019/2238 as regards high survivability and *de minimis* exemptions applicable to certain demersal fisheries in the North Sea

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, which establishes a multiannual plan for demersal stocks in the North Sea also empowers the Commission to adopt delegated acts specifying details of the landing obligation on the basis of joint recommendations developed by Member States.

(4) 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 and the United Kingdom submitted on 29 May 2019 a joint recommendation to the Commission concerning details of the implementation of the landing obligation for demersal fisheries in the North Sea. The joint recommendation was amended on 7 August 2019. Following those joint recommendations, the Commission adopted Delegated Regulation (EU) 2019/2238[(3)].

Changes to legislation: *Commission Delegated Regulation (EU) 2020/1758 is up to date with all changes known to be in force on or before 24 December 2020. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(5) On 8 November 2019 the Member States concerned and the United Kingdom submitted a new joint recommendation to correct some errors and unintentional omissions in Delegated Regulation (EU) 2019/2238.

(6) The joint recommendation of 8 November 2019 suggested to grant the exemption for Norway lobster caught with bottom trawls equipped with a cod-end with a mesh size of at least 70 mm equipped with a species selective grid with a bar spacing of maximums 35 mm until 31 December 2021. This is an exemption with a positive scientific assessment[(4)] that had also been included in previous discard plans. In 2018, the Scientific, Technical and Economic Committee for Fisheries (STECF) pointed out that the supporting scientific information for that exemption was based on a robust approach and the validation technique used in the context of the wider fleets was reasonable[(5)]. In spite of this positive scientific background, Delegated Regulation (EU) 2019/2238 unintentionally limited that exemption until 31 December 2020, even though there were no scientific grounds for that. That exemption should therefore apply until 31 December 2021.

(7) On the basis of the abovementioned STECF assessments, Delegated Regulation (EU) 2019/2238 also included erroneously a reporting obligation to be submitted no later than 1 May 2020 for the exemption for Norway lobster caught with bottom trawls equipped with a cod-end with a mesh size of at least 70 mm equipped with a species selective grid with a bar spacing of maximums 35 mm. Hence, this exemption should be excluded from the obligation to submit additional data.

(8) Delegated Regulation (EU) 2019/2238 contains an unintentional omission concerning the survivability exemption for catch and by-catch of plaice. The Joint Recommendation submitted on 7 August 2019 suggested an exemption for plaice caught with certain trawls targeting flatfish or roundfish, equipped with a mesh size of at least 90-99 mm and with seltra panel; or a mesh size of at least 80-99 mm. The STECF observed that survivability rates were variable between relevant studies (18-75 %), with particularly lower levels registered for smaller plaice[(6)]. For this reason the exemption should have been granted only until 31 December 2020, but Article 6(4) did not specify it by error. Furthermore, the reporting obligation to present additional data should also cover this exemption.

(9) The joint recommendation of 8 November 2019 suggested the inclusion of a *de minimis* exemption for ling caught with certain bottom trawls with a mesh size greater than or equal to 120 mm.

(10) Commission Delegated Regulation (EU) 2018/2035[(7)] had granted a *de minimis* exemption for ling below minimum conservation reference size caught with certain bottom trawls with a mesh size equal or greater than 120 mm in ICES subarea 4. That exemption was granted on the basis of scientific evidence provided by the Member States and endorsed by the scientific assessment[(8)]. The STECF noted that it was reasonable to assume that improvements in selectivity to reduce unwanted catches of ling were technically challenging giving the morphology of ling. That exemption was not carried over in Delegated Regulation (EU) 2019/2238 due to a miscommunication

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between the regional group of Member States and the Commission. Therefore, Article 10 of Delegated Regulation (EU) 2019/2238 should be amended to include it.

(11) Delegated Regulation (EU) 2019/2238 should be amended accordingly.

(12) 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 very shortly after its publication. Considering that Delegated Regulation (EU) 2019/2238 entered into force on 1 January 2020, this Regulation should also apply from that date,

HAS ADOPTED THIS REGULATION:

Article 1

Delegated Regulation (EU) 2019/2238 is amended as follows:

(1) Article 3(3) is replaced by the following:

3. The exemption referred to in paragraph 1(b)(1) and (3) shall be provisionally applicable until 31 December 2020. Member States having a direct management interest shall submit as soon as possible and not later than on 1 May 2020, additional scientific information supporting the exemption laid down in paragraph 1(b) (1) and (3). The Scientific, Technical and Economic Committee for Fisheries (STECF) shall assess the provided scientific information by 31 July 2020.;

(2) Article 6(4) is replaced by the following:

4. The exemptions referred to in paragraphs 1(c) and 2 shall be provisionally applicable until 31 December 2020. Member States having a direct management interest shall submit as soon as possible and not later than by 1 May 2020, additional scientific information supporting the exemption laid down in paragraph 1(c) and 2. The Scientific, Technical and Economic Committee for Fisheries (STECF) shall assess the provided scientific information by 31 July 2020.;

(3) Article 10 is amended as follows:

(a) in point (n), under the introductory phrase, the second subparagraph is replaced by the following:

the *de minimis* exemption set out in this point shall be provisionally applicable until 31 December 2020. Member States having a direct management interest shall submit, as soon as possible and not later than by 1 May 2020, additional scientific information supporting the exemption. The STECF shall assess the provided scientific information by 31 July 2020;;

(b) the following point (o) is added:

(o) in the demersal fisheries by vessels using bottom trawls (OTB, OTT, PTB) with a mesh size equal to or greater than 120 mm catching ling in Union waters of ICES subarea 4:

a quantity of ling below minimum conservation reference size, which shall not exceed 3 % of the total annual catches of ling in that fishery..