Council Regulation (EU) 2020/900 of 25 June 2020 amending Regulation (EU) 2019/1838 as regards certain fishing opportunities for 2020 in the Baltic Sea and amending Regulation (EU) 2020/123 as regards certain fishing opportunities in 2020 in Union and non-Union waters

COUNCIL REGULATION (EU) 2020/900

of 25 June 2020

amending Regulation (EU) 2019/1838 as regards certain fishing opportunities for 2020 in the Baltic Sea and amending Regulation (EU) 2020/123 as regards certain fishing opportunities in 2020 in Union and non-Union waters

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) Council Regulation (EU) 2019/1838[(1)] fixes the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea for 2020. It establishes spawning closure periods for the two Baltic cod stocks with a derogation for fishing vessels of less than 12 meters length overall that fish with certain passive gears. Fishing with drifting lines is excluded from the derogation. However, it is considered that the use of drifting lines should be allowed and should thus be included in the derogation, as in the previous fishing opportunities regulations. Regulation (EU) 2019/1838 should therefore be amended accordingly.

(2) Council Regulation (EU) 2020/123[(2)] fixes for 2020 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in Union waters and, for Union vessels, in certain non-Union waters.

(3) In the report of its plenary session of 16-20 March 2020, the Scientific, Technical and Economic Committee for Fisheries (STECF) concluded that, for whiting (*Merlangius merlangus*) by-catches in the Celtic Sea, the 100 mm diamond mesh cod-end with a 160 mm square mesh panel is the most selective of the four different cod-end designs listed in the remedial measures set out in point (a) of Article 13(1) of Regulation (EU) 2020/123 fixing fishing opportunities for 2020. The STECF did not have any reliable estimates for cod (*Gadus morhua*) selectivity in the 100 mm diamond mesh cod-end with a 160 mm square mesh panel. Therefore, to ensure the recovery of the whiting stock concerned, it is appropriate to continue to allow the use of this cod-end and square mesh panel combination. In order to ensure the recovery of Celtic Sea cod, the 100 mm diamond mesh cod-end with a 160 mm square mesh panel should continue being used with the raised fishing line.

(4) The fishing mortality (F) for North sea cod (*Gadus morhua*) has increased since 2016 and is now estimated to be above the fishing mortality reference point (F_{lim}), i.e. a reference point which in the long term will result in an average stock size at biomass limit reference point (B_{lim}). Fishing at levels above F_{lim} will result in a decline in the stock to levels below B_{lim}. Consequently, the spawning-stock biomass (SSB) has decreased since 2015 and is estimated to be below B_{lim}. B_{lim} is the reference point provided for in the best available scientific advice, in particular by International Council for the Exploration of the Sea (ICES), below which there may be reduced reproductive capacity. Moreover, recruitment has remained poor since 1998, and was exceptionally poor in 2016 and 2018.

(5) In accordance with Article 7(2) of Regulation (EU) 2018/973 of the European Parliament and of the Council[3] establishing the North Sea multiannual plan, where scientific advice indicates that the SSB of any of the stocks referred to in Article 1(1) of that Regulation is below the B_{lim}, further remedial measures are to be adopted to ensure rapid return of the stock to levels above the level capable of producing maximum sustainable yield (MSY). In particular, those remedial measures may include the suspension of the targeted fishery for the stock concerned and the adequate reduction of fishing opportunities for those stocks or other stocks in the fisheries having by-catches of cod, or both.

(6) In the absence of a Joint Recommendation from the regional group of the North Sea Member States for longer term measures, the Commission is proposing to introduce additional technical measures functionally linked to the 2020 fishing opportunities in accordance with commitments made between the European Union and Norway, which are consistent with the joint statement of the European Commission and the Council.

(7) In order to reduce catches of the stocks for which by-catch total allowable catch (TAC) are set, fishing opportunities for the fisheries in which fish from those stocks are caught should be set at levels that help the biomass of vulnerable stocks to recover to sustainable levels. Technical measures that are functionally linked to fishing opportunities should also be established. In its mixed fisheries overview for the North Sea, the ICES estimates that in the absence of any changes to fishing patterns and in light of illegal discarding, catches of cod are estimated to be approximately 40 000 tonnes. In order to minimise the risk of catches significantly exceeding the agreed TAC, additional measures to further limit catches are required.

(8) In accordance with the procedure provided for in the agreements or protocols on fisheries relations with Norway[4] the Union has held consultations on fishing rights with Norway. The Parties have agreed to recommend to their respective authorities the introduction of additional remedial measures to supplement the TAC already agreed in December 2019, so as to provide additional protection for both juvenile and adult cod on a temporary basis during 2020. Those measures should include seasonal closures for the protection of juveniles, restricted areas with specific access conditions and the introduction of new fishing gear-based measures.

(9) On 9 March 2020, ICES issued advice for catches of Northern prawn (*Pandalus borealis*) in ICES divisions 3a and 4a East (Skagerrak, Kattegat, and the northern North

Sea in the Norwegian Deep). On the basis of that advice and following consultations with Norway, it is appropriate to fix the Union quota for Northern prawn in ICES division 3a at 3 266 tonnes, in line with the MSY.

(10) According to the ICES advice of 14 April 2020, catches of sprat (*Sprattus sprattus*) in Union waters of ICES subarea 4 (the North Sea) and in ICES division 3a (Skagerrak and Kattegatt) should be no more than 207 807 tonnes for the period from 1 July 2020 to 30 June 2021. The fishing opportunities for sprat should therefore be set at 169 778 tonnes in Union waters of ICES division 2a and ICES subarea 4, and at 38 029 tonnes in ICES division 3a for that period, in line with the MSY.

(11) The TAC for anchovy (*Engraulis encrasicolus*) in ICES subareas 9 and 10 and Union waters of the Fishery Committee for the Eastern Central Atlantic (CECAF) 34.1.1 for the period from 1 July 2020 to 30 June 2021 has been set at zero, pending the scientific advice for that period. ICES will issue its advice for that stock at the end of June 2020. In order to ensure that fishing activity may continue until the TAC is set on the basis of the latest scientific advice, a provisional TAC of 4 018 tonnes, based on the catches in the third quarter of 2019, should be established. That provisional TAC should be amended in line with the ICES scientific advice.

(12) In the Agreed Record of Fisheries Consultations between Norway and the European Union for 2020 of 19 December 2019, the Parties agreed that, in addition to the agreed 50 000 tonnes of herring (*Clupea harengus*) that Norway is allowed to fish from its quota in Union waters of 4a and 4b and that the Union can fish from its quota in Norwegian waters south of 62° N, an additional quantity of maximum 10 000 tonnes will be granted if such an increase is called for by Norway or by the Union. That agreement should be implemented in Union law.

(13) At its 2020 annual meeting held from 14 to 18 February 2020, the South Pacific Regional Fisheries Management Organisation (SPRFMO) reviewed the conservation measure for jack mackerel (*Trachurus murphyi*), for which the fishing opportunities had not yet been determined in Regulation (EU) 2020/123. The applicable measures should be implemented in Union law.

(14) At its annual meeting held from 23 to 27 September 2019, the Northwest Atlantic Fisheries Organisation (NAFO), decided to close the fishery for splendid alfonsino (*Beryx splendens*) in NAFO subarea 6 due to a possible depletion of the stock. That measure should therefore be implemented in Union law and the list of prohibited species should therefore be amended accordingly.

(15) The International Commission for the Conservation of Atlantic Tunas (ICCAT) Recommendation 16-05, which decreased the TAC for Mediterranean swordfish (*Xiphias gladius*) in 2020, has already been implemented in Union law. However, in January 2020, the ICCAT Secretariat issued guidelines for the calculation of the TAC for Mediterranean swordfish. As a result, the Union quota needs to be updated accordingly.

(16) At its 2019 annual meeting held from 17 to 21 June 2019, the Indian Ocean Tuna Commission (IOTC) adopted new catch limits for yellowfin tuna (*Thunnus albacares*) that do not affect the Union catch limits in the framework of IOTC. However, it

reduced possibilities for using fish aggregating devices (FADs), supply vessels as well as instrumented buoys. Therefore, further changes should be made to Regulation (EU) 2020/123 to ensure that the implementing rules properly reflect the decisions taken by the Contracting Parties to the IOTC.

(17) In July 2019, the 6th Meeting of the Parties of the Southern Indian Ocean Fisheries Agreement (SIOFA) decided on bottom fishing measures and effort limitations in the Agreement area. Those measures were implemented in Union law by Regulation (EU) 2020/123. However, further changes should be made to ensure that the implementing rules properly reflect the decisions taken by SIOFA regarding limits to bottom fishing.

(18) Fishing licenses are granted by the Commission to vessels flying the Venezuelan flag in order to allow them to fish for snapper in European waters off the coast of French Guiana. Regulation (EU) 2020/123 provides for granting of 45 licenses. In order to issue those authorisations, proof is to be provided that a valid contract has been concluded between the shipowner and a processing company located in the Department of French Guiana. During the authorisation process in between two years, continuity of fishing operations should be allowed under certain conditions.

(19) Vessels fishing for sandeels using certain gears in ICES subdivisions 2a, 3a and 4 should be subject to prohibition periods from 1 August to 31 December 2020 and from 1 January to 31 March 2021.

(20) Regulation (EU) 2020/123 should therefore be amended accordingly.

(21) The catch limits provided for in Regulation (EU) 2019/1838 and Regulation (EU) 2020/123 apply from 1 January 2020. The provisions introduced by this Regulation concerning catch limits should therefore enter into force as soon as possible. With respect to changes in the TAC levels, the additional derogation in the Baltic Sea and the continued permission of the use of a gear in the Celtic Sea, the provisions should apply from 1 January 2020. Since the fishing opportunities concerned have not yet been exhausted or are increased and more permissive rules are introduced by this Regulation, the principles of legal certainty and protection of legitimate expectations are not affected by the retroactive application of this Regulation.

(22) The United Kingdom has been consulted in accordance with Article 130(1) of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community[(5)],

HAS ADOPTED THIS REGULATION:

Article 1

Amendment of Regulation (EU) 2019/1838

The Annex to Regulation (EU) 2019/1838 is amended in accordance with Annex I to this Regulation.

Article 2

Amendment of Regulation (EU) 2020/123

Regulation (EU) 2020/123 is amended as follows:

(1) In Article 3, the following points are added:

(j) "instrumented buoy" means a buoy clearly marked with a unique reference number allowing identification of its owner and equipped with a satellite tracking system to monitor its position;

(k) "operational buoy" means any instrumented buoy, previously activated, switched on and deployed at sea on a drifting FAD or log, which transmits positions and any other available information such as echo-sounder estimates..

(2) The following Article is inserted:

Article 12a

Closed fishing seasons for sandeels

Commercial fishing for sandeels with demersal trawl, seine or similar towed gears with a mesh size of less than 16 mm shall be prohibited in ICES divisions 2a, 3a and ICES subarea 4 from 1 August to 31 December 2020 and from 1 January to 31 March 2021..

(3) The fourth indent of point (a) of Article 13(1) is replaced by the following:

— 100 mm with 160 mm square-mesh panel;.

(4) Article 14 is replaced by the following:

Article 14

Remedial measures for cod in the North Sea

1 The closed areas to fishing, except with pelagic gear (purse seines and trawls), and the periods during which the closures apply are set out in Annex IV.

2 Vessels fishing with bottom trawls and seines with minimum mesh size of at least 70 mm in 4a and 4b or at least 90 mm in 3a, and longlines[(6)] shall be prohibited from fishing in Union waters of ICES division 4a, North of latitude 58° 30′ 00″ N and South of latitude 61° 30′ 00″ N and in Union waters of ICES divisions 3a.20 (Skagerrak), 4a and 4b, North of latitude 57° 00′ 00″ N and East of longitude 5° 00′ 00″ E.

3 By way of derogation from paragraph 2, fishing vessels referred to in paragraph 2 may fish in the areas referred to in paragraph 1 provided that they fulfil at least one of the following criteria:

a the percentage of cod catches does not exceed 5 % of the total catches per fishing trip; vessels with cod catches that have not exceeded 5 % of their total