Commission Delegated Regulation (EU) 2020/4 of 29 August 2019 amending Delegated Regulation (EU) 2017/86 establishing a discard plan for certain demersal fisheries in the Mediterranean Sea

COMMISSION DELEGATED REGULATION (EU) 2020/4

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amending Delegated Regulation (EU) 2017/86 establishing a discard plan for certain demersal fisheries in the Mediterranean Sea

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC[(1)], and in particular Articles 15(6) and 18(1) and (3) thereof,

Whereas:

(1) Regulation (EU) No 1380/2013 aims to eliminate progressively discards in Union fisheries through the introduction of a landing obligation for catches of species subject to catch limits and, in the Mediterranean, also catches of species subject to minimum sizes as defined in Annex IX to Regulation (EU) 2019/1241 of the European Parliament and of the Council[(2)].

(2) According to Article 15(1)(d) of Regulation (EU) No 1380/2013, the landing obligation applies for demersal fisheries in the Mediterranean Sea at the latest from 1 January 2017 to species that define the fisheries and at the latest from 1 January 2019 to all other species.

(3) Regulation (EU) 2019/1022 of the European Parliament and of the Council[(3)] establishes a multiannual plan concerning demersal fisheries in the western Mediterranean Sea. France, Italy and Spain submitted a joint recommendation requesting a *de minimis* exemption for catches made with bottom trawls. However, that request applies to a group of thirteen species taken together, of which only one falls within the scope of the multiannual plan. The Joint recommendation also request an exemption for by-catches of pelagic species made with bottom trawls. However, that request applies to fisheries exploiting demersal stocks that are not limited to those included in the multiannual plan.

(4) No multiannual plans have been adopted so far as regards the Adriatic Sea and the south-eastern Mediterranean Sea.

(5) In order to implement the landing obligation, Article 15(6) of Regulation (EU) No 1380/2013 empowers the Commission to adopt discard plans by means of a delegated act, for a period of no more than three years that may be renewed for a further total

period of three years, on the basis of joint recommendations developed by Member States in consultation with the relevant Advisory Councils.

(6) Commission Delegated Regulation (EU) 2017/86[(4)] established a discard plan for certain demersal fisheries in the Mediterranean Sea applicable from 1 January 2017 until 31 December 2019, following three joint recommendations submitted to the Commission in 2016 by a number of Member States having a direct management interest in the Mediterranean Sea (Greece, Spain, France, Croatia, Italy, Cyprus, Malta and Slovenia). Those three joint recommendations concerned respectively the western Mediterranean Sea, the Adriatic Sea and the south-eastern Mediterranean Sea.

(7) Delegated Regulation (EU) 2017/86 was amended by Commission Delegated Regulation (EU) 2018/153[(5)] and by Commission Delegated Regulation (EU) 2018/2036[(6)] following joint recommendations submitted by the relevant Member States having a direct management interest and concerning the western Mediterranean Sea, the Adriatic Sea and the south-eastern Mediterranean Sea.

(8) In May 2019, France, Italy and Spain submitted to the Commission a joint recommendation for a discard plan for demersal fisheries in the western Mediterranean after consultations within the regional Pescamed High-Level Group.

(9) In May 2019, Cyprus, Greece, Italy and Malta submitted to the Commission a joint recommendation for a discard plan for demersal fisheries in the south-eastern Mediterranean after consultations within the regional Sudestmed High-Level Group.

(10) In May 2019, Croatia, Italy and Slovenia submitted to the Commission a joint recommendation for a discard plan for demersal fisheries in the Adriatic Sea after consultations within the regional Adriatica High-Level Group.

(11) The three joint recommendations were assessed by the Scientific, Technical and Economic Committee for Fisheries (STECF) during its summer Plenary on 1-5 July 2019[(7)].

(12) In July 2019, the three Member States High-Level Groups submitted updated joint recommendations that were aligned with the scientific advice.

(13) Under Article 18 of Regulation (EU) No 1380/2013, the Commission has considered both the STECF's assessment and the need for Member States to ensure the full implementation of the landing obligation.

(14) The updated joint recommendation for the western Mediterranean suggests applying the survivability exemption, as provided for in Article 15(5)(b) of Regulation (EU) No 1380/2013, to red seabream (*Pagellus bogaraveo*) caught with hooks and lines (LHP, LHM, LLS, LLD, LL, LTL, LX) until 31 December 2021. The STECF considered that some evidence to support this exemption had been provided in 2018. Further data provided in 2019 strengthen this request. It is therefore appropriate to extend the application of that exemption until 31 December 2021.

(15) The three updated joint recommendations suggest applying the survivability exemption to lobster (*Homarus gammarus*) and crawfish (Palinuridae) caught with nets (GNS, GN, GND, GNC, GTN, GTR, GEN) and pots and traps (FPO, FIX) in the western

Mediterranean Sea, in the Adriatic Sea and in the south-eastern Mediterranean Sea until 31 December 2021. The STECF considered that the method used to provide additional evidence was robust and that the survival rate was high (64 %). In light of the above, it is appropriate to extend the application of those exemptions until 31 December 2021.

(16) The updated joint recommendation for the western Mediterranean suggests applying the *de minimis* exemption, as provided for in Article 15(5)(c) of Regulation (EU) No 1380/2013, to European seabass (*Dicentrarchus labrax*), annular seabream (*Diplodus annularis*), sharpsnout seabream (*Diplodus puntazzo*), white seabream (*Diplodus sargus*), two-banded seabream (*Diplodus vulgaris*), groupers (*Epinephelus spp.*), striped seabream (*Lithognathus mormyrus*), Spanish seabream (*Pagellus acarne*), red seabream (*Pagellus bogaraveo*), common pandora (*Pagellus erythrinus*), common seabream (*Pagrus pagrus*), wreckfish (*Polyprion americanus*), common sole (*Solea solea*), gilthead seabream (*Sparus aurata*) and deep-water rose shrimp (*Parapenaeus longirostris*), up to 5 % in 2020 and 2021 of the total annual catches of those species made by vessels using bottom trawls (OTB, OTT, PTB, TBN, TBS, TB, OT, PT, TX); up to 3 % in 2020 and 2021 of the total annual catches of those species, except for deep-water rose shrimp, caught by vessels using gillnets and trammel nets (GNS, GN, GND, GNC, GTN, GTR, GEN); and up to 1 % in 2020 and 2021 of the total annual catches of those species, except for red seabream and deep-water rose shrimp, made by vessels using hooks and lines (LHP, LHM, LLS, LLD, LL, LTL, LX). The STECF considered that there was evidence of increased costs resulting from additional handling and sorting times on board. The STECF further noted the evidence regarding the cost of handling unwanted catches ashore, which is difficult in the Mediterranean because the fleet mainly comprises small-scale vessels landing their catch in many ports spread out along the coast. The STECF concluded that, due to the small quantities and the very large number of landing places, even in the case that landed unwanted catches could be sold, the evidence indicated that the collection costs would be disproportionate.

(17) The updated joint recommendation for the Adriatic Sea suggests applying the *de minimis* exemption to European seabass (*Dicentrarchus labrax*), annular seabream (*Diplodus annularis*), sharpsnout seabream (*Diplodus puntazzo*), white seabream (*Diplodus sargus*), two-banded seabream (*Diplodus vulgaris*), groupers (*Epinephelus spp.*), striped seabream (*Lithognathus mormyrus*), Spanish seabream (*Pagellus acarne*), red seabream (*Pagellus bogaraveo*), common pandora (*Pagellus erythrinus*), common seabream (*Pagrus pagrus*), wreckfish (*Polyprion americanus*), gilthead seabream (*Sparus aurata*) and deep-water rose shrimp (*Parapenaeus longirostris*), up to 5 % in 2020 and 2021 of the total annual catches of those species made by vessels using bottom trawls (OTB, OTT, PTB, TBN, TBS, TB, OT, PT, TX); up to 3 % in 2020 and 2021 of the total annual catches of those species, except for deep-water rose shrimp but including common sole, caught by vessels using gillnets and trammel nets (GNS, GN, GND, GNC, GTN, GTR, GEN); and up to 1 % in 2020 and 2021 of the total annual catches of those species, except for red seabream and deep-water rose shrimp but including common sole, made by vessels using hooks and lines (LHP, LHM, LLS, LLD, LL, LTL, LX). The STECF considered that there was evidence of increased costs resulting from additional handling and sorting times on board. The STECF further noted

the evidence regarding the cost of handling unwanted catches ashore, which is difficult in the Mediterranean because the fleet mainly comprises small-scale vessels landing their catch in many ports spread out along the coast. The STECF concluded that, due to the small quantities and the very large number of landing places, even in the case that landed unwanted catches could be sold, the evidence indicated that the collection costs would be disproportionate.

(18) The updated joint recommendation for the south-eastern Mediterranean Sea suggests applying the *de minimis* exemption to European seabass (*Dicentrarchus labrax*), annular seabream (*Diplodus annularis*), sharpsnout seabream (*Diplodus puntazzo*), white seabream (*Diplodus sargus*), two-banded seabream (*Diplodus vulgaris*), groupers (*Epinephelus spp.*), striped seabream (*Lithognathus mormyrus*), Spanish seabream (*Pagellus acarne*), red seabream (*Pagellus bogaraveo*), common pandora (*Pagellus erythrinus*), common seabream (*Pagrus pagrus*), wreckfish (*Polyprion americanus*), common sole (*Solea solea*) and gilthead seabream (*Sparus aurata*), up to 5 % in 2020 and 2021 of the total annual catches of those species made by vessels using bottom trawls (OTB, OTT, PTB, TBN, TBS, TB, OT, PT, TX); up to 3 % in 2020 and 2021 of the total annual catches of those species made by vessels using gillnets and trammel nets (GNS, GN, GND, GNC, GTN, GTR, GEN) and up to 1 % in 2020 and 2021 of the total annual catches of those species, except for red seabream but including hake, made by vessels using hooks and lines (LHP, LHM, LLS, LLD, LL, LTL, LX). The STECF considered that there was evidence of increased costs resulting from additional handling and sorting times on board. The STECF further noted the evidence regarding the cost of handling unwanted catches ashore, which is difficult in the Mediterranean because the fleet mainly comprises small-scale vessels landing their catch in many ports spread out along the coast. The STECF concluded that, due to the small quantities and the very large number of landing places, even in the case that landed unwanted catches could be sold, the evidence indicated that the collection costs would be disproportionate.

(19) The STECF also noted that the exemptions mentioned in recitals (16), (17) and (18) cover a broad group of species with a wide range of discard rates but considered such broad coverage a valid approach given the complexity of the fisheries concerned. Finally, the STECF considered that individual *de minimis* exemptions covering a single species would likely result in many separate exemptions that would be equally challenging to monitor. The proposed exemptions apply to groups of species which cover the rest of species subject to minimum sizes as defined in Annex IX to Regulation (EU) 2019/1241 and which are not, at this stage, subject to catch limits; therefore, Article 15(8) and (9) of Regulation (EU) No 1380/2013 are not applicable. In addition, those species are caught at the same time, at highly varying quantities, which makes a single stock approach challenging. Those species are furthermore caught by small-scale fishing vessels and landed at many different landing points spread out geographically along the coast.

(20) The three updated joint recommendations suggest applying the *de minimis* exemption to anchovy (*Engraulis encrasicolus*), sardine (*Sardina pilchardus*), mackerel (*Scomber* spp.) and horse mackerel (*Trachurus* spp.), up to 5 % in 2020 and 2021 of the total annual by-catches of those species made by vessels using bottom trawls (OTB, OTT,

PTB, TBN, TBS, TB, OT, PT, TX) in the western Mediterranean Sea, in the Adriatic Sea and in the south-eastern Mediterranean Sea. The STECF considered that there was evidence of increased costs resulting from additional handling and sorting times on board. STECF further noted the evidence regarding the cost of handling unwanted catches ashore, which is difficult in the Mediterranean. The STECF concluded that, due to the small quantities and the very large number of landing places, even in the case that landed unwanted catches could be sold, the evidence indicated that the collection costs would be disproportionate.

(21) In light of the above, it is appropriate to apply the *de minimis* exemptions mentioned in recitals (16), (17), (18) and (20) until 31 December 2021 in accordance with the percentage levels proposed in the joint recommendations and at levels which do not exceed those allowed under Article 15(1) of Regulation (EU) No 1380/2013.

(22) Finally, the updated joint recommendation for the south-eastern Mediterranean Sea suggests extending the geographical scope of the discard plan to Geographical subareas (GSAs) 14, 21, 24, 26 and 27. The STECF referred to that suggestion but provided no further comments. Extending the scope to cover the entire south-eastern Mediterranean basin will increase consistency and allow a better implementation of the landing obligation. Such extension of the geographical scope appears therefore to be suitable.

(23) Member States renewed their commitment to increase the selectivity of the fishing gears in accordance with the results of current research programmes in order to reduce and limit unwanted catches and particularly catches below minimum conservation reference sizes.

(24) Furthermore, Member States commit to identify further nursery areas in order to reduce juvenile mortality.

(25) In line with the joint recommendation for the western Mediterranean Sea, the concerned Member States encourage the use of codend trawls or extension fitted with a T90 50mm mesh size and the continuation of real time closures trials.

(26) The measures suggested by the updated joint recommendations are in line with Article 15(4), Article 15(5)(c) and Article 18(3) of Regulation (EU) No 1380/2013 and may thus be included in the discard plan established by Commission Delegated Regulation (EU) 2017/86.

(27) The *de minimis* exemptions for small pelagic species in fisheries targeting those species are set out in Commission Delegated Regulation (EU) 2018/161[(8)]. By contrast, *de minimis* exemptions for by-catches of small pelagic species made in demersal fisheries should be included in Delegated Regulation (EU) 2017/86.

(28) Commission Delegated Regulation (EU) 2017/86 should therefore be amended accordingly.

(29) Since the measures provided for in this Regulation impact directly 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. It should apply from 1 January 2020,