Commission Delegated Regulation (EU) 2018/190 of 24 November 2017 amending Delegated Regulation (EU) No 1393/2014 establishing a discard plan for certain pelagic fisheries in North-Western waters

COMMISSION DELEGATED REGULATION (EU) 2018/190

of 24 November 2017

amending Delegated Regulation (EU) No 1393/2014 establishing a discard plan for certain pelagic fisheries in North-Western waters

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 Article 15(6) and Article 18(1) and (3) thereof,

Whereas:

(1) Regulation (EU) No 1380/2013 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 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 and renewable once on the basis of joint recommendations developed by Member States in consultation with the relevant Advisory Councils.

(3) Commission Delegated Regulation (EU) No 1393/2014[(2)] established a discard plan for certain pelagic fisheries in the North Western waters in order to facilitate the implementation of the landing obligation by means of certain flexibility mechanisms.

(4) Belgium, France, Ireland, the Netherlands, Spain and the United Kingdom have a direct fisheries management interest in the North Western waters. After having consulted the North Western Waters Advisory Council and the Pelagic Advisory Council, those Member States submitted on 31 May 2017 a joint recommendation to the Commission.

(5) Exemptions from the obligation to land all catches may be specified in accordance with Article 15(5)(b) of Regulation (EU) No 1380/2013 in relation to species for which scientific evidence demonstrates high survival rates (‘survivability exemptions’).

(6) The joint recommendation suggests to apply, under certain conditions, a survivability exemption in 2019 and 2020 for mackerel and herring caught in the ring net fishery targeting non-quota species in ICES divisions VIIe and VIIf. The evidence provided by the Member States to justify that exemption was reviewed by Scientific, Technical and Economic Committee for fisheries (STECF). STECF concluded that the evidence

supporting the suggested exemption was similar to that justifying other exemptions included in previous discard plan and had been previously assessed by STECF. Exemptions from the obligation to land all catches may furthermore be specified in accordance with Article 15(5)(c) of Regulation (EU) No 1380/2013 where scientific evidence indicates that increases in selectivity are very difficult or where handling unwanted catches entails disproportionate costs ('*de minimis* exemptions').

(7) The joint recommendation suggests a *de minimis* exemption for up to a maximum of 6 %, in 2018, and 5 %, in 2019 and 2020, of the total annual catches of blue whiting (*Micromesistius poutassou*) in the industrial pelagic trawler fishery targeting that species in ICES divisions Vb, VI, and VII and processing that species on board to obtain surimi base. The Member States concerned provided evidence to demonstrate that increased selectivity cannot be achieved and that costs of handling the unwanted catch are disproportionate. STECF reviewed the suggested exemption and concluded that it is sufficiently well argued. Therefore, the suggested exemption may be included in Delegated Regulation (EU) No 1393/2014.

(8) The joint recommendation suggests to apply a *de minimis* exemption for up to a maximum of 6 %, in 2018, and 5 %, in 2019 and 2020, of the total annual catches of albacore tuna (*Thunnus alalunga*) in the albacore tuna directed fisheries using midwater pair trawls (PTM) in ICES division VII. The Member States provided evidence to demonstrate that costs of storage and handling unwanted catches at sea and on shore are disproportionate. The evidence provided by the Member States was reviewed by STECF. In its evaluation STECF mentioned the risk of highgrading. In this regard it should be noted that, pursuant to paragraph 3 of Article 19a of Council Regulation (EC) No 850/1998[3], the prohibition of discarding does not apply to catches of species which are exempted from the landing obligation in accordance with Article 15(4) of Regulation (EU) No 1380/2013. Therefore, the suggested exemption may be included in Delegated Regulation (EU) No 1393/2014.

(9) The joint recommendation suggests to apply in 2018, 2019 and 2020 a *de minimis* exemption for up to a maximum of 1 % of the total annual catches of mackerel (*Scomber scombrus*), horse mackerel (*Trachurus* ssp.), herring (*Clupea harengus*) and whiting (*Merlangius Merlangus*) in the small pelagic fisheries carried out by midwater trawlers (OTM and PTM) up to 25 m in length overall and targeting mackerel, horse mackerel and herring in ICES division VIId. The scientific evidence provided by the Member States in order to support the suggested exemption was reviewed by STECF. STECF noted that the *de minimis* exemption may provide an incentive for the fleets involved to adapt their behaviour and continue research on ways to improve selectivity. Therefore, the exemption concerned may be included in Delegated Regulation (EU) No 1393/2014.

(10) The duration of the discard plan should consequently be extended until 31 December 2020.

(11) Article 2 of Delegated Regulation (EU) No 1393/2014 provides respectively for a survivability exemption for mackerel and herring caught in the purse seine fisheries. This measure was positively evaluated by STECF in 2014. The Commission considers that the evidence on which that evaluation was based remains valid for the

next three years. Therefore it is appropriate to extend the application of the measure until 2020.

(12) Delegated Regulation (EU) No 1393/2014 and its Annex should be amended accordingly.

(13) Since the measures provided for in this Regulation impact directly on the economic activities linked to, and the planning of, the fishing season of Union vessels, this Regulation should enter into force immediately after its publication. Considering that the discard plan established by Delegated Regulation (EU) No 1393/2014 expires on 31 December 2017, this Regulation should apply from 1 January 2018,

HAS ADOPTED THIS REGULATION:

Article 1

Delegated Regulation (EU) No 1393/2014 is amended as follows:

(1) in Article 2, the following paragraph 6 is added

6. By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, the landing obligation shall not apply in 2019 and 2020 to catches of mackerel and herring in the ring net fishery targeting pelagic species not subject to quotas in ICES divisions VIIe and VIIf, if the requirements set out in paragraphs 1 to 5 of this Article and in Article 4 of this Regulation are met mutatis mutandis.;

(2) in Article 3, the heading is replaced by the following: '*De minimis* exemptions in the years 2015, 2016 and 2017';

(3) the following Article 3a is inserted:

Article 3a

De minimis exemptions in the years 2018, 2019 and 2020

"By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, the following quantities may be discarded:

(a) up to a maximum of 6 %, in 2018, and 5 %, in 2019 and 2020, of the total annual catches of blue whiting (*Micromesistius poutassou*) in the industrial pelagic trawler fishery targeting that species in ICES divisions Vb, VI and VII, and processing that species on board to obtain surimi base;

(b) up to a maximum of 6 %, in 2018, and 5 %, in 2019 and 2020, of the total annual catches for albacore tuna (*Thunnus alalunga*) in the albacore tuna directed fisheries using midwater pair trawls (PTM) in ICES subarea VII;

(c) up to a maximum of 1 %, in 2018, 2019 and 2020, of the total annual catches of mackerel (*Scomber scombrus*), horse mackerel (*Trachurus* spp.), herring (*Clupea harengus*) and whiting (*Merlangius merlangus*) in the fishery carried out with pelagic trawlers up to 25 meters in length overall, using mid-water trawl (OTM and PTM) and targeting mackerel, horse mackerel and herring in ICES division VIId.;

(4) in Article 5, the second paragraph is replaced by the following:

It shall apply from 1 January 2015 to 31 December 2020.;

(5) the Annex is replaced by the text in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2018.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 24 November 2017.

For the Commission

The President

Jean-Claude JUNCKER