Commission Delegated Regulation (EU) 2018/188 of 21 November 2017 amending Delegated Regulation (EU) No 1394/2014 establishing a discard plan for certain pelagic fisheries in South-Western waters

COMMISSION DELEGATED REGULATION (EU) 2018/188

of 21 November 2017

amending Delegated Regulation (EU) No 1394/2014 establishing a discard plan for certain pelagic fisheries in South-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 1394/2014[(2)] established a discard plan for certain pelagic fisheries in South-Western waters in order to facilitate the implementation of the landing obligation by means of certain flexibility mechanisms.

(4) In accordance with Article 15(5)(c)(ii), that discard plan provided i.a. for certain exemptions from the obligation to land all catches, on account of disproportionate costs of handling unwanted catches for those fishing gears where unwanted catches per fishing gear do not represent more than a certain percentage of total annual catch of that gear (‘de minimis exemptions’).

(5) According to Article 5 of Delegated Regulation (EU) No 1394/2014, the discard plan expires on 31 December 2017.

(6) Belgium, France, the Netherlands, Portugal and Spain have a direct fisheries management interest in the South-Western waters. After having consulted the South Western Waters Advisory Council and the Pelagic Advisory Council, those Member States submitted on 2 June 2017 a joint recommendation to the Commission.

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2018/188. (See end of Document for details)*

(7) The joint recommendation suggested to extend the duration of *de minimis* exemptions established in the discard plan at the following revised discard levels:

— up to a maximum of 6 % in 2018, and 5 % in 2019 and 2020 of the total annual catches blue whiting, caught in the industrial pelagic trawler fishery in ICES division VIII;

— up to a maximum of 6 % in 2018, and 5 % in 2019 and 2020 of the total annual catches of albacore tuna, caught in the large pelagic fisheries using midwater pair trawlers in ICES division VIII;

— up to a maximum of 4 % in 2018, 2019 and 2020 of the total annual catches of anchovy, mackerel and horse mackerel, caught in pelagic trawl fishery in ICES division VIII;

— up to a maximum of 4 % in 2018, 2019 and 2020 of the total annual catches of horse mackerel, jack mackerel and mackerel, and 1 % in 2018, 2019 and 2020 of the total annual catches of anchovy, caught in the purse sein fishery in ICES divisions VIII, IX, X and CECAF divisions 34.1.1, 34.1.2, 34.2.0.

(8) In order to justify the suggested *de minimis* exemptions, the Member States provided evidence concerning disproportionate costs of handling unwanted catches in the relevant fisheries. That evidence was reviewed by the Scientific Technical and Economic Committee for Fisheries (STECF) Expert Working Group, which concluded that the joint recommendations contained reasoned arguments related to the disproportionate costs in handling unwanted catches, supported in some cases with a qualitative assessment of the costs. In light of the above and in the absence of differing scientific information, it is appropriate to extend the duration of the *de minimis* exemptions in accordance with the percentage levels proposed in the joint recommendation and at levels which do not exceed those allowed under Article 15(1) of Regulation (EU) No 1380/2013.

(9) Articles 2 and 4 of the Delegated Regulation (EU) No 1394/2014 provide respectively for a survivability exemption for anchovy, horse mackerel, jack mackerel and mackerel caught in artisanal purse seine fisheries and for a specific minimum conservation reference size for anchovy. Those measures were 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 extent the application of those measures until 2020.

(10) Delegated Regulation (EU) No 1394/2014 should therefore be amended accordingly.

(11) 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 1394/2014 expires on 31 December 2017, this Regulation should apply from 1 January 2018,

HAS ADOPTED THIS REGULATION:

***Changes to legislation:** There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2018/188. (See end of Document for details)*

Article 1

Delegated Regulation (EU) No 1394/2014 is amended as follows:

(1) Article 3 is replaced by the following:

Article 3

De minimis exemptions

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 in the industrial pelagic trawler fishery, which targets blue whiting in ICES division VIII using midwater trawls (OTM) and processes 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 of albacore tuna in the large pelagic fisheries which target albacore tuna in ICES division VIII using midwater pair trawls (PTM);

(c) up to a maximum of 4 % in 2018, 2019 and 2020 of the total annual catches of anchovy, mackerel and horse mackerel in the pelagic trawl fishery which targets anchovy, mackerel and horse mackerel in ICES division VIII using midwater trawls (OTM);

(d) up to a maximum of 4 % in 2018, 2019 and 2020 of the total annual catches of horse mackerel, jack mackerel and mackerel, and 1 % in 2018, 2019 and 2020 of the total annual catches of anchovy in the fishery which targets horse mackerel, jack mackerel, mackerel and anchovy in ICES divisions VIII, IX, X and CECAF divisions 34.1.1, 34.1.2, 34.2.0 using purse seines (PS).

(2) In Article 5, the second paragraph is replaced by the following:

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

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, 21 November 2017.

For the Commission

The President

Jean-Claude JUNCKER