Commission Delegated Regulation (EU) 2017/1352 of 18 April 2017 amending Commission Delegated Regulation (EU) 2015/98 on the implementation of the Union's international obligations, as referred to in Article 15(2) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council, under the International Convention for the Conservation of the Atlantic Tunas and the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries

COMMISSION DELEGATED REGULATION (EU) 2017/1352

of 18 April 2017

amending Commission Delegated Regulation (EU) 2015/98 on the implementation of the Union's international obligations, as referred to in Article 15(2) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council, under the International Convention for the Conservation of the Atlantic Tunas and the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries

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(2) thereof,

Whereas:

(1) Regulation (EU) No 1380/2013 provides for the obligation to land all catches of species which are subject to catch limits and, in the Mediterranean, also catches of certain species which are subject to minimum sizes (‘the landing obligation’). Article 15(1) of that Regulation covers fishing activities in Union waters or by Union fishing vessels outside Union waters in waters not subject to third countries' sovereignty or jurisdiction.

(2) Council Regulation (EC) No 1386/2007[(2)] lays down the conservation and enforcement measures applicable in the Regulatory Area of the Northwest Atlantic Fisheries Organisation (NAFO)[(3)], to which Union acceded in 1978. Certain NAFO Conservation and Enforcement Measures (NCEM) establish a discard obligation for catches and by-catches of certain species to which the landing obligation should apply.

(3) Article 15(2) of Regulation (EU) No 1380/2013 empowers the Commission to adopt delegated acts for the purpose of implementing international obligations into Union law, including, in particular, derogations from the landing obligation.

(4) Commission Delegated Regulation (EU) 2015/98[(4)] provides for derogations from the landing obligation applicable from 1 January 2015 as regards catches and by-catches of capelin that have to be discarded under the NCEM.

(5) From 1 January 2017 at the latest the landing obligation will apply to further species which define the fisheries, including species caught in the NAFO Regulatory Area.

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/1352. (See end of Document for details)*

(6) According to Article 5 of the NCEM, some stocks caught in the Regulatory Area of NAFO are subject to catch limits, with the exception of the Northern prawn stock in NAFO Division 3M where the management is carried out by effort allocation.

(7) Article 6 of the NCEM establishes by-catch retention limits on board for the stocks subject to catch or effort limits when these stocks are fished as by-catch in other fisheries. Article 6(3)(d) of the NCEM, as implemented by Article 4(2) of Regulation (EC) No 1386/2007, states that where a ban on fishing applies, the retention on board of species classified as by-catch shall be limited to the maximum of 1 250 kg or 5 %, whichever is the greater.

(8) Furthermore, Article 14 of the NCEM, as implemented by Article 10 of Regulation (EC) No 1386/2007, establishes that no vessel shall retain on board any fish smaller than the applicable minimum size and that such fish shall immediately be returned to the sea.

(9) Annex I.A of the NCEM sets out an annual quota table for all NAFO stocks subject to catch limits.

(10) Articles 5, 6 and 14 of the NCEM in combination create an obligation to discard catches made above the established catch or by-catch limits. With regard to Union vessels fishing in the NAFO Regulatory Area, the following NAFO fisheries are concerned: cod (in Divisions 2J3KL, 3M, 3NO), witch flounder (in Divisions 3L and 3NO), American plaice (in Divisions 3M and 3LNO), shortfin squid (in sub-areas 3 and 4), yellowtail flounder (in Divisions 3LNO), Greenland halibut (in Divisions 3LMNO), skates (in Divisions 3LNO), redfish (in Divisions 3LN, 3M, 3O and Subarea 2, Divisions 1F and 3K), white hake (in Divisions 3NO) and Northern prawn (in Divisions 3LNO). It is necessary to clarify the situations in which the landing obligation should not apply, in order to ensure compliance by the Union with its international obligations and create legal certainty for fishermen.

(11) It is appropriate to rectify the designation of the NAFO Area to which the measures provided for by Delegated Regulation (EU) 2015/98 are intended to apply, by replacing the term ‘NAFO Convention area’ with ‘NAFO Regulatory area’ in that Regulation.

(12) Delegated Regulation (EU) 2015/98 should therefore be amended accordingly.

(13) In view of the timeframe laid down in Article 15(1) of Regulation (EU) No 1380/2013, this Regulation should enter into force immediately after the publication,

HAS ADOPTED THIS REGULATION:

Article 1

Delegated Regulation (EU) 2015/98 is amended as follows:

(1) Article 2 is amended as follows:

(a) point 1 is replaced by the following:

(1) “NAFO Regulatory Area” means the Area defined in Article I(2) of the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries (NAFO Convention).;

***Changes to legislation:** There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/1352. (See end of Document for details)*

(b) point 2 is deleted;

(2) Chapter III of Delegated Regulation (EU) 2015/98 is replaced by the following:

CHAPTER III

NAFO REGULATORY AREA

Article 6

Calculation of by-catch limits

1 The bycatch limits referred to in this Regulation apply to stocks (combination of species and Division) listed in Annex I.A of the NAFO Conservation and Enforcement Measures.

2 For each stock, the calculation of bycatch percentage referred to in this Regulation is based on the ratio between the catch of that stock retained on board and the total catch of all stocks retained on board.

3 Limits and percentages referred to in this Regulation refer to catch weights retained on board at the time of inspection, and are calculated by Division on the basis of the fishing logbook figures. By derogation, the calculation of groundfish by-catch levels shall not include the catches of northern prawn in the total catch on board.

Article 6a

General derogations for the NAFO Regulatory area

1 By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, fish caught in the NAFO Regulatory Area above catch limits allocated by a legally binding Union act shall not be retained on-board.

2 Article 4(2) of Regulation (EC) No 1386/2007, which prohibits to retain on board by-catch above 1 250 kg or 5 %, whichever is greater, of species for which the catch limit is set to 0 by a legally binding Union act, shall apply by way of derogation from Article 15(1) of Regulation (EU) No 1380/2013.

3 Article 10 of Regulation (EC) No 1386/2007, which requires returning immediately to the sea any fish below the minimum sizes set out in Annex III of that Regulation, shall apply by way of derogation from Article 15(1) of Regulation (EU) No 1380/2013.

Article 6b

Cod in NAFO Divisions 3NO

By way of derogation from Article 4(2) of Regulation (EC) No 1386/2007, as long as the catch limit is set to 0 by a legally binding Union act, cod caught as by-catch in NAFO Divisions 3NO above 1 000 kg or 4 %, whichever is greater, shall not be retained on-board.