Commission Delegated Regulation (EU) 2017/86 of 20 October 2016 establishing a discard plan for certain demersal fisheries in the Mediterranean Sea

COMMISSION DELEGATED REGULATION (EU) 2017/86

of 20 October 2016

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 Article 15(6) thereof,

Whereas:

(1) Regulation (EU) No 1380/2013 aims to progressively eliminate discards in all Union fisheries through the introduction of a landing obligation.

(2) Article 15(6) of Regulation (EU) No 1380/2013 empowers the Commission to adopt discard plans by means of delegated acts for a period of no more than three years on the basis of joint recommendations developed by Member States in consultation with the relevant Advisory Councils.

(3) Greece, Spain, France, Croatia, Italy, Cyprus, Malta and Slovenia have a direct fisheries management interest in the Mediterranean Sea. On 4 and 7 July 2016 those Member States have submitted three joint recommendations to the Commission concerning discard plans for demersal fisheries in the Adriatic Sea, the south-eastern Mediterranean Sea and the western Mediterranean Sea, respectively[(2)], after consultation of the Mediterranean Sea Advisory Council. Scientific contribution was obtained from relevant scientific bodies. In line with Article 18(3) of Regulation (EU) No 1380/2013, only those measures in the joint recommendations which comply with Article 15(6) of that Regulation should be included in this Regulation.

(4) As regards the Mediterranean Sea, Article 15 of Regulation (EU) No 1380/2013 establishes a landing obligation for all catches of species which are subject to catch limits and also for catches of species which are subject to minimum sizes as defined in Annex III to Council Regulation (EC) No 1967/2006[(3)]. According to Article 15(1) (d) of Regulation (EU) No 1380/2013, the landing obligation should apply to species which define the fisheries at the latest from 1 January 2017.

(5) The joint recommendations suggested that an exemption from the landing obligation be applied to common sole (*Solea solea*) in the Adriatic Sea and the mollusc bivalves scallop (*Pecten jacobeus*), carpet clams (*Venerupis* spp.) and Venus shells (*Venus* spp.)

in the western Mediterranean Sea, as high survival rates can occur, taking into account the characteristics of the gear, of the fishing practices and of the ecosystem.

(6) The Scientific, Technical and Economic Committee for Fisheries (STECF) concludes in its evaluation[(4)] that more studies are needed to corroborate the existing findings related to high survivability of the common sole, scallop, carpet clams and Venus shells. As there are no conclusive evidences on the survival rates of these species, the Commission considers that the survivability exemption allowed under Article 15(4)(b) of Regulation (EU) No 1380/2013 should be included in this Regulation for one year only. The Member States concerned should submit relevant data to the Commission to allow STECF to fully assess the justifications for the exemption and the Commission to review the relevant exemptions.

(7) Based on the scientific evidences provided in the joint recommendation, the revision by the STECF and taking into account the characteristics of the gears, the high number of species in each fishing operations, the fishing patterns and the particularities of the Mediterranean Sea (e.g. predominance of small-scale fisheries), the Commission considers that, in order to avoid disproportionate costs of handling unwanted catches and in accordance with Article 15(5)(c)(ii) of Regulation (EU) No 1380/2013, it is appropriate to establish a *de minimis* exemption in accordance with the percentage level proposed in the joint recommendations, within the limits set out in Article 15(5)(c) of Regulation (EU) No 1380/2013.

(8) In order to ensure appropriate control, specific requirements for the Member States to establish lists of vessels covered by this Regulation should be laid down.

(9) Since the measures provided for in this Regulation have a direct impact 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. In accordance with the joint recommendations and taking into account the time-frame set out in Article 15(1) of Regulation (EU) No 1380/2013, this Regulation should apply from 1 January 2017,

HAS ADOPTED THIS REGULATION:

Article 1

Implementation of the landing obligation

The landing obligation provided for in Article 15(1) of Regulation (EU) No 1380/2013 shall apply in the Mediterranean Sea to the fisheries as set out in the Annex to this Regulation.

That landing obligation shall apply to the species referred to in that Annex when caught during fishing activities in Union waters or by Union fishing vessels outside the Union waters in waters not subject to third countries' sovereignty or jurisdiction.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

(a) 'Mediterranean Sea' means maritime waters of the Mediterranean to the east of line 5°36′ West;

(b) 'GFCM Geographical Sub-Areas' (GSAs) means General Fisheries Commission for the Mediterranean (GFCM) Geographical Sub-Areas as defined in the Annex I to Regulation (EU) No 1343/2011 of the European Parliament and of the Council[(5)];

(c) '**[**[F1]Western Mediterranean Sea' means GFCM Geographical Sub-Areas 1, 2, 5, 6, 7, 8, 9, 10, 11.1, 11.2 and 12;**]**

(d) 'Adriatic Sea' means GFCM Geographical Sub-Areas 17 and 18;

(e) **[**[F2]'South-eastern Mediterranean Sea' means GFCM geographical subareas 14, 15, 16, 19, 20, 21, 22, 23, 24, 25, 26 and 27.**]**

Textual Amendments

F1 Substituted by Commission Delegated Regulation (EU) 2018/153 of 23 October 2017 amending Delegated Regulation (EU) 2017/86 establishing a discard plan for certain demersal fisheries in the Mediterranean Sea.

F2 Substituted by 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.

***[**[F3]Article 3*

Survivability exemption

1 The exemption from the landing obligation pursuant to Article 15(4)(b) of Regulation (EU) No 1380/2013 for species for which scientific evidence demonstrates high survival rates shall apply to:

a common sole (*Solea solea*) caught with rapido (TBB)[(6)] in the Adriatic Sea until 31 December 2019;

b scallop (*Pecten jacobeus*) caught with mechanised dredges (HMD) in the Western Mediterranean Sea;

c carpet clams (*Venerupis* spp.) caught with mechanised dredges (HMD) in the Western Mediterranean Sea;

d Venus shells (*Venus* spp.) caught with mechanised dredges (HMD) in the Western Mediterranean Sea;

e Norway lobster (*Nephrops norvegicus*) caught with all 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;

f Norway lobster (*Nephrops norvegicus*) caught with pots and traps (FPO, FIX), in the Western Mediterranean, in the Adriatic Sea and in the South-eastern Mediterranean until 31 December 2019;

[F2 g red sea bream (*Pagellus bogaraveo*) caught with hooks and lines (LHP, LHM, LLS, LLD, LL, LTL, LX) in the western Mediterranean Sea;

h lobster (*Homarus gammarus*) caught with nets (GNS, GN, GND, GNC, GTN, GTR, GEN) and with pots and traps (FPO, FIX) in the western Mediterranean Sea, in the Adriatic Sea and in the south-eastern Mediterranean Sea;

i crawfish (Palinuridae) caught with nets (GNS, GN, GND, GNC, GTN, GTR, GEN) and with pots and traps (FPO, FIX) in the western Mediterranean Sea, in the Adriatic Sea and in the south-eastern Mediterranean Sea.**]**

2 Common sole (*Solea solea*), scallop (*Pecten jacobeus*), carpet clams (*Venerupis* spp.), Venus shells (*Venus* spp.), Norway lobster (*Nephrops norvegicus*), red sea bream (*Pagellus bogaraveo*), lobster (*Homarus gammarus*) and crawfish (*Palinuridae*) caught in the circumstances referred to in paragraph 1 shall be released immediately in the area where they have been caught.

3 By 1 May 2019, the Member States having a direct management interest in the fisheries in the Mediterranean Sea shall submit to the Commission additional discard data to those provided in the joint recommendations of June 2018 as amended in August 2018, and any other relevant scientific information supporting the exemption laid down in paragraphs 1(a), 1(f), 1(g), 1(h) and 1(i). The Scientific, Technical and Economic Committee for Fisheries (STECF) shall assess those data and that information by July 2019 at the latest.**]**

Textual Amendments

F2 Substituted by 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.

F3 Substituted by Commission Delegated Regulation (EU) 2018/2036 of 18 October 2018 amending Delegated Regulation (EU) 2017/86 establishing a discard plan for certain demersal fisheries in the Mediterranean Sea.

*[*F3 *Article 4*

***De minimis* exemption**

1 By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, the following quantities of species may be discarded pursuant to Article 15(4)(c) of Regulation (EU) No 1380/2013:

a in the Western Mediterranean Sea (point 1 of the Annex):

(i) for hake (*Merluccius merluccius*) and mullets (*Mullus* spp.), up to a maximum of 6 % for 2019 and 2020 and up to a maximum of 5 % in 2021 of the total annual catches of those species by vessels using bottom trawls;

(ii) for hake (*Merluccius merluccius*) and mullets (*Mullus* spp.), up to a maximum of 1 % of the total annual catches of those species by vessels using gillnets and trammel nets;

(iii) **[**F2 for 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 a maximum of 5 % of the total annual catches of those species made by vessels using bottom trawls;

(iv) for 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 a maximum of 3 % of the total annual catches of those species made by vessels using gillnets and trammel nets;

(v) for 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*), common pandora (*Pagellus erythrinus*), common seabream (*Pagrus pagrus*), wreckfish (*Polyprion americanus*), common sole (*Solea solea*) and gilthead seabream (*Sparus aurata*), up to a maximum of 1 % of the total annual catches of those species made by vessels using hooks and lines;

(vi) for anchovy (*Engraulis encrasicolus*), sardine (*Sardina pilchardus*), mackerel (*Scomber* spp.) and horse mackerel (*Trachurus* spp.), up to a maximum of 5 % of the total annual by-catches of those species by vessels using bottom trawls;**]**

b in the Adriatic Sea (point 2 of the Annex):

(i) for hake (*Merluccius merluccius*) and mullets (*Mullus* spp.), up to a maximum of 6 % in 2019 and 2020 and up to a maximum of 5 % in 2021 of the total annual catches of those species by vessels using bottom trawls;

(ii) for hake (*Merluccius merluccius*) and mullets (*Mullus* spp.), up to a maximum of 1 % of the total annual catches of those species by vessels using gillnets and trammel nets;

(iii) for hake (*Merluccius merluccius*) and mullets (*Mullus* spp.), up to a maximum of 1 % of the total annual catches of those species by vessels using rapido (TBB);

(iv) for common sole (*Solea solea*), up to 3 % of the total annual catches of those species by vessels using bottom trawls;

(v) **[**[F2]for 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 a maximum of 5 %