Commission Delegated Regulation (EU) 2016/2374 of 12 October 2016 establishing a discard plan for certain demersal fisheries in South-Western waters

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establishing a discard plan for certain demersal 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 Articles 15(6) and 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 3 years on the basis of joint recommendations developed by Member States in consultation with the relevant Advisory Councils.

(3) By Delegated Regulation (EU) 2015/2439[(2)], the Commission established a discard plan for certain demersal fisheries in South-Western waters for the period 2016-2018 following a joint recommendation submitted by Member States in 2015.

(4) Belgium, Spain, France, the Netherlands and Portugal have a direct fisheries management interest in the South-Western waters. On 31 May 2016 those Member States submitted a joint recommendation to the Commission after consultation of the South Western Waters Advisory Council. Scientific contributions were obtained from relevant scientific bodies and reviewed by the Scientific, Technical and Economic Committee for Fisheries (STECF). The measures included in the joint recommendation comply with Article 18(3) of Regulation (EU) No 1380/2013, they may be included in this Regulation.

(5) As regards the South-Western waters, according to Article 15(1)(c) of Regulation (EU) No 1380/2013 the landing obligation applies to the species that define the fisheries at the latest from 1 January 2016.

(6) Delegated Regulation (EU) 2015/2439 established provisions for introduction of the landing obligation for certain demersal fisheries in South-Western waters for the period 2016-2018.

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2016/2374. (See end of Document for details)*

(7) In accordance with the new joint recommendation submitted by Member States in 2016, the discard plan from 2017 should cover the fisheries of common sole, hake, anglerfish and Norway lobster (only inside the stocks' distribution areas referred to as 'functional units') in ICES divisions VIIIa, b, d, e, Norway lobster in ICES divisions VIIIc and IXa (only inside functional units), common sole and plaice in ICES division IXa, hake in ICES divisions VIIIc and IXa, anglerfish in ICES divisions VIIIa, b, c, d, e and IXa.

(8) The joint recommendation suggested that an exemption from the landing obligation be applied to Norway lobster caught by trawls in ICES subareas VIII and IX, as existing scientific evidence indicates possible high survival rates, taking into account the characteristics of the gears targeting this species, the fishing practices and the ecosystem. The STECF in its evaluation concluded that the latest experiments show survival rates in the range of the survival rate observed in the previous work. Further studies are planned and should provide further information on likely survival rates in this fishery. Therefore, this exemption should be included in this Regulation for the year 2017, with a provision asking the Member States concerned to submit further data from ongoing trials to the Commission to allow the STECF to fully assess the justification for the exemption.

(9) The joint recommendation includes three *de minimis* exemptions from the landing obligation for certain fisheries and up to certain levels. The evidence provided by the Member States was reviewed by the STECF. The STECF concludes that the joint recommendation contained reasoned arguments related to the difficulty of increasing selectivity combined with disproportionate costs of handling unwanted catches. In light of the above it is appropriate to establish the *de minimis* exemptions in accordance with the percentage level proposed in the joint recommendation and at levels not exceeding those allowed under Article 15(1) of Regulation (EU) No 1380/2013.

(10) The *de minimis* exemption for common sole, up to a maximum of 5 % of the total annual catches of this species by vessels targeting this species in ICES divisions VIIIa and VIIIb with beam trawls and bottom trawls, is based on the fact that viable increases in selectivity are very difficult to achieve. The STECF concluded that the supporting information is sufficient to justify this exemption. Therefore, this exemption should be included in this Regulation.

(11) The *de minimis* exemption for common sole, up to a maximum of 3 % of the total annual catches of this species by vessels targeting this species in ICES divisions VIIIa and VIIIb with trammel nets and gillnets, is based on the fact that viable increases in selectivity are very difficult to achieve. The STECF concluded that the supporting information is sufficient to justify the exemption claimed. Therefore, this exemption should be included in this Regulation.

(12) The *de minimis* exemption for hake, up to a maximum of 7 % in 2017 and 6 % in 2018 of the total annual catches of this species by vessels targeting this species in ICES subareas VIII and IX with trawls, is based on the fact that viable increases in selectivity are very difficult to achieve. The STECF concluded that additional selectivity information provided did not contain additional evidence to demonstrate that selectivity is very difficult to achieve for the métiers involved. Therefore, additional work should

be carried out in order to improve the justification for this exemption. This exemption should therefore be included in this Regulation for 2017, i.e. for 1 year only, and under the condition that Member States provide improved information to support this exemption that would be assessed by the STECF.

(13) Delegated Regulation (EU) 2015/2439 should therefore be repealed and replaced by a new Regulation.

(14) 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. It 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 ICES subareas VIII, IX, X and CECAF zones 34.1.1, 34.1.2, 34.2.0 to the fisheries set out in the Annex to this Regulation.

Article 2

Survivability exemption

1 The exemption from the landing obligation provided for in Article 15(4)(b) of Regulation (EU) No 1380/2013 for species for which scientific evidence demonstrates high survival rates shall apply to Norway lobster (*Nephrops norvegicus*) caught in ICES subareas VIII and IX with trawls (gear codes[(3)]: OTB, OTT, PTB, TBN, TBS, TB, OT, PT and TX).

2 Member States having a direct management interest in south-western waters shall submit, before 1 May 2017, additional scientific information supporting the exemption laid down in paragraph 1. The Scientific, Technical and Economic Committee for Fisheries (STECF) shall assess the provided scientific information before 1 September 2017.

Article 3

***De minimis* exemptions**

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

[[F1]a for hake (*Merluccius merluccius*), up to a maximum of 6 % in 2018 of the total annual catches of this species by vessels using trawls and seins (gear codes: OTT, OTB, PTB, OT, PT, TBN, TBS, TX, SSC, SPR, TB, SDN, SX and SV) to catch hake in ICES subareas VIII and IX;**]**

b for common sole (*Solea solea*), up to a maximum of 5 % of the total annual catches of this species by vessels using beam trawl (gear code: TBB) and bottom trawls (gear codes: OTB, OTT, PTB, TBN, TBS, TBB, OT, PT and TX) targeting that species in ICES divisions VIIIa and VIIIb;

c for common sole (*Solea solea*), up to a maximum of 3 % of the total annual catches of this species by vessels using trammel nets and gillnets (gear codes: GNS, GN, GND, GNC, GTN, GTR and GEN) targeting that species in ICES divisions VIIIa and VIIIb.

2 Before 1 May **[**F1**]**2018, Member States having a direct management interest in the South-Western waters shall submit to the Commission additional discard data and any other relevant scientific information supporting the exemption laid down in paragraph 1(a). The Scientific, Technical and Economic Committee for Fisheries (STECF) shall assess those data and that information before 1 September 2018**]**.

Textual Amendments

F1 Substituted by Commission Delegated Regulation (EU) 2018/44 of 20 October 2017 amending Delegated Regulation (EU) 2016/2374 establishing a discard plan for certain demersal fisheries in South-Western waters.

Article 4

Vessels subject to the landing obligation

Member States shall determine, in accordance with the criteria laid down in the Annex to this Regulation, the vessels subject to the landing obligation for each particular fishery.

Vessels that were subject to the landing obligation in certain fisheries in 2016 shall remain subject to the landing obligation in those fisheries.

Before 31 December 2016, the Member States concerned shall submit to the Commission and other Member States, using the secure Union control website, the lists of vessels determined pursuant the paragraph 1 for each particular fishery set out in Annex. They shall keep those lists updated.

Article 5

Repeal

Delegated Regulation (EU) 2015/2439 is repealed.

Article 6

Entry into force

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 2017 until 31 December 2018.

Article 4 shall apply from the date of entry into force of this Regulation.

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

***Changes to legislation:** There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2016/2374. (See end of Document for details)*