Commission Delegated Regulation (EU) 2015/98 of 18 November 2014 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 Atlantic Tunas and the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries

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of 18 November 2014

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 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 landing of 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) The landing obligation will apply from 1 January 2015 at the latest to the small and large pelagic fisheries, fisheries for industrial purposes and fisheries for salmon in the Baltic sea.

(3) The Union is a contracting party to a number of regional fisheries management organisations (‘RFMOs’) and is, therefore, bound by measures established by the RFMOs concerned.

(4) Certain RFMO measures provide for fishing vessels fishing in their purview to discard certain catches which in principle fall under the landing obligation.

(5) 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.

(6) It is therefore necessary to clarify the situations in which the landing obligation does not apply, in order to ensure compliance by the Union with its international obligations and create legal certainty for fishermen.

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(7) In accordance with Recommendation 11-01 of the International Commission for the Conservation of Atlantic Tunas ('ICCAT') on a multiannual conservation and management programme for bigeye and yellowfin tunas, certain fishing vessels should not be allowed to fish, retain on board, tranship, transport, transfer, process or land bigeye tunas in the Atlantic.

(8) ICCAT Recommendation 13-07 establishes a discard obligation for vessels and traps catching Eastern Atlantic bluefin tuna in certain situations. In particular, paragraph 29 of that Recommendation states that bluefin tuna below a minimum reference weight or size is to be discarded. That minimum size is currently laid down in Council Regulation (EC) No 302/2009[(2)]. That discard obligation applies to all Eastern Atlantic bluefin tuna fisheries, including recreational and sports fisheries.

(9) Furthermore, paragraph 31 of ICCAT Recommendation 13-07 establishes a discard obligation for bluefin tuna weighing between 8 and 30 kg or with fork length between 75 and 115 cm, caught as incidental catch by vessels and traps actively fishing for this species and exceeding 5 % of the total bluefin tuna catches.

(10) The weight category for the incidental catch of bluefin tuna established by Article 9(12) of Regulation (EC) No 302/2009 is different from that established by paragraph 31 of ICCAT Recommendation 13-07, which was adopted after the entry into force of that Regulation. Pending the review of Regulation (EC) No 302/2009, paragraph 31 of that ICCAT Recommendation should be implemented in Union law by this Regulation.

(11) Paragraph 32 of ICCAT Recommendation 13-07 states that vessels not fishing actively for bluefin tuna are not authorised to retain bluefin tuna above 5 % of their total catch by weight or number of pieces.

(12) Paragraphs 34 and 41 of ICCAT Recommendation 13-07 establish a release obligation for bluefin tuna caught alive in the framework of recreational and sport fisheries.

(13) ICCAT Recommendation 13-02 for the conservation of North Atlantic swordfish establishes a discard obligation for vessels fishing for North Atlantic swordfish in certain situations. In particular, paragraph 9 states that swordfish below a minimum reference weight or size should be discarded. That minimum size is currently fixed in Council Regulation (EC) No 520/2007[(3)].

(14) Furthermore, the same paragraph of Recommendation 13-02 establishes a discard obligation for swordfish weighing less than 25 kg live weight or 125 cm lower jaw fork length, caught as incidental catch and exceeding 15 % of the number of swordfish of the vessel's total swordfish catch per landing.

(15) In order to ensure consistency between ICCAT recommendations 11-01, 13-07 and 13-02 and Union law, the landing obligation should not apply to Union vessels participating in the fisheries covered by those recommendations.

(16) Article 5, Article 6.3 and Annex I.A of Northwest Atlantic Fisheries Organisation ('NAFO') conservation and enforcement measures establish a discard obligation for any catch of capelin above established quota or above the allowed by-catch percentage. Annex I.A currently establishes a total allowable catch ('TAC') of zero for capelin. In

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addition, capelin by-catch in other fisheries that fall under the landing obligation is, under certain conditions, also subject to a discard obligation in accordance with NAFO rules.

(17) In order to ensure consistency between NAFO conservation and enforcement measures and Union law, the landing obligation should not apply to the fisheries covered by those measures.

(18) In view of the time-frame 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:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter and scope

This Regulation establishes derogations from the landing obligation set out in Article 15 of Regulation (EU) No 1380/2013 for the purpose of implementing Union's international obligations under the International Convention for the Conservation of Atlantic Tunas and the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries. It applies to fishing activities in Union waters or by Union fishing vessels outside Union waters in waters not subject to third countries' sovereignty or jurisdiction.

Article 2

Definitions

For the purpose of this Regulation the following definitions shall apply:

(1) **[**F1‘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);**]**

(2) **[**F2. . . . .**]**

(3) ‘North Atlantic Ocean’ means the area of the Atlantic Ocean north of 5° N;

(4) ‘Recreational fisheries’ means a non-commercial fishery whose participants do not adhere to a national sport organisation or are not issued with a national sport licence;

(5) ‘Sport fishery’ means a non-commercial fishery whose participants adhere to a national sport organisation or are issued with a national sport licence.

Textual Amendments

F1 Substituted by 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

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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.

F2 Deleted by 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.

CHAPTER II

ICCAT CONVENTION AREA

[F3 Article 3

Bigeye and yellowfin tuna

1 This Article shall apply to bigeye tuna (*Thunnus obesus*) and yellowfin tuna (*Thunnus albacares*) in the Atlantic Ocean.

2 By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, fishing vessels 20 metres length overall or greater not entered into the ICCAT record of authorised bigeye and yellowfin tunas vessels shall not target, retain on board, tranship, transport, transfer, process or land bigeye and yellowfin tunas in the Atlantic Ocean.**]**

Textual Amendments

F3 Substituted by Commission Delegated Regulation (EU) 2016/171 of 20 November 2015 amending 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 Atlantic Tunas and the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries.

Article 4

Bluefin tuna

1 This Article shall apply to bluefin tuna (*Thunnus thynnus*) in the eastern Atlantic and the Mediterranean.

[F3 2 By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, it shall be prohibited to target, retain on board, tranship, transfer, land, transport, store, sell, display or offer for sale bluefin tuna:

a below the minimum size set out in Article 9(1) of Regulation (EC) No 302/2009; or,

b in situations referred to in Article 9(2) and (8) of Regulation (EC) No 302/2009, below the minimum sizes set out in that Article 9(2) and (8).**]**

3 By way of derogation from paragraph 2 of this Article and from Article 15(1) of Regulation (EU) No 1380/2013, incidental catches of maximum 5 % of bluefin tuna between 8 kg or 75 cm and minimum size set out in Article 9(1) of Regulation (EC) No 302/2009 in kg

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or cm by catching vessels and traps fishing actively for bluefin tuna may be retained on board, transhipped, transferred, landed, transported, stored, sold, displayed or offered for sale.

4 By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, the catching vessels and traps fishing actively for bluefin tuna shall not retain bluefin tuna weighing between 8 and 30kg or with a fork length between 75 and 115 cm exceeding 5 % of bluefin tuna.

5 The percentage of 5 % referred to in paragraphs 3 and 4 shall be calculated on the basis of the total incidental catches of bluefin tuna in number of fish of the total catches of bluefin tuna retained on board the vessel at any time after each fishing operation.

[[F4]6 By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, catching vessels not fishing actively bluefin tuna shall not retain on board bluefin tuna exceeding 20 % of the total catch by weight or number of pieces. The level of authorised by-catches of bluefin tuna shall be specified by Member States in the annual fishing plan referred to in Article 7 of Regulation (EU) 2016/1627 of the European Parliament and of the Council[(4)] and shall never exceed that percentage. The calculation based on the number of pieces shall only apply to tuna and tuna-like species managed by ICCAT.**]**

7 By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, if the quota allocated to the Member State of the fishing vessel or trap concerned has already been consumed:

a by-catches of bluefin tuna shall be avoided; and

b the bluefin tuna caught alive as by-catch shall be released.

[[F4]8 By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, it shall be prohibited to catch, retain on board, tranship or land more than one bluefin tuna per vessel per day in recreational fisheries. Member States shall take the necessary measures to ensure and facilitate the release of bluefin tuna caught alive in the framework of recreational fishing.

9 By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, it shall be prohibited to catch, retain on board, tranship or land more than one bluefin tuna per vessel per day in sport fisheries. Member States shall take the necessary measures to ensure and facilitate the release of bluefin tuna caught alive in the framework of sport fisheries.**]**

Textual Amendments

F3 Substituted by Commission Delegated Regulation (EU) 2016/171 of 20 November 2015 amending 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 Atlantic Tunas and the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries.

F4 Substituted by Commission Delegated Regulation (EU) 2019/2200 of 10 July 2019 amending 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 Atlantic Tunas and the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries.

Article 5

[[F5]**Swordfish in the Atlantic Ocean]**

[F6]1 . . . . . .