Commission Delegated Regulation (EU) No 1395/2014 of 20 October 2014 establishing a discard plan for certain small pelagic fisheries and fisheries for industrial purposes in the North Sea

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establishing a discard plan for certain small pelagic fisheries and fisheries for industrial purposes in the North Sea

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the 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 three years on the basis of joint recommendations developed by Member States with the relevant Advisory Councils.

(3) Belgium, Denmark, Germany, France, the Netherlands, Sweden and the United Kingdom have a direct fisheries management interest in the North Sea. Those Member States have submitted joint recommendations to the Commission after having consulted the Pelagic Advisory Council and the North Sea Advisory Council. Scientific contribution was obtained from relevant scientific bodies. The measures included in the joint recommendation comply with Article 15(6) of Regulation (EU) No 1380/2013 and therefore, in accordance with Article 18(3) of Regulation (EU) No 1380/2013 they should be included in this Regulation.

(4) As regards the North Sea, according to Article 15(1)(a) of Regulation (EU) No 1380/2013 the landing obligation should apply to all vessels engaged in small pelagic fisheries and fisheries for industrial purposes in relation to species caught in those fisheries which are subject to catch limits at the latest from 1 January 2015.

(5) In accordance with the joint recommendation, the discard plan should cover certain fisheries for mackerel, herring, horse mackerel, blue whiting, greater silver smelt and sprat as well as fisheries for industrial purposes for Norway pout, sprat and sand eel in the North Sea from 1 January 2015.

Changes to legislation: *There are outstanding changes not yet made to Commission Delegated Regulation (EU) No 1395/2014. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(6) The joint recommendation includes an exemption from the landing obligation for mackerel and herring caught with purse seines under certain conditions based on scientific evidence of high survivability in accordance with Article 15(4)(b) of Regulation (EU) No 1380/2013. Scientific evidence supporting high survivability was provided by the Scheveningen Group in the joint recommendation, which made reference to a number of scientific studies on fish survival from slipping in purse seine fisheries. These studies found that survival rates depend on the crowding time and the density of fish within the net, which are typically limited in these fisheries. This information was reviewed by the STECF plenary 14-02. STECF concluded that assuming the results of the survival studies are representative of survival rates under commercial fishing operations, the proportion of slipped mackerel surviving would likely be around 70 % and would result in much lower densities than the density where mortality of herring was observed to increase. A prohibition of the release of mackerel and herring before the net is fully taken on board a fishing vessel, resulting in the loss of dead or dying fish, is set out in Article 19b(2) of Council Regulation (EU) No 850/98[(2)]. This survivability exemption does not affect the prohibition in force, since the release of the fish will occur at a stage of the fishing operation where the fish would have a high survival rate after release. Therefore such an exemption should be included in this Regulation.

(7) The joint recommendation also includes a *de minimis* exemption from the landing obligation to avoid disproportionate costs of handling unwanted catches, like storing, labour, icing and taking into account the difficulty to increase selectivity for the pelagic fishery targeting mackerel, horse mackerel and herring in ICES areas IV b and c south of 54 degrees north. This exemption is based on scientific evidence provided by the Member States involved in the joint recommendation and was reviewed by the Scientific, Technical and Economic Committee for Fisheries (STECF). STECF found that the joint recommendation presents reasoned qualitative arguments in support of a *de minimis* exemption on the grounds of disproportionate costs of handling unwanted catches. In light of the above and in the absence of differing scientific information, it is appropriate to establish the *de minimis* exemption in accordance with the percentage levels proposed in the joint recommendations and at levels not exceeding those allowed under Article 15(1)(c) of Regulation (EU) No 1380/2013. Therefore, this exemption should be included in this Regulation.

(8) In order to ensure appropriate control, specific requirements for documentation of catches under the exemptions covered by this Regulation should be laid down.

(9) 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, it should enter into force immediately after its publication.

(10) This Regulation should apply from 1 January 2015 in order to comply with the time-frame set out in Article 15(1) of Regulation (EU) No 1380/2013. In accordance with Article 15(6) of that Regulation, it should apply for no more than three years,

HAS ADOPTED THIS REGULATION:

***Changes to legislation:** There are outstanding changes not yet made to Commission Delegated Regulation (EU) No 1395/2014. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Article 1

Subject matter

This Regulation specifies the details for implementing the landing obligation, provided for in Article 15(1) of Regulation (EU) No 1380/2013, from 1 January 2015 in the North Sea, as defined in Article 4(2)(a) of that Regulation, in the fisheries set out in the Annex to this Regulation.

Article 2

Survivability exemption

1 By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, the landing obligation shall not apply to catches of mackerel and herring in the purse seine fisheries, if all of the following conditions are met:

— the catch is released before a certain percentage (set out in paragraphs 2 and 3 below) of the purse seine is closed ('the point of retrieval'),

— the purse seine gear is fitted with a visible buoy clearly marking the limit for the point of retrieval,

— the vessel and the purse seine gear are equipped with an electronic recording and documenting system when, where and extent to which the purse seine has been hauled for all fishing operations.

2 The point of retrieval shall be 80 % closure of the purse seine in fisheries for mackerel and it shall be 90 % closure of the purse seine in fisheries for herring.

3 If the surrounded school consists of a mixture of both species the point of retrieval shall be 80 % closure of the purse seine.

4 It shall be prohibited to release catches of mackerel and herring after the point of retrieval.

5 The surrounded school of fish shall be sampled before its release to estimate the species composition, the fish size composition and the quantity.

Article 3

***[F1De minimis* exemption in the years 2015 and 2016]**

By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, up to a maximum of 3 % in 2015 and 2 % for 2016 of the total annual catches of mackerel, horse mackerel, herring and whiting in the pelagic fishery with pelagic trawlers up to 25 metres in length overall, using mid-water trawl (OTM), targeting mackerel, horse mackerel and herring in ICES areas IV b and c south of 54 degrees north, may be discarded.

Changes to legislation: *There are outstanding changes not yet made to Commission Delegated Regulation (EU) No 1395/2014. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Textual Amendments

F1 Substituted by Commission Delegated Regulation (EU) 2018/189 of 23 November 2017 amending Delegated Regulation (EU) No 1395/2014 establishing a discard plan for certain small pelagic fisheries and fisheries for industrial purposes in the North Sea.

[F2 Article 3a

***De minimis* exemption in the years 2018, 2019 and 2020**

By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, up to a maximum of 1 % of the total annual catches of mackerel, horse mackerel, herring and whiting in the pelagic fishery carried out by pelagic trawlers up to 25 metres in length overall, using mid-water trawls (OTM/PTM), and targeting mackerel, horse mackerel and herring in ICES divisions IVb and c south of 54 degrees north, may be discarded in 2018, 2019 and 2020.**]**

Textual Amendments

F2 Inserted by Commission Delegated Regulation (EU) 2018/189 of 23 November 2017 amending Delegated Regulation (EU) No 1395/2014 establishing a discard plan for certain small pelagic fisheries and fisheries for industrial purposes in the North Sea.

Article 4

Documentation of catches under the exemptions

1 Quantities of fish released under the exemption provided for in Article 2 and the results of the sampling required under Article 2(5) shall be reported in the logbook.

2 Quantities of fish discarded under the exemption provided for in Article 3 shall be reported in the logbook.

[F3 Article 4a

Technical measures for sprat fisheries in an area along the Danish North Sea coast

By way of derogation from paragraph 3 of Article 21 of Regulation (EC) No 850/98, fishing for sprat with the following fishing gears shall be authorised in the area along the Danish North Sea coast defined in paragraph (1)(c) of that Article:

(a) towed gear with a mesh size of less than 32 mm;

(b) purse seines; or

(c) gillnets, entangling nets, trammel nets and drift nets with a mesh size of less than 30 mm.**]**