Commission Delegated Regulation (EU) No 1394/2014 of 20 October 2014 establishing a discard plan for certain pelagic fisheries in south-western waters

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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 in consultation with the relevant Advisory Councils.

(3) Belgium, Spain, France, the Netherlands and Portugal have a direct fisheries management interest in the south-western waters. Those Member States have submitted a joint recommendation to the Commission containing specific measures, after consultation of the Pelagic Advisory Council, the Long-Distance Advisory Council and the South Western Waters 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 south-western waters, according to Article 15(1)(a) of Regulation (EU) No 1380/2013 the landing obligation should apply to all vessels engaged in small pelagic and large pelagic fisheries 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 small pelagic and large pelagic fisheries, namely the fisheries for horse mackerel, mackerel, sprat, anchovy, albacore tuna, blue whiting and jack mackerel in ICES zones VIII, IX and X and in CECAF zones 34.1.1, 34.1.2 and 34.2.0 from 1 January 2015.

(6) The joint recommendation includes an exemption from the landing obligation for anchovy, horse mackerel, jack mackerel and mackerel caught in purse seine fisheries in ICES areas VIII, IX and X and CECAF areas 34.1.1, 34.1.2 and 34.2, 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 in the Joint Recommendation, which made reference to a specific scientific study on fish survival from slipping in purse seine fisheries of European Southern waters. The study 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 (at its second plenary meeting in 2014). STECF concluded that, assuming the results of the survival study are representative of survival rates under commercial fishing operations, the proportion of slipped fish surviving would likely be greater than 50 %. 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 four *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, which concluded that the joint recommendations contained reasoned arguments related to the increase of costs in handling unwanted catches, supported in some cases with a qualitative assessment of the costs. In light of the above and in the absence of differing scientific information, 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(5) of Regulation (EU) No 1380/2013.

(8) The *de minimis* exemption for blue whiting (*Micromesistius poutassou*), up to a maximum of 7 % in 2015 and 2016, and 6 % in 2017, of the total annual catches in the industrial pelagic trawler fishery targeting that species in ICES zone VIII and processing that species on board to obtain surimi base, is based on the fact that increased selectivity cannot be achieved, and that costs of handling the unwanted catch is disproportionate. STECF concludes that the exemption is sufficiently well argued. Therefore, the exemption concerned should be included in this Regulation.

(9) The *de minimis* exemption for up to a maximum of 7 % in 2015 and 2016, and 6 % in 2017 for albacore tuna (*Thunnus alalunga*) of the total annual catches in the albacore tuna directed fisheries using midwater pair trawls (PTM) in ICES zone VIII, is based on the disproportionate costs of handling the unwanted catch. These are costs of storage and handling at sea and on shore. STECF in its evaluation mentioned the risk of highgrading. However, this exemption is without prejudice to Article 19a of Regulation (EC) No 850/98. Therefore, the exemption concerned should be included in this Regulation.

(10) The *de minimis* exemption for up to a maximum of 5 % in 2015 and 2016, and 4 % in 2017, of the total annual catches in the pelagic trawl fishery for anchovy (*Engraulis encrasicolus*), mackerel (*Scomber scombrus*) and horse mackerel (*Trachurus* spp.) in ICES zone VIII is based on the difficulty to improve selectivity in this fishery. STECF concludes that the exemption is well argued for mackerel and horse mackerel and notes a partial risk of highgrading for anchovy. This exemption is however without prejudice to Article 19a of Regulation (EC) No 850/98. Therefore, the exemption concerned should be included in this Regulation.

(11) A final *de minimis* exemption is for the purse seine fishery in ICES zones VIII, IX and X and in CECAF areas 34.1.1, 34.1.2 and 34.2.0 targeting the following species: up to a maximum of 5 % in 2015 and 2016, and 4 % in 2017, of the total annual catches of horse mackerel (*Trachurus* spp.) and mackerel (*Scomber scombrus*); and up to a maximum of 2 % in 2015 and 2016, and 1 % in 2017, of the total annual catches of anchovy (*Engraulis encrasicolus*). STECF concludes that this exemption is supported by reasoned arguments which demonstrate the difficulties of improving the selectivity in this fishery. Therefore, the exemption concerned should be included in this Regulation.

(12) Finally, the joint recommendation includes a minimum conservation reference size (MCRS) of 9 cm for two fisheries for anchovy with the aim of ensuring the protection of juveniles of that species. The STECF evaluated this measure and concluded that it would not impact negatively on juvenile anchovy, that it would increase the level of catches that could be sold for human consumption without increasing fishing mortality, and that it may have benefits for control and enforcement. Therefore, the MCRS for anchovy in the fisheries concerned should be fixed at 9 cm.

(13) Since the measures provided 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 2015 in order to comply with the time-frame set out in Article 15 of Regulation (EU) No 1380/2013. In accordance with Article 15(6) of that Regulation, this Regulation should apply for no more than three years,

HAS ADOPTED THIS REGULATION:

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 South Western waters, as defined in Article 4(2)(d) of that Regulation, in the fisheries set out in the Annex to this Regulation.

Article 2

Survivability exemption

By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, the landing obligation shall not apply to catches of anchovy, horse mackerel, jack mackerel and mackerel in artisanal purse seine fisheries. All such catches may be released, provided that the net is not fully taken on board.

[F1 Article 3

***De minimis* exemptions**

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

(a) up to a maximum of 6 % in 2018, and 5 % in 2019 and 2020 of the total annual catches of blue whiting in the industrial pelagic trawler fishery, which targets blue whiting in ICES division VIII using midwater trawls (OTM) and processes that species on board to obtain surimi base;

(b) up to a maximum of 6 % in 2018, and 5 % in 2019 and 2020 of the total annual catches of albacore tuna in the large pelagic fisheries which target albacore tuna in ICES division VIII using midwater pair trawls (PTM);

(c) **[**F2up to a maximum of 4 % in 2018, 2019 and 2020 of the total annual catches of anchovy, mackerel and horse mackerel in the pelagic trawl fishery which targets anchovy, mackerel and horse mackerel in ICES division 8 using pelagic trawls;**]**

(d) up to a maximum of 4 % in 2018, 2019 and 2020 of the total annual catches of horse mackerel, jack mackerel and mackerel, and 1 % in 2018, 2019 and 2020 of the total annual catches of anchovy in the fishery which targets horse mackerel, jack mackerel, mackerel and anchovy in ICES divisions VIII, IX, X and CECAF divisions 34.1.1, 34.1.2, 34.2.0 using purse seines (PS).**]**

Textual Amendments

F1 Substituted by Commission Delegated Regulation (EU) 2018/188 of 21 November 2017 amending Delegated Regulation (EU) No 1394/2014 establishing a discard plan for certain pelagic fisheries in South-Western waters.

F2 Substituted by Commission Delegated Regulation (EU) 2020/1759 of 28 August 2020 correcting Delegated Regulation (EU) No 1394/2014 establishing a discard plan for certain pelagic fisheries in South-Western waters.

Article 4

Minimum conservation reference size

The minimum conservation reference size for anchovy (*Engraulis encrasicolus*) caught in ICES subarea IX and CECAF area 34.1.2 shall be 9 cm.