Commission Delegated Regulation (EU) No 1393/2014 of 20 October 2014 establishing a discard plan for certain pelagic fisheries in north-western waters

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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 three years on the basis of joint recommendations developed by Member States in consultation with the relevant Advisory Councils.

(3) Belgium, Ireland, Spain, France, the Netherlands and the United Kingdom have a direct fisheries management interest in the north-western waters. Those Member States, have submitted a joint recommendation to the Commission after consultation of the Pelagic Advisory Council, the Long-Distance Advisory Council and the North 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 north-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 fisheries for mackerel, herring, horse mackerel, blue whiting, boarfish, greater silver smelt, albacore tuna and sprat in ICES zones Vb, VI and VII, from 1 January 2015.

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(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 for a discard plan for the North Sea, which made reference to a specific scientific study on fish survival from slipping in purse seine fisheries. 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. STECF concluded that, assuming the results of the survival study are representative of survival rates under commercial fishing operations, the proportion of slipped mackerel surviving would likely be around 70 %. The densities would also be lower 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 (EC) 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 this exemption should be included in this Regulation.

(7) The joint recommendation 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 VII, 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.

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(10) To avoid disproportionate costs of handling unwanted catches, like storing, labour, icing, and taking into account the difficulty to increase selectivity in the pelagic fishery targeting mackerel, horse mackerel and herring in ICES division VIId, the joint recommendation includes a *de minimis* exemption from the landing obligation for this mixed fishery. This exemption is based on scientific evidence provided by the Member States involved in the joint recommendation and was reviewed by the STECF. STECF found that the JR presents reasoned qualitative arguments in support of this exemption on the grounds of disproportionate costs of handling unwanted catches. Therefore, this exemption should be included in this Regulation.

(11) The *de minimis* exemption of up to a maximum of 1 % in 2015 and 0,75 % in 2016 of the TAC of boarfish (*Caproidae*) in the fishery targeting horse mackerel (*Trachurus spp.*) with pelagic freezer trawlers using midwater trawls in ICES zones VI and VII is based on the difficulty to increase selectivity, and the disproportionate costs of handling (separating wanted from unwanted catches). STECF concludes that the exemption is supported by reasoned qualitative arguments on the difficulty of improving selectivity in this fishery and reasonable arguments regarding additional handling costs. Therefore, the exemption concerned should be included in this Regulation.

(12) In order to ensure appropriate control, specific requirements for documentation of catches under the exemption based on survivability covered by this Regulation should be laid down.

(13) 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 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 north-western waters, as defined in Article 4(2)(c) 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 in ICES area VI, if all of the following conditions are met:

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— 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 visible buoys 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.

[F1 6 By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, the landing obligation shall not apply in 2019 and 2020 to catches of mackerel and herring in the ring net fishery targeting pelagic species not subject to quotas in ICES divisions VIIe and VIIf, if the requirements set out in paragraphs 1 to 5 of this Article and in Article 4 of this Regulation are met mutatis mutandis.**]**

Textual Amendments

F1 Inserted by Commission Delegated Regulation (EU) 2018/190 of 24 November 2017 amending Delegated Regulation (EU) No 1393/2014 establishing a discard plan for certain pelagic fisheries in North-Western waters.

Article 3

[F2 ***De minimis*** **exemptions in the years 2015, 2016 and 2017]**

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

(a) 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 zones Vb, VI and VII and processing that species on board to obtain surimi base;

(b) 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 sea areas VII;

(c) up to a maximum of 3 % in 2015 and 2 % for 2016 of the total annual catches of mackerel (*Scomber scombrus*), horse mackerel (*Trachurus* spp.), herring (*Clupea harengus*) and whiting (*Merlangius merlangus*) 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 zone VIId;

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(d) up to a maximum of 1 % in 2015 and 0,75 % in 2016 of the TAC of boarfish (*Caproidae*) in the fishery targeting horse mackerel (*Trachurus* spp.) with pelagic freezer trawlers using midwater trawls in ICES zones VI and VII.

Textual Amendments

F2 Substituted by Commission Delegated Regulation (EU) 2018/190 of 24 November 2017 amending Delegated Regulation (EU) No 1393/2014 establishing a discard plan for certain pelagic fisheries in North-Western waters.

[F1 Article 3a

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

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 (*Micromesistius poutassou*) in the industrial pelagic trawler fishery targeting that species in ICES divisions Vb, VI and VII, and processing 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 for albacore tuna (*Thunnus alalunga*) in the albacore tuna directed fisheries using midwater pair trawls (PTM) in ICES subarea VII;

(c) up to a maximum of 1 %, in 2018, 2019 and 2020, of the total annual catches of mackerel (*Scomber scombrus*), horse mackerel (*Trachurus* spp.), herring (*Clupea harengus*) and whiting (*Merlangius merlangus*) in the fishery carried out with pelagic trawlers up to 25 meters in length overall, using mid-water trawl (OTM and PTM) and targeting mackerel, horse mackerel and herring in ICES division VIId.**]**

Textual Amendments

F1 Inserted by Commission Delegated Regulation (EU) 2018/190 of 24 November 2017 amending Delegated Regulation (EU) No 1393/2014 establishing a discard plan for certain pelagic fisheries in North-Western waters.

Article 4

Documentation of catches

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.

Article 5

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*.