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COMMISSION DELEGATED REGULATION (EU) .../...

of **XXX**

amending Commission Delegated Regulation (EU) No 1394/2014 establishing a discard plan for certain pelagic fisheries in South-Western waters

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

A key objective of the new Common Fisheries Policy (CFP) is the progressive elimination of discards in all EU fisheries. Designed to make better use of the available resources, it responds to public pressure to end the practice of throwing marketable fish back into the sea. The CFP also foresees increased regionalisation, which is intended both to move away from micromanagement at Union level, and also to ensure that rules are adapted to the specific characteristics of each fishery and sea basin.

The landing obligation in the South-Western Waters (SWW) applies as of 1st January 2015. So far no multiannual plans nor management plans under the framework of the CFP have been adopted. Commission Delegated regulation (EU) No 1394/2014 of 20 October 2014 establishing a discard plan for certain pelagic fisheries in South-Western Waters¹ expires as of 31 December 2017. However, Regulation (EU) No 1380/2013 (the Basic Regulation) on the CFP² foresees the possibility to adopt **for a period of no more than 3 years and renewable once** a specific discard plan to support the implementation of a landing obligation. This proposal specifies the details for the implementation of the landing obligation in the SWW as circumscribed in Article 15 (6) of the Basic Regulation, namely:

- provisions for *de minimis* exemptions.

In accordance with Article 18 of the Basic Regulation, the proposal is based on the joint recommendation (JR) developed and submitted to the Commission by Member States concerned, namely, Belgium, France, the Netherlands, Portugal and Spain.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

For the purpose of implementing the regionalised approach the SWW High-Level Group (Belgium, France, the Netherlands, Portugal and Spain) agreed that the chair of the group, France, should submit to the Commission a JR. Accordingly, the JR was submitted to the Commission services on 2 June 2017. In accordance with the procedure described in Article 18 of Regulation (EU) No 1380/2013, this JR is the result of discussions between the SWW Member States having a direct management interest, and taking account of the views of the South Western Waters Advisory Council and of the Pelagic Advisory Council, which are concerned by the fisheries covered by the JR.

The JR was developed by the Member States concerned, cooperating in a regional setup, working together on a technical level under the guidance of a high level group of fisheries Directors and in close consultation with interested parties.

Elements related to the implementation of the landing obligation and specific provisions included in the joint recommendations for the SWW discard plan have been discussed and reviewed by the relevant Scientific Technical and Economic Committee for Fisheries (STECF) Expert Working Group and during the STECF plenary meetings of 7-14 July 2014³ and 4-8 July 2016⁴ and revised at STECF plenary of 10-14 July 2017⁵.

¹ OJ L 370, 30.12.2014, p. 31.

² OJ L 354, 28.01.2013, p.22.

³ http://stecf.jrc.ec.europa.eu/documents/43805/675595/2014-04_STECF+14-06+-+Landing+obligations+in+EU+fisheries_p3_JRC89785.pdf

⁴ https://stecf.jrc.ec.europa.eu/documents/43805/1471816/2016-07_STECF+16-10+-+Evaluation+of+LO+joint+recommendations_JRCxxx.pdf

⁵ [2017-07 STECF PLEN 17-02 JRCxxx.pdf](http://stecf.jrc.ec.europa.eu/documents/43805/1471816/2017-07_STECF_PLEN_17-02_JRCxxx.pdf)

On the basis of the evaluation by STECF and by the Commission, and following clarification of certain points of the JR, the Commission considers that the JR complies with Article 15(6) of Regulation (EC) No 1380/2013 as outlined above.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

Summary of the proposed action

The main legal action is to adopt measures that would facilitate the implementation of the landing obligation. The Regulation specifies the species and fisheries to which specific measures would apply and it fixes the level of *de minimis* exemptions applicable to avoid disproportionate costs of handling unwanted catches.

Legal basis

Article 15(6) and Articles 18(1) and (3) of Regulation (EU) No 1380/2013.

Subsidiarity principle

The proposal falls under the exclusive competence of the European Union.

Proportionality principle

The proposal is within the scope of the delegated powers provided to the Commission by Article 15(6) of Regulation (EU) No 1380/2013 and does not go beyond what is necessary to achieve the purpose of that provision.

Choice of instrument

Proposed instrument: Commission Delegated Regulation.

Other means would not be adequate for the following reason: The Commission has been granted powers to adopt a discard plan by means of delegated acts. Member States having a direct management interest submitted their joint recommendation. Measures provided in the joint recommendation and included in this proposal are based on the best available scientific advice and fulfil all the relevant requirements set out in Article 18(5) of Regulation (EU) No 1380/2013.

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amending Commission Delegated Regulation (EU) No 1394/2014 establishing a discard plan for certain pelagic 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/EC⁶, 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 and renewable once on** the basis of joint recommendations developed by Member States in consultation with the relevant Advisory Councils.
- (3) Commission Delegated Regulation (EU) No 1394/2014⁷ establishes a discard plan for certain pelagic fisheries in South-Western waters in order to facilitate the implementation of the landing obligation by means of certain flexibility mechanisms.
- (4) In accordance with Article 15(4)(c) of Regulation (EU) No 1380/2013, the landing obligation does not apply to catches falling under *de minimis* exemptions.
- (5) Belgium, France, the Netherlands, Portugal and Spain have a direct fisheries management interest in the South-Western waters. After having consulted the South Western Waters Advisory Council and the Pelagic Advisory Council, those Member States submitted on 2 June 2017 a joint recommendation to the Commission.
- (6) To avoid disproportionate costs of handling unwanted catches and in accordance with Article 15(5) letter c) point (ii) of Regulation (EU) No 1380/2013, it is appropriate to establish a *de minimis* exemption from the landing obligation in terms of percentage of the total annual catches of species subject to the landing obligation in small and large pelagic fisheries. This *de minimis* exemption is needed, due to the increased costs entailed in the management of unwanted catches, both on board (sorting and boxing, storage and conservation) and on land (transport and storage, conservation, marketing and processing or destruction as special waste), compared to the limited and

⁶ OJ L 354, 28.01.2013, p. 22.

⁷ Commission Delegated Regulation (EU) No 1394/2014 of 20 October 2014 establishing a discard plan for certain pelagic fisheries in south-western waters (OJ L 370, 30.12.2014, p. 31).

sometimes inexistent economic profit that could be derived from those unwanted catches.

- (7) The joint recommendation suggests to continue four *de minimis* exemptions for catches of small and large pelagic fisheries and suggest the revised *de minimis* percentage levels for:
- up to a maximum of 6 % in 2018, and 5 % in 2019 and 2020 of the total annual catches blue whiting, caught in the industrial pelagic trawler fishery in ICES division VIII;
 - up to a maximum of 6 % in 2018, and 5 % in 2019 and 2020 of the total annual catches of albacore tuna, caught in the large pelagic fisheries using midwater pair trawlers in ICES division VIII;
 - up to a maximum of 4 % in 2018, 2019 and 2020 of the total annual catches of anchovy, mackerel and horse mackerel, caught in pelagic trawl fishery in ICES division VIII;
 - 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, caught in the purse sein fishery in ICES divisions VIII, IX, X and CECAF 34.1.1, 34.1.2, 34.2.0.
- (8) 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(1) of Regulation (EU) No 1380/2013.
- (9) Delegated Regulation (EU) No 1394/2014 should therefore be amended accordingly.
- (10) 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 2018,

HAS ADOPTED THIS REGULATION:

Article 1

Delegated Regulation (EU) No 1394/2014 is amended as follows:

- (1) Article 3 of Regulation (EU) No 1394/2014 is replaced by the following:
- "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, targeting blue whiting in ICES division VIII and processing that species on board to obtain surimi base, as set out in Annex;

- (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 albacore tuna directed fisheries with midwater pair trawlers (PTM) in ICES division VIII, as set out in Annex;
 - (c) up 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 in ICES division VIII, as set out in Annex;
 - (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 purse seine fishery in ICES divisions VIII, IX, X and CECAF 34.1.1, 34.1.2, 34.2.0, as set out in Annex."
- (2) In Article 5 the second paragraph is replaced by the following:
"It shall apply from 1 January 2015 to 31 December 2020."

Article 2

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 2018.

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

Done at Brussels,

For the Commission
The President
[\[...\]](#)