



Brussels, 8.12.2022
C(2022) 8918 final

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

of 8.12.2022

**amending Delegated Regulation (EU) 2017/118 as regards conservation measures in
Sylter Aussenriff, Borkum-Riffgrund, Doggerbank and Östliche Deutsche Bucht, and in
Klaverbank, Friese Front and Centrale Oestergronden**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Article 11 of Regulation (EU) No 1380/2013¹ empowers the Commission to adopt delegated acts on fisheries conservation measures to comply with Union environmental legislation.

The Habitats² and Birds Directives³ require that Member States designate and effectively manage respectively special areas of conservation and special protection areas to protect habitats and species of EU interest. These areas form the European ecological network Natura 2000 network of protected areas. According to the relevant provisions of the directives, Member States have to establish the necessary conservation measures and take appropriate steps to protect the natural habitats and species for which the sites have been designated. Such measures are to correspond to the ecological requirements of the natural habitats and species present on the site, and may include measures related to fisheries.

According to Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive - MSFD)⁴, Member States shall take the necessary measures to achieve or maintain good environmental status (GES) of marine waters.

When Member States consider that certain fisheries conservation measures are required to comply with their obligations under Article 13(4) of the MSFD, Article 4 of the Birds Directive or Article 6 of the Habitats Directive, these measures have to be adopted in accordance with the rules of the common fisheries policy (CFP).

On 17 June 2021, Germany (initiating Member State) together with five Member States having a direct management interest in fisheries in the protected areas (Belgium, Denmark, France, the Netherlands, and Sweden), submitted to the Commission a joint recommendation (JR) regarding fisheries management measures in four Natura 2000 sites, namely DE1209-301 Sylter Aussenriff (Sylt Outer Reef), DE2104-301 Borkum-Riffgrund (Borkum Reef Ground), DE1003-301 Doggerbank (Dogger Bank) and DE1011-401 Östliche Deutsche Bucht SPA (Eastern German Bight), situated in the German Exclusive Economic Zone (EEZ) of the North Sea. The overall aims are to protect sandbanks (habitat type H1110) and reefs (habitat type H1170) from the negative impact of mobile bottom contacting gear, to protect the harbour porpoise (*Phocoena phocoena*) and six key seabird species (red-throated diver, *Gavia stellata*; black-throated diver, *Gavia arctica*; common guillemot, *Uria aalge*; razorbill, *Alca torda*; common scoter, *Melanitta nigra*; northern gannet; *Morus bassanus*) from being caught and/or killed in gillnets and entangling nets, and to protect seafloor areas comprising the biotope type “Species-rich gravel, coarse sand and shell-gravel areas” from disturbance

¹ 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 (OJ L 354, 28.12.2013, p. 22).

² Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7).

³ Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7).

⁴ Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive) (OJ L 164, 25.6.2008, p. 19).

and impacts by fishing activities, with the aim of contributing to reach the GES under the MSFD.

On 1 July 2021, the Netherlands (initiating Member State) together with five Member States having a direct management interest in fisheries in the protected areas (Belgium, Denmark, France, Germany and Sweden), submitted to the Commission three JRs regarding fisheries management measures in two Natura 2000 sites, namely NL2008002 Klaverbank SAC (Cleaver Bank), NL2016166 Friese Front SPA (Frisian Front) and in the Friese Front and Centrale Oestergronden (Frisian Front and Central Oyster Grounds) marine protected areas, situated in the North Sea. The overall aims are to protect reefs (habitat type H1170) from the impact of mobile bottom contacting gear, to protect the common guillemot (*Uria aalge*) from being caught and/or killed in gillnets and entangling nets, and to protect substantial parts of the seabed ecosystem from pressure and impacts by mobile bottom contacting gear in order to contribute to reaching the GES under the MSFD.

Delegated Regulation (EU) 2017/118⁵ established fisheries conservation measures in certain areas of the North Sea. Following the joint recommendations submitted by Germany and the Netherlands, this delegated regulation should be amended to introduce the new proposed measures.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The German proposal for a draft JR and the relevant information on the measures have been discussed extensively, both at national level (e.g. in a conference aiming for stakeholder consultation on 22 March 2016) and international level (e.g. in three pre-consultation meetings throughout 2017 between representatives from Germany and representatives from Belgium, Denmark, France, the Netherlands, Sweden and the United Kingdom). Representatives of the Commission's services, the North Sea Advisory Council (NSAC) and scientific experts have also been involved in the pre-consultation process.

In November 2018, Member States having direct fishing interests agreed with the proposal and the regional group of North Sea Member States ('Scheveningen Group') submitted the JR to the Commission on 4 February 2019. Following the assessment by STECF⁶, the Commission invited the Scheveningen Group to consider further improvements of the proposed conservation measures.

The Commission's requests and consequent amendments were discussed with the concerned Member States within working group meetings and in several bilateral consultations throughout 2020 and 2021. The NSAC issued its advice on 20 April 2021⁷. The revised JR was submitted to the Commission on 17 June 2021.

The final JR aims to:

- (1) ensure the protection of the habitat types sandbanks (H1110) and reefs (H1170) within the Natura 2000 sites Sylter Aussenriff and Borkum-Riffgrund, and of the

⁵ Commission Delegated Regulation (EU) 2017/118 of 5 September 2016 establishing fisheries conservation measures for the protection of the marine environment in the North Sea (OJ L 19, 25.1.2017, p. 10).

⁶ Scientific, Technical and Economic Committee for Fisheries (STECF) – 60th Plenary Meeting Report (PLEN-19-01). Publications Office of the European Union, Luxembourg, 2019, ISBN 978-92-76-02904-5, doi: 10.2760/56785, JRC116423.

⁷ North Sea Advisory Council (NSAC) Response to the Scheveningen Group on Joint Recommendation on Fisheries Management Measures in Marine Protected Areas in the German Exclusive Economic Zone of the North Sea. NSAC Advice Ref. 11-2021, 20 April 2021.

harbour porpoise within the Natura 2000 sites Sylter Aussenriff, Borkum-Riffgrund and Doggerbank from negative impacts of fisheries, thereby contributing to the implementation of the necessary measures in accordance with obligations in Article 6 of the Habitats Directive;

- (2) ensure the protection of seabird populations and their habitat within the Natura 2000 site Östliche Deutsche Bucht from negative impacts of fisheries in order to ensure their survival and reproduction in their area of distribution, to contribute to the implementation of the necessary measures in accordance with obligations in Article 4 of the Birds Directive;
- (3) protect seafloor areas comprising the biotope type 'Species-rich gravel, coarse sand and shell-gravel areas' within the Natura 2000 sites Sylter Aussenriff and Borkum-Riffgrund from negative impacts of fisheries (which has been identified as “other habitat type”), progressing towards achieving GES under the MSFD targets specifically in relation to the descriptors “biological diversity” and “seafloor integrity”.

The control and enforcement of the proposed management measures and the monitoring for evaluating their effectiveness are ensured by diverse means listed in detail in the JR. The proposed control measures have been included in this Delegated Act in line with what has been agreed by the Member States in the JR.

The Dutch proposals for draft JRs were developed with the involvement of representatives and stakeholders from the neighbouring Member States (Belgium, Denmark, France, Germany, Sweden and United Kingdom), in a participative process that was also followed by representatives of the NSAC throughout 2017 and 2018.

In February 2019, Member States having direct fishing interests agreed with the proposal and the Scheveningen Group submitted the JRs to the Commission on 17 June 2019. Following the assessment by STECF⁸, the Commission invited the Scheveningen Group to consider further improvements of the proposed conservation measures.

The Commission’s requests and subsequent amendments were further discussed with the Member States having a direct management interest within the Scheveningen Group throughout 2020. The NSAC was consulted on the amended proposals on 1 March 2021. The revised JRs were submitted to the Commission on 1 July 2021.

The final JRs aim to:

- (1) ensure the adequate protection of reefs (habitat type H1170) in the Natura 2000 site Klaverbank from fishing pressure of mobile bottom contacting gear on the benthic habitat, to contribute to achieving the conservation objectives of maintaining distribution and surface areas and improving quality in accordance with obligations in Article 6 of the Habitats Directive;
- (2) ensure the protection of the common guillemot (*Uria aalge*) in the Natura 2000 site Friese Front from being caught and/or killed in gillnets and entangling nets, reducing the pressure on this seabird species and contributing to the conservation objective of

⁸ Scientific, Technical and Economic Committee for Fisheries (STECF) – Review of Joint Recommendations for Natura 2000 sites at Dogger Bank, Cleaver Bank, Frisian Front and Central Oyster Grounds (STECF-19-04). Publications Office of the European Union, Luxembourg, 2019, ISBN 978-92-76-11227-3, doi: 10.2760/422631, JRC117963.

maintaining the extent and quality of its habitat, in accordance with obligations in Article 4 of the Birds Directive;

- (3) ensure the recovery of substantial parts of the seabed ecosystem from a disrupted state towards a natural condition by reducing pressure on the benthic habitat in the Friese Front and in the Centrale Oestergronden marine protected areas from mobile bottom contacting gear, thereby contributing to achieving GES in accordance with the MSFD.

The control and enforcement of the proposed management measures are ensured by diverse means listed in detail in the JRs, together with the schedules for assessing the impact of those measures. The proposed control measures have been included in this Delegated Act in line with what has been agreed by the Member States in the JRs.

The Commission presented the delegated act on 2 March 2022 to the Fisheries and Aquaculture Expert Group attended by the European Parliament as an observer. Germany, the Netherlands and Sweden provided comments on the text. In order to ensure that the Delegated Act is aligned with the measures proposed in the JRs, the Delegated Act was amended accordingly.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

Summary of the proposed action

The main legal action is to adopt measures that are necessary to comply with Member States obligations under Union environmental law.

The regulation specifies the fisheries in certain areas to which specific measures would apply.

Legal basis

Article 11(2) of Regulation (EU) No 1380/2013.

Choice of instrument

Proposed instrument: Commission delegated regulation.

The Commission has been granted powers to adopt relevant measures by means of delegated acts. Member States having a direct management interest submitted the joint recommendation. Measures provided for in the joint recommendation and included in this Delegated Act are based on the best available scientific advice and the relevant requirements set out in Article 11 of Regulation (EU) No 1380/2013.

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

of 8.12.2022

amending Delegated Regulation (EU) 2017/118 as regards conservation measures in Sylter Aussenriff, Borkum-Riffgrund, Doggerbank and Östliche Deutsche Bucht, and in Klaverbank, Friese Front and Centrale Oestergronden

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/EC¹ and in particular Article 11(2) thereof,

Whereas:

- (1) Pursuant to Article 11(1) of Regulation (EU) No 1380/2013, Member States are empowered to adopt fisheries conservation measures in their waters that are necessary to comply with their obligations under Article 6 of Council Directive 92/43/EEC ('Habitats Directive')², Article 4 of Directive 2009/147/EC of the European Parliament and of the Council ('Birds Directive')³ and Article 13(4) of Directive 2008/56/EC of the European Parliament and of the Council ('Marine Strategy Framework Directive')⁴.
- (2) Article 6 of the Habitats Directive requires Member States to establish the necessary conservation measures for special areas of conservation that correspond to the ecological requirements of the natural habitat types and species present on the sites as listed in the Annexes of that Directive.
- (3) Article 4 of the Birds Directive requires Member States to establish special conservation measures concerning the habitat types listed in Annex I thereto and of the species listed in Annex II thereto, that are present on the sites. It also requires Member States to take appropriate steps to avoid the deterioration of natural habitats and species habitats, as well as significant disturbance of the species for which the areas have been designated.

¹ 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. (OJ L 354, 28.12.2013, p. 22).

² Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora. (OJ L 206, 22.7.1992, p. 7).

³ Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds. (OJ L 20, 26.1.2010, p. 7).

⁴ Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive) (OJ L 164, 25.6.2008, p. 19).

- (4) In accordance with Article 13(4) of the Marine Strategy Framework Directive, Member States are to adopt programmes of measures, including spatial protection measures to achieve or maintain good environmental status that contribute to coherent and representative networks of marine protected areas, and adequately cover the diversity of the constituent ecosystems, such as special areas of conservation pursuant to the Habitats Directive, special protection areas pursuant to the Birds Directive and marine protected areas as agreed by the Union or Member States concerned in the framework of international or regional agreements to which they are parties.
- (5) Pursuant to Article 11(2) of Regulation (EU) No 1380/2013, where a Member State considers that measures need to be adopted to comply with the obligations under Union environmental legislation referred to in Article 11(1) of Regulation (EU) No 1380/2013 and other Member States have a direct management interest in the fishery to be affected by such measures, the Commission is empowered to adopt such measures by means of delegated acts upon a joint recommendation submitted by the Member States.
- (6) Delegated Regulation (EU) 2017/118 establishes conservation measures for the protection of the marine environment in certain areas of the North Sea.
- (7) On 4 February 2019, after having consulted the North Sea Advisory Council (NSAC), Germany together with Belgium, Denmark, France, the Netherlands, Sweden and the United Kingdom, submitted to the Commission a joint recommendation regarding fisheries conservation measures in four Natura 2000 sites, DE1209-301 Sylter Aussenriff (Sylt Outer Reef), DE2104-301 Borkum-Riffgrund (Borkum Reef Ground), DE1003-301 Doggerbank (Dogger Bank) and DE1011-401 Östliche Deutsche Bucht SPA (Eastern German Bight), in the German exclusive economic zone in the North Sea.
- (8) The joint recommendation contains fisheries management measures to protect sandbanks (habitat type 1110) and reefs (habitat type 1170) in Sylter Aussenriff and Borkum-Riffgrund from the impact of mobile bottom contacting gear, to protect the harbour porpoise in Sylter Aussenriff, Borkum-Riffgrund and Doggerbank and to protect six seabird species in Östliche Deutsche Bucht from being caught and/or killed in gillnets and entangling nets, in order to comply with obligations under Article 6 of the Habitats Directive and Article 4 of the Birds Directive. The joint recommendation also contains fisheries management measures to protect seafloor areas with the biotope type “Species-rich gravel, coarse sand and shell-gravel areas” in Sylter Aussenriff and Borkum-Riffgrund from the impact of fishing activities, in order to comply with obligations under Article 13(4) of the Marine Strategy Framework Directive.
- (9) The Scientific, Technical and Economic Committee for Fisheries (STECF) reviewed and assessed the joint recommendation in its plenary session of 25-29 March 2019⁵ and concluded that the proposed conservation measures are a first step forward to avoid further degradation of the marine environment and to reduce negative impacts of fishing activities on sandbanks and reefs habitats, on the biotope ‘Species-rich gravel, coarse sand and shell gravel areas’, on the harbour porpoise and on some seabird populations. Although STECF stated that freezing the fishing effort with gillnets and entangling nets will not reduce their impacts, the fact that the fishing intensity cannot

⁵ Scientific, Technical and Economic Committee for Fisheries (STECF) – 60th Plenary Meeting Report (PLEN-19-01). Publications Office of the European Union, Luxembourg, 2019, ISBN 978-92-76-02904-5, doi:10.2760/56785, JRC116423.

increase in the future will already have a positive influence on the habitats and species in the protected areas. In addition, STECF raised some particular points regarding the control, enforcement and monitoring of the effectiveness of the proposed measures, which could be further improved.

- (10) The Commission asked for additional clarifications and invited the regional group of North Sea Member States ('Scheveningen Group') to consider further improvements of the proposed conservation measures. The Commission's requests and subsequent amendments were discussed with the Member States having a direct management interest and the revised joint recommendation was submitted to the Commission on 17 June 2021.
- (11) The Commission presented the delegated act on 2 March 2022 to the Fisheries and Aquaculture Expert Group attended by the European Parliament as an observer.
- (12) The joint recommendation submitted by Germany as initiating Member State and the other Member States having a direct management interest proposes the following management measures in four Natura 2000 sites (Sylter Aussenriff, Borkum-Riffgrund, Doggerbank and Östliche Deutsche Bucht) in the German Exclusive Economic Zone in the North Sea:
 - prohibition of fishing activities with mobile bottom contacting gear (TBB, OTB, OTT, PTB, TB, TBN, TBS, SX, SDN, SSC, SPR, SV, SB, DRB, DRH and HMD) in certain management areas in three Natura 2000 sites (Sylter Aussenriff, Östliche Deutsche Bucht and Borkum-Riffgrund), except for TBB_CRU_16-31 in certain zones in the eastern area of the Sylter Aussenriff, for protecting sandbanks (habitat type 1110), reefs (habitat type 1170) and/or seafloor areas with the biotope type 'Species rich gravel, coarse sand and shell-gravel areas';
 - prohibition of any kind of fishing activities in 55% of the area of Amrum Bank (habitat type 1110) in the Natura 2000 site Sylter Aussenriff, for protecting seafloor areas with the biotope type 'Species rich gravel, coarse sand and shell-gravel areas';
 - prohibition of fishing activities with gillnets and entangling nets (GN, GNS, GND, GNC, GTR and GTN) in certain areas in two Natura 2000 sites (eastern part of Sylter Aussenriff and Östliche Deutsche Bucht), for protecting harbour porpoises and six key seabird species;
 - seasonal closure of fishing activities with gillnets and entangling nets (GN, GNS, GND, GNC, GTR and GTN) in the western part of the Natura 2000 site Sylter Aussenriff from 1 March to 31 October, for protecting harbour porpoises from bycatch in phases of high aggregation during the mating and calving season;
 - limitation of fishing activities with gillnets and entangling nets (GN, GNS, GND, GNC, GTR and GTN) to the average level in the last six years before the entry into force of this Delegated Regulation in two Natura 2000 sites (Borkum-Riffgrund and Doggerbank), for protecting harbour porpoises.
- (13) On 17 June 2019, after having consulted the NSAC, the Netherlands together with Belgium, Denmark, France, Germany, Sweden and United Kingdom, submitted to the Commission three further joint recommendations regarding fisheries management measures in two Natura 2000 sites, NL2008002 Klaverbank SAC (Clever Bank), NL2016166 Friese Front SPA (Frisian Front), and in the Friese Front and Centrale

Oestergronden (Frisian Front and Central Oyster Grounds) marine protected areas, in the North Sea. The joint recommendations contain fisheries management measures to protect reefs (habitat type 1170) from the impact of mobile bottom contacting gear in the Klaverbank (Cleaver Bank), to protect the common guillemot from being caught and/or killed in gillnets and entangling nets in the Friese Front (Frisian Front), and to protect substantial parts of the seabed from the impact of mobile bottom contacting gear. These measures will contribute to comply with the obligations under Article 6 of the Habitats Directive, Article 4 of the Birds Directive and Article 13(4) of the Marine Strategy Framework Directive.

- (14) The STECF reviewed and assessed those joint recommendations in August 2019⁶ and concluded that the proposed conservation measures represent a positive step forward to avoid further degradation of the marine environment and to reduce the negative impacts of fishing activities on reefs, the common guillemot and substantial seabed areas. Although STECF stated that consideration should be given to introduce a total ban of gillnet and entangling net fisheries during the closure period, the fact that the intensity of the fishing activities cannot increase in the future will already have a positive influence on the habitats and species in the protected area. In addition, STECF expressed some concern regarding the effectiveness of the control, enforcement and monitoring of the proposed measures, which, in its view, could be further improved.
- (15) The Commission asked for additional clarifications and invited the Scheveningen Group to consider further improvements of the proposed conservation measures. The requests of the Commission and the subsequent amendments were discussed with the Member States having a direct management interest and the revised joint recommendations were submitted to the Commission on 1 July 2021.
- (16) The three joint recommendations submitted by the Netherlands as initiating Member State and the other Member States having a direct management interest propose the following management measures in two Natura 2000 sites (Klaverbank and Friese Front) and in the Friese Front and Centrale Oestergronden marine protected areas, in the North Sea:
 - prohibition of fishing activities with mobile bottom contacting gear (TBB, OTB, OTT, PTB, TB, TBN, TBS, SX, SDN, SSC, SPR, SV, DRB and HMD) in certain management areas in the Natura 2000 site Klaverbank, for protecting reefs (habitat type 1170);
 - limitation of fishing activities with gillnets and entangling nets (GN, GNS, GND, GNC, GTR and GTN) during the seasonal closure based on the average number of days at sea in the reference period 2012-2016 in the Natura 2000 site Friese Front, for protecting the common guillemot;
 - prohibition of fishing activities with mobile bottom contacting gear (TBB, OTB, OTT, PTB, TB, TBN, TBS, SX, SDN, SSC, SPR, SV, DRB and HMD) in the Friese Front and in the Centrale Oestergronden marine protected areas, for protecting substantial parts of the seabed ecosystem.

⁶ Scientific, Technical and Economic Committee for Fisheries (STECF) – Review of Joint Recommendations for Natura 2000 sites at Dogger Bank, Cleaver Bank, Frisian Front and Central Oyster Grounds (STECF-19-04). Publications Office of the European Union, Luxembourg, 2019, ISBN 978-92-76-11227-3, doi: 10.2760/422631, JRC117963.

- (17) In all of the joint recommendations submitted by Germany and the Netherlands as initiating Member States and the other Member States having a direct management interest, the control and enforcement of fishing activities in the proposed management areas is performed mainly through the vessel monitoring system (VMS) installed on board of fishing vessels of 12 m length overall or more, in accordance with Article 9(2) of Regulation (EC) No 1224/2009.
- (18) In addition to the provisions of Regulation (EC) No 1224/2009, an additional control and enforcement measure is proposed considering the need to effectively track fishing vessels in the relatively small areas covered by some proposed management measures. The VMS reporting frequency in these areas should be increased to once every 10 minutes, in the absence of a general frequency reference for Marine Protected Areas.
- (19) Both Delegated Regulation (EU) 2017/118 and the joint recommendations submitted by Germany and by the Netherlands as initiating Member States cover only those bottom contacting gears that are mobile. Therefore and for the sake of clarity, that Regulation should be amended to define mobile bottom contacting gears.
- (20) Delegated Regulation (EU) 2017/118 should therefore be amended accordingly to include the conservation measures proposed in the joint recommendation submitted by Germany on 17 June 2021 and in the three joint recommendations submitted by the Netherlands on 1 July 2021.
- (21) The measures in this regulation applicable to Union waters are in pursuit of the objectives set out in Article 494(1) and (2) of the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part⁷, and have regard to the principles referred to in Article 494(3) of that agreement.
- (22) This Delegated Regulation is without prejudice to the need for additional conservation measures necessary to comply with the relevant provisions of and the Commission's position regarding compliance by the interested Member States with their obligations under the relevant Union environmental legislation,

HAS ADOPTED THIS REGULATION:

Article 1

Delegated Regulation (EU) 2017/118 is amended as follows:

- (1) Article 1 is replaced by the following:

“Article 1

Subject matter and scope

1. This Regulation establishes fisheries conservation measures necessary for compliance with obligations under Article 6 of Directive 92/43/EEC, Article 4 of Directive 2009/147/EC and Article 13(4) of Directive 2008/56/EC.

2. This Regulation applies to fishing vessels in the North Sea.”;

⁷ Trade and cooperation agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, signed on 30 December 2020 (OJ L 149, 30.4.2021, p. 10).

- (2) Article 2 is replaced by the following:

“Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply in addition to those laid down in Article 4 of Regulation (EU) No 1380/2013 of the European Parliament and of the Council, Article 4 of Regulation (EC) No 1224/2009, Article 2 of Commission Implementing Regulation (EU) No 404/2011(*) and Annex III of Regulation (EU) No 1379/2013 of the European Parliament and of the Council (**):

- (a) ‘mobile bottom contacting gear’ means any of the following gears: bottom trawl (TB), beam trawl (TBB), bottom otter trawl (OTB), otter twin trawl (OTT), bottom pair trawl (PTB), nephrops trawl (TBN), shrimp trawl (TBS), seine (SX), Danish anchor seine (SDN), Scottish seine (SSC), Scottish pair seine (SPR), boat or vessel seine (SV), beach seine (SB), boat dredge (DRB), hand dredge used on board a vessel (DRH) and mechanised dredge including suction dredge (HMD);
- (b) ‘gillnets and entangling nets’ means any of the following gears: gillnets (GN), set (anchored) gillnets (GNS), driftnets (GND), encircling gillnets (GNC), trammel nets (GTR) and combined trammel and gillnets (GTN);
- (c) ‘Areas 1’ mean the geographical areas enclosed by sequentially joining with rhumb lines the positions listed in Annex I to this Regulation, measured according to the WGS84 coordinate system, or by separation lines between two Exclusive Economic Zones or the delimitation line of the territorial sea as set out in Annex I;
- (d) ‘Areas 2’ mean the geographical areas enclosed by sequentially joining with rhumb lines the positions listed in Annex II to this Regulation, measured according to the WGS84 coordinate system, or by the delimitation line of the territorial sea as set out in Annex II;
- (e) ‘Areas 3’ mean the geographical areas enclosed by sequentially joining with rhumb lines the positions listed in Annex IV to this Regulation, measured according to the WGS84 coordinate system;
- (f) ‘Areas 4’ mean the geographical areas enclosed by sequentially joining with rhumb lines the positions listed in Annex VI to this Regulation, measured according to the WGS84 coordinate system, or by separation lines between two Exclusive Economic Zones or the delimitation line of the territorial sea as set out in Annex VI;
- (g) ‘Bratten’ means the geographical area enclosed by sequentially joining with rhumb lines the positions listed in Annex III to this Regulation, measured according to the WGS84 coordinate system;
- (h) ‘AIS zones’ means the geographical areas enclosed by sequentially joining with rhumb lines the positions listed in Annex V to this Regulation, measured according to the WGS84 coordinate system;
- (i) ‘Alert zones’ mean the geographical areas listed as alert zones in Annex I, II and VI to this Regulation of 4 nautical miles surrounding each management zone, established only to alert the competent authorities to fishing vessels

approaching certain protected areas, and where fishing activities are not prohibited;

- (j) ‘Member States concerned’ means Belgium, Denmark, France, Germany, the Netherlands and Sweden.

(*) Commission Implementing Regulation (EU) No 404/2011 of 8 April 2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy (OJ L 112, 30.4.2011, p. 1).

(**) Regulation (EU) No 1379/2013 of the European Parliament and of the Council of 11 December 2013 on the common organisation of the markets in fishery and aquaculture products, amending Council Regulations (EC) No 1184/2006 and (EC) No 1224/2009 and repealing Council Regulation (EC) No 104/2000 (OJ L 354, 28.12.2013, p. 1).”;

- (3) Article 3 is replaced by the following:

“Article 3

Fishing prohibition

1. It shall be prohibited to carry out any fishing activity with mobile bottom contacting gears in the following corresponding parts of Areas 1 referred to in Annex I:

- (a) in areas 1(1) to 1(13), except for the respective alert zones 1(10.az), 1(11.az), 1(12.az) and 1(13.az), the following gears shall be prohibited: bottom trawl (TB), beam trawl (TBB), bottom otter trawl (OTB), otter twin trawl (OTT), bottom pair trawl (PTB), nephrops trawl (TBN), shrimp trawl (TBS), seine (SX), Danish anchor seine (SDN), Scottish seine (SSC), Scottish pair seine (SPR), boat or vessel seine (SV), except for fishing activities with beam trawls and bobbin ropes with mesh size between 16 and 31 mm (TBB_CRU_16-31) in the traditional fishery targeting brown shrimp (*Crangon* spp.) in area 1(10)(b);
- (b) in addition, in areas 1(10) to 1(13), except for the respective alert zones 1(10.az), 1(11.az), 1(12.az) and 1(13.az), the following gears shall be prohibited: boat dredge (DRB) and mechanised dredge including suction dredge (HMD);
- (c) in addition, in areas 1(10) and 1(11), except for the respective alert zones 1(10.az) and 1(11.az), the following gears shall be prohibited: beach seine (SB) and hand dredge used on board a vessel (DRH).

2. It shall be prohibited to carry out:

- (a) fishing activities in areas 2(1) to 2(24) and 2(28) of Areas 2, except for the respective alert zone 2(28.az),
- (b) fishing operations in areas 2(25) to 2(27) of Areas 2.

3. Fishing shall be permitted in Areas 3 only with the following fishing gears and under the following conditions:

- (a) handheld gears like rod and line (LHP),
- (b) pelagic trawls (OTM and PTM),
- (c) pots and traps (FPO and FIX), when fishing for crustaceans,

- (d) gillnets and trammel nets (GTN), provided that fishing vessels take part in a national monitoring and assessing programme conducted by or on behalf of the national authorities to evaluate the bycatch of harbour porpoise and seabirds by use of remote electronic monitoring ('REM'), including the use of on-board closed-circuit television ('CCTV') cameras and position data.

As regards the first subparagraph of this paragraph, point (d), the Member States concerned shall review the data on incidental catches of harbour porpoise and seabirds annually and shall assess it by 31 December 2024. That data or any new appropriate data shall be used in order to adjust the use of the net fishery in those areas pursuant to the procedure laid down in Articles 11 and 18 of Regulation (EU) No 1380/2013.

4. Paragraph 2(b) and paragraph 3 shall also apply to recreational fisheries.

5. It shall be prohibited to carry out any fishing activity with gillnets (GN, GNS, GND and GNC) and entangling nets (GTR and GTN) in the following corresponding parts of Areas 4 referred to in Annex VI:

- (a) in area 4(1), except for the respective alert zone 4(1.az), any fishing activity with gillnets and entangling nets shall be prohibited all year round;
- (b) in area 4(2), except for the respective alert zone 4(2.az), any fishing activity with gillnets and entangling nets shall be prohibited during the seasonal closure from 1 March to 31 October;
- (c) in area 4(3), except for the respective alert zone 4(3.az), the annual total number of days of fishing activity with gillnets and entangling nets shall not exceed the annual average number of fishing days during which such gears were used in that area in the last 6 years before [(...) *Office of publications, please insert the **date** of entry into force of this Delegated Regulation*];
- (d) in area 4(4), during the seasonal closure from 1 June to 30 November, the annual total number of days of fishing activity with gillnets and entangling nets shall not exceed the annual average number of fishing days during which such gears were used in that area between 1 June and 30 November in the period 2012-2016.

6. Where fishing activities are allowed with other gears than those prohibited under paragraphs 1, 3 and 5, the prohibited gears shall be lashed and stowed in accordance with the conditions laid down in Article 47 of Regulation (EC) No 1224/2009.”

- (4) Article 4 is replaced by the following:

“*Article 4*

Transit

1. Fishing vessels carrying on board any mobile bottom contacting gear that are not authorised to fish in areas 1(1) to 1(13), including the respective alert zones 1(12.az) and 1(13.az), and fishing vessels carrying on board gillnets and entangling nets that are not authorised to fish in areas 4(1) to 4(4), may transit across those respective areas provided that these gears be lashed and stowed during the transit in accordance with the conditions laid down in Article 47 of Regulation (EC) No 1224/2009.

2. Fishing vessels may transit across areas 2(1) to 2(28), provided that any gear carried on board be lashed and stowed in accordance with the conditions laid down in Article 47 of Regulation (EC) No 1224/2009.

3. The speed during transit for all fishing vessels that are not authorised to fish in areas 1(10) to 1(13), including the respective alert zones 1(12.az) and 1(13.az), area 2(28) and areas 4(1) to 4(3), shall not be less than six knots except in case of force majeure or adverse conditions, in accordance with Article 50(4)(b) of Regulation (EC) No 1224/2009. In such cases, the master shall immediately inform the fisheries monitoring centre of the flag Member State, which shall then inform the competent authorities of the coastal Member State.”;

(5) Article 5 is replaced by the following:

“Article 5

Automatic identification system and vessel monitoring system

1. The following fishing vessels shall be fitted with and maintain in operation an automatic identification system (AIS) which meets the performance standards set out in Article 10(1) of Regulation (EC) No 1224/2009:

- (a) all fishing vessels present in the marine protected area Bratten;
- (b) all fishing vessels operating with mobile bottom contacting gears within the AIS-zones as specified in point 1 of Annex V to this Regulation;
- (c) all fishing vessels present in the AIS-zones as specified in point 2 of Annex V to this Regulation.

2. Fishing vessels of 12 m length overall or more shall increase the transmission frequency of the vessel monitoring system (VMS) to once every 10 minutes, whenever:

- (a) intending to enter or transit through areas 1(10) to 1(13) (Annex I), area 2(28) (Annex II) and areas 4(1) to 4(4) (Annex VI), including the respective alert zones 1(10.az) to 1(13.az), 2(28.az), 4(1.az) to 4(3.az);
- (b) carrying on board any prohibited gear during the closure period (1 June to 30 November) in area 4(4) (Annex VI);
- (c) carrying on board any prohibited gear and travelling under six knots in areas 1(12) and 1(13) (Annex I), including the respective alert zones 1(12.az) and 1(13.az).

3. Fishing vessels of 12 m length overall or more entering the alert zones shall record both the fishing gear carried on board and the fishing gear used in the electronic logbook, in accordance with Articles 14(2) and 15(1) of Regulation (EC) No 1224/2009.”;

(6) Article 6 is replaced by the following:

“Article 6

Review

“From [(...) *Office of publications*, please set **date** of the entry into force of this *Regulation*], Member States concerned shall monitor, assess and report on the implementation of the measures set out in Articles 3, 4 and 5, every three years for measures in areas 4(1) and 4(4) (Annex VI) under the Birds Directive, and every six years for measures in areas 1(10) to 1(13) (Annex I), area 2(28) (Annex II) and areas 4(2) and 4(3) (Annex VI) under the Habitats Directive and the Marine Strategy Framework Directive.”;

(7) Annex I is amended in accordance with point 1 of the Annex to this Regulation;

- (8) Annex II is amended in accordance with point 2 of the Annex to this Regulation;
- (9) Annex VI is added in accordance with point 3 of the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

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

Done at Brussels, 8.12.2022

For the Commission
The President
Ursula VON DER LEYEN