COMMISSION DELEGATED REGULATION (EU) 2018/191

of 30 November 2017

amending Commission Delegated Regulation (EU) 2015/98 on the implementation of the Union's international obligations, as referred to in Article 15(2) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council, under the International Convention for the Conservation of Atlantic Tunas, regarding the Mediterranean stock of swordfish

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 Article 15(2) thereof,

Whereas:

(1) To protect juvenile swordfish, paragraphs 15 and 17 of Recommendation 16-05 of the International Commission for the Conservation of Atlantic Tunas (ICCAT) provide for a minimum size for swordfish caught in the Mediterranean. Catches and by-catches of swordfish below this minimum size, including in sport and recreational fisheries, should not be kept on board the fishing vessel, transhipped, transported, stored, landed, sold, displayed or offered for sale.

(2) Furthermore, under paragraph 17 of Recommendation 16-05, vessels actively fishing for swordfish must discard incidental catches of swordfish below the minimum size that exceed 5 % of their total swordfish catch.

(3) For sport and recreational fisheries, paragraphs 23 and 26 of ICCAT Recommendation 16-05 establish that it should be prohibited to catch, retain on board, tranship or land more than one Mediterranean swordfish per vessel per day. Necessary measures should be put in place to ensure, to the greatest extent possible, the release of Mediterranean swordfish caught alive during sport and recreational fishing, especially juveniles.

(4) Paragraph 30 of ICCAT Recommendation 16-05 establishes that vessels not authorised to fish actively for Mediterranean swordfish may keep on board swordfish catches not exceeding a maximum by-catch limit per vessel and per fishing operation. Member States should establish that by-catch limit in their annual fishing plans and report it to the Commission. Vessels not authorised to fish actively for Mediterranean swordfish should not retain on board by-catches of Mediterranean swordfish exceeding the limits in the national annual fishing plans.

(5) To ensure consistency between ICCAT Recommendation 16-05 and European Union law, the landing obligation in Article 15(1) of Regulation (EU) No 1380/2013 should not apply to Union vessels participating in Mediterranean swordfish fisheries.

(6) Commission Delegated Regulation (EU) 2015/98 ([2]) should be amended to include new provisions reflecting the fishing conditions established in ICCAT Recommendation 16-05.

(7) In line with the timeframe laid down in Article 15(1) of Regulation (EU) No 1380/2013, this Regulation should enter into force immediately after its publication,

HAS ADOPTED THIS REGULATION:

Article 1

Delegated Regulation (EU) 2015/98 is amended as follows:

(1) Article 5 is amended as follows:

(a) the title of Article 5 is replaced by the following:

'**Swordfish in the Atlantic Ocean**';

([1]) OJ L 354, 28.12.2013, p. 22.

([2]) Commission Delegated Regulation (EU) 2015/98 of 18 November 2014 on the implementation of the Union's international obligations, as referred to in Article 15(2) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council, under the International Convention for the Conservation of Atlantic Tunas and the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries (OJ L 16, 23.1.2015, p. 23.)

(b) paragraph 1 is deleted;

(c) paragraph 2 is replaced by the following:

'2. By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, it shall be prohibited to target, retain on board or tranship, land, transport, store, display or offer for sale, sell or market swordfish (*Xiphias gladius*) below the minimum size, as set out in Annex IV to Regulation (EC) No 520/2007.';

(2) a new Article 5a is inserted as follows:

'*Article 5a*

Mediterranean swordfish

(1) By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, it shall be prohibited to target, retain on board, tranship, land, transport, store, sell, display or offer for sale catches and by-catches of swordfish (*Xiphias gladius*), including from sport and recreational fisheries:

(a) measuring less than 100 cm lower jaw fork length; or

(b) weighing less than 11,4 kg of round weight or 10,2 kg of gilled and gutted weight.

(2) Notwithstanding paragraph 1, catching vessels fishing actively for swordfish may retain on board, tranship, transfer, land, transport, store, sell, display or offer for sale incidental catches of swordfish below the minimum size, provided such catches do not exceed 5 % by weight or number of pieces of the total swordfish catch of such vessels.

(3) By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, catching vessels not fishing actively for swordfish shall not retain on board swordfish exceeding the by-catch limit that Member States establish in their annual fishing plans for the total catch on board by weight or number of pieces.

(4) By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, it shall be prohibited to catch, retain on board, tranship or land of more than one swordfish per vessel per day for sport and recreational fisheries. Member States shall take the necessary measures to ensure and facilitate the release of swordfish caught alive in the framework of sport and recreational fishing.'.

Article 2

This Regulation shall enter into force on the 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, 30 November 2017.

For the Commission

The President

Jean-Claude JUNCKER