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From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

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Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 30.6.2021 correcting Delegated Regulation (EU) 2019/2201 as regards certain rules for the implementation of real-time closures for Northern prawn fisheries in the Skagerrak

Delegations will find attached document C(2021) 4733 final.

Encl.: C(2021) 4733 final



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

of 30.6.2021

correcting Delegated Regulation (EU) 2019/2201 as regards certain rules for the implementation of real-time closures for Northern prawn fisheries in the Skagerrak

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

One of the main objectives of the Common Fisheries Policy (CFP) reform, introduced by Regulation (EU) No 1380/2013¹ (the “Basic Regulation”), is to ensure that fishing and aquaculture activities are environmentally sustainable in the long-term and are managed in a way that is consistent with the objectives of achieving economic, social and employment benefits, and of contributing to the availability of food supplies. At the same time, this Regulation defines the general framework for regional cooperation on conservation measures.

Article 15(2) of Regulation (EU) 2019/1241 on the conservation of fisheries resources and the protection of marine environment ecosystems through technical measures² empowers the Commission to adopt delegated acts in accordance with Article 29 of that Regulation and Article 18 of Regulation (EU) No 1380/2013 in order to amend, supplement, repeal or derogate from the technical measures set out at regional level in the Annexes, including for the purpose of real-time closures and moving-on provisions, as specified in Article 19 of that Regulation. Annex V to Regulation (EU) 2019/1241 establishes certain technical measures for the North Sea, Skagerrak and Kattegat.

Where Member States having a direct management interest in a fishery consider that measures are needed to ensure the protection of aggregations of juveniles through real time closures of fishing areas, the Commission is empowered to adopt such measures by means of delegated acts upon a joint recommendation submitted by those Member States in accordance with Articles 15(2) and 19 of Regulation (EU) 2019/1241.

Following the submission of a joint recommendation by Belgium, Denmark, France, Germany, the Netherlands and Sweden, which have a direct management interest in the relevant fisheries in the region, the Commission adopted Delegated Regulation 2019/2201 supplementing Regulation 2019/1241 with detailed rules for the implementation of real-time closures for Northern prawn fisheries in the Skagerrak³.

Following the publication of Delegated Regulation 2019/2201, the Member States mentioned above submitted a request to correct certain errors in that Delegated Regulation.

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 Regulation (EU) 2019/1241 on the conservation of fisheries resources and the protection of marine environment ecosystems through technical measures, amending Council Regulations (EC) No 1967/2006, (EC) No 1224/2009 and Regulations (EU) No 1380/2013, (EU) 2016/1139, (EU) 2018/973, (EU) 2019/472 and (EU) 2019/1022 of the European Parliament and of the Council, and repealing Council Regulations (EC) No 894/97, (EC) No 850/98, (EC) No 2549/2000, (EC) No 254/2002, (EC) No 812/2004 and (EC) No 2187/2005 (OJ L 198, 25.07.2019, p. 105).

³ OJ L 332, 23.12.2019, p. 3.

2. LEGAL ELEMENTS OF THE DELEGATED ACT

Summary of the proposed action

The main legal action is to amend certain provisions of Delegated Regulation (EU) 2019/2201 to ensure a correct implementation of real-time closures in the Skagerrak.

Legal basis

Article 15(2) of Regulation (EU) 2019/1241.

Subsidiarity principle

The Regulation is within the scope of the delegated powers provided to the Commission by Article 15(2) of Regulation (EU) 2019/1241 and does not go beyond what is necessary to achieve the purpose of those provisions.

Choice of instrument

Proposed instrument: Commission Delegated Regulation.

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

of 30.6.2021

correcting Delegated Regulation (EU) 2019/2201 as regards certain rules for the implementation of real-time closures for Northern prawn fisheries in the Skagerrak

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2019/1241 of the European Parliament and of the Council of 20 June 2019 on the conservation of fisheries resources and the protection of marine ecosystems through technical measures, amending Council Regulations (EC) No 1967/2006, (EC) No 1224/2009 and Regulations (EU) No 1380/2013, (EU) 2016/1139, (EU) 2018/973, (EU) 2019/472 and (EU) 2019/1022 of the European Parliament and of the Council, and repealing Council Regulations (EC) No 894/97, (EC) No 850/98, (EC) No 2549/2000, (EC) No 254/2002, (EC) No 812/2004 and (EC) No 2187/2005⁴, in particular Article 15(2) thereof,

Whereas:

- (1) Regulation (EU) 2019/1241 lays down specific provisions regarding technical measures established at regional level for the North Sea, Skagerrak and Kattegat, which also include rules on mesh sizes, associated conditions and by-catches.
- (2) The Agreed Record of the Consultations between the European Union and Norway of 6 September 2018⁵ on technical measures in the Skagerrak lays down the procedures and sampling methodology for the adoption of real-time closures for Northern prawn (*Pandalus borealis*) ('Northern prawn') in the Skagerrak ('the Agreed Record').
- (3) Belgium, Denmark, Germany, France, the Netherlands and Sweden (the 'Scheveningen Group') have a direct fisheries management interest in the North Sea and submitted a joint recommendation on 7 March 2019 implementing the measures set out in the Agreed Record into Union law. The joint recommendation specifies real time closures in the Northern prawn fishery for the protection of juveniles and exempts further gears.
- (4) Following the assessment of that joint recommendation by the Scientific, Technical and Economic Committee for Fisheries (STECF)⁶, Commission Delegated Regulation (EU) 2019/2201 of 1 October 2019⁷ was adopted.

⁴ OJ L 198, 25.7.2019, p. 105.

⁵ <https://ec.europa.eu/fisheries/sites/fisheries/files/2018-sweden-norway-09-2018.pdf>

⁶ <https://stecf.jrc.ec.europa.eu/documents/43805/2537709/STECF+PLEN+19-02.pdf>

⁷ Commission Delegated Regulation (EU) 2019/2201 of 1 October 2019 supplementing Regulation (EU) 2019/1241 with detailed rules for the implementation of real-time closures for Northern prawn fisheries in the Skagerrak (OJ L 332, 23.12.2019, p. 3).

- (5) Following the publication of that Regulation, the Member States concerned requested the Commission to correct some errors that hinder the correct implementation of that delegated act.
- (6) Delegated Regulation (EU) 2019/2201 provides for a definition of the term ‘juveniles of Northern Prawn’ in order to determine the size of fish whose number in the overall catch can trigger real-time closures of fisheries. For the sake of legal security and clarity, that Regulation should use throughout the same term for the same concept. Therefore, ‘juveniles of Northern Prawn’ should be used throughout the act, instead of any synonym thereof, such as ‘Pandalus below trigger length’ or ‘undersized Pandalus’.
- (7) The joint recommendation established a risk-based strategy to identify areas and time periods where there is a risk of catching numbers of juveniles of Northern prawn that exceed the threshold level. As Delegated Regulation (EU) 2019/2201 erroneously referred to a catch trigger level of 20% by weight compared to the overall catch of Northern prawn, in a haul, it should instead refer to 20% by number compared to the overall number in a sample, as established in the joint recommendation.
- (8) Regulation (EU) 2019/1241 establishes a minimum mesh size of 35mm for fisheries targeting Northern prawn in the Skagerrak and Kattegat. Delegated Regulation (EU) 2019/2201 erroneously refers to a minimum mesh size of 32mm, which is the minimum mesh size for fisheries targeting Northern prawn in the North Sea. That figure should therefore be adapted accordingly.
- (9) The joint recommendation established a possible closure if the proportion of juveniles of Northern prawn was more than 40%. In order to be in accordance with that joint recommendation, Delegated Regulation (EU) 2019/2201 should refer to the percentage concerned linked with the number in the sample and not the overall catch.
- (10) Delegated Regulation (EU) 2019/2201 linked the respective specific monitoring programme for vessels using a size selective Nordmøre grid and for demersal trawls equipped with selective gears to operating only in the area subject to real-time closure (closed area). That Regulation should be adapted to the assessment of the STECF, which concluded that those vessels equipped with such selective gear are to be subject to a respective specific monitoring programme, irrespective of the area where they fish.
- (11) The joint recommendation and Delegated Regulation (EU) 2019/2201 erroneously defined the minimum sample size, for determining whether a real-time closure is to be established, as 2 kg of shrimp by weight or 1 litre by volume. The Member States therefore requested that Regulation should be corrected in line with the Agreed Record which states that the minimum sample size is to be 1 kilogram by weight or 2 litres by volume.
- (12) Delegated Regulation (EU) 2019/2201 should therefore be amended accordingly.
- (13) As the measures provided for in this Regulation have a direct impact on the planning of the fishing season of Union vessels and on related economic activities, this Regulation should enter into force immediately after its publication,

HAS ADOPTED THIS REGULATION:

Article 1

Delegated Regulation (EU) 2019/2201 is amended as follows:

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

“Article 3

Catch trigger level

The catch trigger level which initiates real-time closures of fisheries under this Regulation shall be 20% by number of juveniles of Northern prawn compared to the overall number of Northern prawn, in a sample.”;

- (2) in Article 4, paragraph 1 is replaced by the following:

“1. The source of information to monitor trigger catch levels shall be inspections at sea undertaken by competent control authorities on fishing vessels targeting Northern prawn (*Pandalus borealis*) with demersal trawls with a mesh size of at least 35mm.”;

- (3) in Article 5, paragraph 2 is replaced by the following:

“2. If the proportion of juveniles of Northern prawn is more than 40% of the number of that species in the sample as referred in Article 4 (4), control authorities may recommend a real time closure on the basis of one sample.”;

- (4) Article 6 is amended as follows:

- (a) paragraph 1 is replaced by the following:

“1. On the basis of the sampling reports referred to in Article 4(4), the coastal Member State concerned may prohibit fishing for Northern prawn with demersal trawls with a mesh size of at least 35mm in an area defined in accordance with Article 7 (‘the closed area’).”;

- (b) paragraph 3 is replaced by the following:

“3. Vessels using a size selective Nordmøre grid as referred to in Annex III shall be subject to a specific monitoring programme to be established by Member States in order to verify the proportion of juveniles of Northern prawn in the overall catch of that species. The results from those programmes shall be transmitted to the Commission no later than 6 months following the starting date of the programme and 12 months thereafter.”;

- (5) in Article 11, paragraph 2 is replaced by the following:

“2. Flag Member States of vessels using gears referred to in paragraph 1 shall establish a specific monitoring programme to verify that catches do not reach the trigger level. If catches reach the trigger level, those vessels shall move out of the closed area for the remainder of the closure period. The results from those

programmes shall be transmitted to the Commission no later than 6 months following the starting date of the programme and thereafter every 12 months. If the results from such programmes show that catches exceed the trigger levels, then these gears shall no longer be exempted.”

- (6) the Annexes are amended as follows:
- (a) Annex I is amended in accordance with point 1 of the Annex to this Regulation;
 - (b) Annex II is amended in accordance with point 2 of the Annex to this Regulation;
 - (c) Annex III is amended in accordance with point 3 of the Annex to this Regulation.

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, 30.6.2021

For the Commission
The President
Ursula VON DER LEYEN