II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2022/1386

of 9 August 2022

extending a derogation from Council Regulation (EC) No 1967/2006 as regards the minimum distance from coast and the minimum sea depth for boat seines fishing for transparent goby (*Aphia minuta*) in certain territorial waters of Italy (Tuscany and Liguria)

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1967/2006 of 21 December 2006 concerning management measures for the sustainable exploitation of fishery resources the Mediterranean Sea amending Regulation (EEC) No 2847/93 and repealing Regulation (EC) No 1626/94 ([1]) and in particular Article 13(5) thereof,

Whereas:

(1) On 4 October 2011, the Commission adopted Implementing Regulation (EU) No 988/2011 ([2]) establishing for the first time a derogation from Article 13(1), first subparagraph of Regulation (EC) No 1967/2006 until 31 March 2014 as regards the minimum distance from the coast and the minimum sea depth for boat seines fishing for transparent goby (*Aphia minuta)* in certain territorial waters of Italy (Tuscany and Liguria). An extension of that derogation was granted by Commission Implementing Regulation (EU) 2015/2407 ([3]), which expired on 31 March 2018. A further extension of that derogation was granted by Commission Implementing Regulation (EU) 2018/1634 ([4]), which expired on 31 March 2021.

(2) On 10 March 2021, the Commission received from Italy a request for an extension of that derogation, concerning the use of boat seines fishing for transparent goby (*Aphia minuta*), within its territorial waters in the regions of Tuscany and Liguria.

(3) Italy provided up-to-date scientific and technical justifications for the renewal of that derogation.

(4) Italy adopted the management plan by Decree ([5]) in accordance with Article 19(2) of Regulation (EC) No 1967/2006 ('Italian management plan') on 14 October 2021.

([1]) OJ L 409, 30.12.2006, p. 11.

([2]) Commission Implementing Regulation (EU) No 988/2011 of 4 October 2011 establishing a derogation from Council Regulation (EC) No 1967/2006 as regards the minimum distance from coast and the minimum sea depth for boat seines fishing for transparent goby (*Aphia minuta*) in certain territorial waters of Italy (OJ L 260, 5.10.2011, p. 15).

([3]) Commission Implementing Regulation (EU) 2015/2407 of 18 December 2015 renewing the derogation from Council Regulation (EC) No 1967/2006 as regards the minimum distance from coast and the minimum sea depth for boat seines fishing for transparent goby (*Aphia minuta*) in certain territorial waters of Italy (OJ L 333, 19.12.2015, p. 104).

([4]) Commission Implementing Regulation (EU) 2018/1634 of 30 October 2018 renewing the derogation from Council Regulation (EC) No 1967/2006 as regards the minimum distance from coast and the minimum sea depth for boat seines fishing for transparent goby (*Aphia minuta*) in certain territorial waters of Italy (OJ L 272, 31.10.2018, p. 35).

([5]) *Gazzetta Ufficiale della Repubblica Italiana* 297, 15.12.2021, pag. 46.

(5) The request concerns fishing activities already authorised by Italy and covers vessels which have a track record of more than 5 years in the fishery and operate under the Italian management plan adopted in accordance with Article 19(2) of Regulation (EC) No 1967/2006 (' management plan') on 14 October 2021.

(6) The request covers 117 vessels, smaller than 14 m in length overall and with a total effort of 5 886,9 kW for vessels, and the management plan guarantees no future increase in the fishing effort, as required by Article 13(9) of Regulation (EC) No 1967/2006.

(7) Those vessels are included on a list communicated to the Commission in line with Article 13(9) of Regulation (EC) No 1967/2006.

(8) The Scientific, Technical and Economic Committee for Fisheries ('STECF') assessed the extension of the derogation requested by Italy and the related draft management plan at its plenary session from 22 to 26 March 2021 ([6]).

(9) The overall assessment by the STECF is positive and the draft management plan contains the main elements supporting the request. Information on its biology and ecology, fleet and effort are well presented. Italy was requested to examine few elements that required further clarification on the position of fishing operations, the level of the safeguards triggers and the timing of management response. In order to address these issues, the Italian authorities agreed to provide the additional data required. The derogation requested by Italy complies with the conditions set out in Article 13(5) and (9) of Regulation (EC) No 1967/2006.

(10) The extension of the derogation requested by Italy affects a limited number of vessels and there are specific geographical constraints, given both the limited size of the continental shelf and the spatial distribution of the target species which limit the fishing grounds.

(11) The fishery cannot be undertaken with other gears since only boat seines have the technical characteristics necessary to carry out this type of fishery.

(12) As mentioned in recital 9, STECF requested additional data on spatial distribution of fishing operations in relation to the distribution of the seagrass habitats. Italy provided these additional data that confirm the fishing location and the absence of overlap with *Posidonia* beds. In addition, with respect to the impact on the seabed, the observations carried out on board during the fishing seasons have shown that the boat seines operate effectively only on the clean seabed, made of sand or mud. Account taken of the above, it is concluded that boat seines fishing has no significant impact on protected habitats and is very selective, since the seines are hauled in the water column and do not touch the seabed because collection of material from the seabed would damage the target species and make the selection of the fished species virtually impossible due to their very small size.

(13) The fishing activities concerned fulfil the requirements of Article 4 of Regulation (EC) No 1967/2006 since the management plan explicitly prohibits to fish above protected habitats.

(14) The fishing activities concerned do not interfere with gears other than trawls, seines or similar towed nets.

(15) Moreover, the fishery has no significant impact on the marine environment, since the boat seines are very selective gears and do not touch the seabed.

([6]) Scientific, Technical and Economic Committee for Fisheries (STECF) - 66th Plenary Report (PLEN-21-01). EUR 28359 EN, Publications Office of the European Union, Luxembourg, 2021, available here: https://stecf.jrc.ec.europa.eu/reports/plenary/-/asset_publisher/oS6k/document/id/2851300.

(16) The requirements of Article 8(1), point (h) of Regulation (EC) No 1967/2006, as replaced by Article 8(1) and Annex IX, Part B, section I to Regulation (EU) 2019/1241 of the European Parliament and of the Council ([7]), are not applicable since they relate to trawlers.

(17) Italy authorised a derogation from the minimum mesh size established in Article 9 of Regulation (EC) No 1967/2006 on the basis of the fulfilment of the requirements of Article 9(7) of that Regulation given the highly selective nature of the fisheries concerned, its negligible effect on the marine environment and that it is not affected by the provisions in Article 4(5) of Regulation (EC) No 1967/2006.

(18) Although Article 9 of Regulation (EC) No 1967/2006 was deleted by Regulation (EU) 2019/1241, Annex IX, Part B, point 4 to that Regulation allows derogations from minimum mesh sizes to continue to apply on the basis of certain conditions referred to in Article 15(5) of that Regulation. Such derogations should have been in force on 14 August 2019, do not lead to a deterioration of selectivity standards, in particular in terms of an increase in catches of juveniles, and aim at achieving the objectives and targets set out in Articles 3 and 4 of that Regulation. The requested extension complies with the referred conditions.

(19) The fishing activities concerned take place at a very short distance from the coast in shallow waters within the 3 nautical miles stripe and therefore do not interfere with the activities of other vessels.

(20) The activity of boat seines is regulated in the management plan to ensure that catches of species mentioned in Annex IX to Regulation (EU) 2019/1241 are minimal. Moreover, according to paragraph 6 of the Italian management plan, the fishing for *Aphia minuta* is limited to a fishing season from 1 November to 31 March each year and to a maximum of 60 days per boat for every fishing season.

(21) Boat seines are highly selective and do not target cephalopods.

(22) The management plan includes measures for the monitoring of fishing activities, as provided for in Article 13(9), third subparagraph of Regulation (EC) No 1967/2006.

(23) The fishing activities concerned fulfil the requirements of Article 14 of Council Regulation (EC) No 1224/2009 ([8]).

(24) The requested extension of the derogation should therefore be granted for 3 years.

(25) Italy should report to the Commission in due time and in accordance with the monitoring plan provided for in the Italian management plan.

(26) A limitation in duration of the derogation should be introduced, to allow prompt corrective management measures in case the report to the Commission shows a poor conservation status of the exploited stock, while providing scope to enhance the scientific basis for an improved management plan.

(27) Since the derogation granted by Implementing Regulation (EU) 2018/1634 expired on 31 March 2021 and the fishing season starts on 1 November each year, in order to ensure legal continuity, this Regulation should apply with effect from 1 November 2021.

([7]) 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 2187/2005 (OJ L 198, 25.7.2019, p. 105).

([8]) Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 (OJ L 343, 22.12.2009, p. 1).

(28) For reasons of legal certainty, this Regulation should enter into force as a matter of urgency.

(29) The measures provided for in this Regulation are in accordance with the opinion of the Committee for Fisheries and Aquaculture,

HAS ADOPTED THIS REGULATION:

Article 1

Derogation

Article 13(1) of Regulation (EC) No 1967/2006 shall not apply in territorial waters of Italy adjacent to the coast of Liguria and Tuscany, to boat seines fishing for transparent goby (*Aphia minuta*) provided those vessels:

(a) are registered in the maritime Directorates (Direzione Marittima) of Genova and Livorno respectively;

(b) have a track record in the fishery of more than 5 years and do not involve any further increase in the fishing effort deployed; and

(c) hold a fishing authorisation and operate under the management plan adopted by Italy in accordance with Article 19 of Regulation (EC) No 1967/2006.

Article 2

Monitoring plan and reporting

Italy shall communicate to the Commission, by 1 November 2022, a report drawn up in accordance with the monitoring plan established in the management plan referred to in Article 1(c).

Article 3

Entry into force and period of application

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 November 2021 to 31 March 2024.

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

Done at Brussels, 9 August 2022.

For the Commission
The President
Ursula VON DER LEYEN