

COMMISSION IMPLEMENTING REGULATION (EU) 2017/677**of 10 April 2017****on extending the derogation from Council Regulation (EC) No 1967/2006 as regards the minimum distance from the coast and depth granted to boat seines fishing for transparent goby (*Aphia minuta*) in certain territorial waters of Spain (Murcia)**

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 in the Mediterranean Sea ⁽¹⁾, and in particular Article 13(5) thereof,

Whereas:

- (1) Article 13(1) of Regulation (EC) No 1967/2006 prohibits the use of towed gears within 3 nautical miles of the coast or within the 50 m isobath where that depth is reached at a shorter distance from the coast.
- (2) At the request of a Member State, the Commission may allow a derogation from Article 13(1) of Regulation (EC) No 1967/2006, provided that a number of conditions set out in Article 13(5) and(9) are fulfilled.
- (3) On 17 April 2012 the Commission received a request from Spain for a derogation from the first subparagraph of Article 13(1) of that Regulation, for the use of boat seines fishing for transparent goby (*Aphia minuta*), within its territorial waters in the Autonomous Community of Murcia.
- (4) The Scientific, Technical and Economic Committee for Fisheries (STECF) assessed in 2013 the derogation requested by Spain and the related draft management plan.
- (5) The Spanish management plan was adopted by Spain on 27 March 2013 ⁽²⁾.
- (6) The derogation from the first subparagraph of Article 13(1) was granted until 31 December 2016 by the Commission Implementing Regulation (EU) No 773/2013 ⁽³⁾.
- (7) Spain submitted to the Commission in June 2013, September 2014, July 2015 and July 2016 scientific reports on the implementation of the management plan.
- (8) On 13 July 2016 the Spanish Authorities requested the European Commission to extend the derogation beyond 31 December 2016. Spain provided up-to-date information to justify the renewal of the derogation.
- (9) The STECF assessed in 2016 the request of Spain for the prolongation of the derogation and the related draft management plan.
- (10) The derogation requested by Spain complies with the conditions laid down in Article 13(5) and (9) of Regulation (EC) No 1967/2006.
- (11) There are specific geographical constraints given the limited size of the continental shelf and the special distribution of the target species.
- (12) The boat seines fishery cannot be undertaken with other gears and has no significant impact on marine environment.

⁽¹⁾ OJ L 36, 8.2.2007, p. 6.

⁽²⁾ Reference Murcia Region OJ number 78, 6.4.2013, p. 13950.

⁽³⁾ Commission implementing Regulation (EU) No 773/2013 of 12 August 2013 establishing a derogation from Council Regulation (EC) No 1967/2006 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 Spain (Murcia) (OJ L 217, 13.8.2013, p. 28).

- (13) The derogation requested by Spain affects a limited number of only 27 vessels.
- (14) The management plan guarantees no future increase in the fishing effort, as fishing authorisations will be issued to specified 27 vessels involving a total effort of 1 211 Kw that are already authorised to fish by Spain.
- (15) Those vessels are included on a list communicated to the Commission in line with the requirements of Article 13(9) of Regulation (EC) No 1967/2006.
- (16) The management plan introduces modifications to render more effectively the fishing operations namely (i) it offers the possibility to have a flexible starting date of the allowed fishing season depending on the meteorological conditions; (ii) it places a maximum daily allowed catch per vessel, per day and per fishermen employed; (iii) it modifies the limit reference points in line with the scientific data of the years 2012-2016; (iv) it introduces measures to restrict transfer of fishing authorisations; and (v) establishes a management committee bringing together the authorities with fishing sector, scientific community and stakeholders.
- (17) The fishing activities concerned fulfil the requirements of Article 4(1) of Regulation (EC) No 1967/2006 which by way of derogation, allows fishing above protected habitats if fishing is operated without touching the seagrass bed under certain conditions.
- (18) The requirement of Article 8(1)(h) of Regulation (EC) No 1967/2006 are not applicable since it relates to trawlers.
- (19) As regards the requirement to comply with Article 9(3) establishing the minimum mesh size, the Commission notes that given the fishing activities concerned are highly selective, have a negligible effect on the marine environment and are not affected by the provisions in Article 4(5), in line with Article 9(7) of Regulation (EC) No 1967/2006 Spain authorised a derogation from these provisions in its management plan.
- (20) The Spanish management plan includes measures for the monitoring of fishing activities, thus fulfilling the conditions set out in Article 14 of Council Regulation (EC) No 1224/2009 ⁽¹⁾.
- (21) The fishing activities concerned do not interfere with the activities of other vessels.
- (22) The activity of boat seines is regulated in the Spanish management plan to ensure that catches of species mentioned in Annex III to Regulation (EC) No 1967/2006 are minimal.
- (23) Boat seines do not target cephalopods.
- (24) The Spanish management plan includes measures for the monitoring of fishing activities, as provided for in the third subparagraph of Article 13(9) of Regulation (EC) No 1967/2006.
- (25) The requested derogation should therefore be granted.
- (26) Spain should report to the Commission in due time and in accordance with the monitoring plan provided for in the Spanish management plan.
- (27) A limitation in duration of the derogation will allow ensuring prompt corrective management measures in case the monitoring of the management plan shows a poor conservation status of the exploited stock, while providing scope to enhance the scientific basis for an improved management plan.
- (28) Accordingly the derogation should apply until 31 December 2019.
- (29) The measures provided for in this Regulation are in accordance with the opinion of the Committee for Fisheries and Aquaculture,

⁽¹⁾ 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).

HAS ADOPTED THIS REGULATION:

Article 1

Derogation

Article 13(1) of Regulation (EC) No 1967/2006 shall not apply in territorial waters of Spain adjacent to the coast of the Autonomous Community of Murcia, to fishing for transparent goby (*Aphia minuta*) by boat seines which are used by vessels:

- (a) registered in the maritime census managed by the Directorate-General for Livestock and Fisheries of the Autonomous Community of Murcia;
- (b) having a track record in the fishery of more than 5 years and not involving any future increase in fishing effort provided; and
- (c) holding a fishing authorisation and operating under the management plan adopted by Spain in accordance with Article 19 of Regulation (EC) No 1967/2006 (hereinafter referred to as 'the management plan').

This derogation shall apply until 31 December 2019.

Article 2

Monitoring plan and report

Spain shall communicate to the Commission, within three years following the entry into force of this Regulation, a report drawn up in accordance with the monitoring plan established in the management plan referred to in Article 1, first paragraph, point (c).

Article 3

Entry into force

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, 10 April 2017.

For the Commission
The President
Jean-Claude JUNCKER
