Commission Implementing Regulation (EU) 2020/1242 of 1 September 2020 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) within the Spanish territorial waters of the Autonomous Community of the Region of Murcia

COMMISSION IMPLEMENTING REGULATION (EU) 2020/1242

of 1 September 2020

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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, amending Regulation (EEC) No 2847/93 and repealing Regulation (EC) No 1626/94[(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 the first subparagraph of 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) A derogation from the first subparagraph of Article 13(1) for the use of boat seines fishing transparent goby (*Aphia minuta*) within the Spanish territorial waters of the Autonomous Community of the Region of Murcia was granted for the first time until 31 December 2016 by Commission Implementing Regulation (EU) No 773/2013[(2)]. That derogation was based on an additional derogation from the minimum mesh size adopted by Spain pursuant to Article 9(7) of Regulation (EC) No 1967/2006 because without it the relevant fishery could not have taken place and would have had to simply close.

(4) An extension of the derogation was granted until 31 December 2019 by Commission Implementing Regulation (EU) 2017/677[(3)] taking into account the management plan for the fisheries to which the derogation applied established by Spain pursuant to Article 19 of Regulation (EC) No 1967/2006.

(5) Spain submitted scientific reports on the implementation of this management plan in 2017, 2018 and 2019.

(6) On 26 June 2019, Spain requested the Commission to extend the derogation from the first subparagraph of Article 13(1) beyond 31 December 2019. Spain provided a draft of the new management plan regulating the fishery of transparent goby (*Aphia minuta*) in the internal waters of the Region of Murcia in accordance with Article 19 of Regulation (EC) No 1967/2006 and up-to-date information to justify the renewal of the derogation.

(7) The Scientific, Technical and Economic Committee for Fisheries (STECF) assessed the requested extension of the derogation and the related draft management plan in September 2019[(4)]. STECF concluded that boat seine management plan in the Murcia Region in the period 2016-2019 was properly implemented, and that the conditions upon which the derogation regarding the minimum distance from the coast and depth was granted in 2016 continued to be fulfilled. STECF notes that the fishing gear appears to be highly selective.

(8) On 21 December 2019, Spain adopted this new management plan[(5)].

(9) The derogation requested by Spain complies with the conditions laid down in Article 13(5) and (9) of Regulation (EC) No 1967/2006.

(10) There are specific geographical constraints given the limited size of the continental shelf and the limited extend of the trawlable fishing grounds, as the target species is exclusively limited to certain zones in the coastal areas at depths of less than 50 meters.

(11) The fishery has no significant impact on the marine environment, since boat seines are hauled in the water column and do not touch the seabed. Due to the use of echo sounders, the fishery is highly selective with few bycatches. Besides, unwanted catches are immediately released alive with very high survivability.

(12) The derogation requested by Spain affects a limited number of only 27 vessels.

(13) The fishery cannot be undertaken with another gear, as boat seines are the only regulated gear allowed to capture species of a size as small as transparent goby and with a schooling behaviour in shallow coastal waters.

(14) The vessels are registered in the Spanish National Operational Fishing Fleet Census, have a track record in the fishery of more than five years and will operate under a management plan.

(15) The management plan guarantees no future increase in the fishing effort, as fishing authorisations will be issued to 27 vessels involving a maximum capacity of 116 Hp per vessel. The fishery continues to take place on working days (Monday-Friday) during December, January and February. In addition, the maximum quota per fishing season has been reduced to 18,2 tons. On the basis of the management plan, if exceeded, the fishery will be closed until next season.

(16) The fishery concerned fulfils 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.

(17) Moreover, the fishery concerned could not have taken place without a derogation from the minimum applicable mesh size.

(18) However, because this fishery is highly selective, has a negligible effect on the marine environment and is not affected by the provisions in Article 4(5) of Regulation (EC) No 1967/2006, Spain authorised in the past the derogation from the minimum mesh size based on Article 9(7) of Regulation (EC) No 1967/2006.

(19) Article 9 of Regulation (EC) No 1967/2006 was deleted by Regulation (EU) 2019/1241 of the European Parliament and of the Council[6]. However, according to point 4, part B of Annex IX to Regulation (EU) 2019/1241, derogations from minimum mesh sizes adopted on basis of Article 9 of Regulation (EC) No 1967/2006, that were in force on 14 August 2019, can continue to apply, provided they do not lead to the increase in catches of juveniles. The extended derogation requested by Spain complies with the conditions laid down in Article 15(5) and in point 4 of Part B of Annex IX to Regulation (EU) 2019/1241, as it does not lead to a deterioration of selectivity standards, in particular in terms of an increase in the catches of juveniles, existing on 14 August 2019, and aims at achieving the objectives and targets set out in Articles 3 and 4 of that Regulation

(20) The fishing activities concerned fulfil the recording requirements laid down in Article 14 of Council Regulation (EC) No 1224/2009[7].

(21) The fishery concerned take place at a very short distance from the coast and therefore does not interfere with the fishing activities of other vessels.

(22) The fishery concerned is regulated in the Spanish management plan to ensure that catches of species mentioned in Annex IX to Regulation (EU) 2019/1241 are minimal.

(23) Boat seines do not target cephalopods.

(24) The Spanish management plan includes measures for the monitoring of the fishery, in accordance with 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 the duration of the derogation will allow ensuring prompt corrective management measures in case the monitoring of the management plan will show a poor conservation status of the exploited stock, while providing scope to enhance the scientific basis for an improved management plan. The end of the derogation should therefore be fixed at the end of the fishing season. Accordingly, the derogation should apply until 1 March 2023.

(28) Since the derogation granted by Implementing Regulation (EU) 2017/677 expired on 31 December 2019, in order to ensure legal continuity, this Regulation should apply with effect from 1 January 2020. 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,