Commission Implementing Regulation (EU) 2020/967 of 3 July 2020 laying down the detailed rules on the signal and implementation characteristics of acoustic deterrent devices as referred to in Part A of Annex XIII of Regulation (EU) 2019/1241 of the European Parliament and of the Council on the conservation of fisheries resources and the protection of marine ecosystems through technical measures

COMMISSION IMPLEMENTING REGULATION (EU) 2020/967

of 3 July 2020

laying down the detailed rules on the signal and implementation characteristics of acoustic deterrent devices as referred to in Part A of Annex XIII of Regulation (EU) 2019/1241 of the European Parliament and of the Council on the conservation of fisheries resources and the protection of marine ecosystems through technical measures

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[(1)], and in particular Article 24(1)(e) thereof,

Whereas:

(1) A number of acoustic devices have been developed to deter cetaceans from fishing gear, and have proven successful in reducing incidental by-catch of cetacean species in static net fisheries. The use of such devices is required in areas and fisheries with known or foreseeable high levels of by-catch of cetaceans, as established in Annex XIII Part A Point 1.1 of Regulation (EU) 2019/1241.

(2) Regulation (EU) 2019/1241 simplifies the existing legal framework for technical conservation measures in the European Union, which had become highly complex over the years. As part of the simplification, Regulation (EU) 2019/1241 repealed Council Regulation (EC) No 812/2004[(2)], laying down measures concerning incidental catches of cetaceans in fisheries, and took over only the core technical measures to mitigate incidental catches, such as the requirement to use the fishing gear in specific areas with acoustic deterrent devices to reduce incidental catches of cetaceans.

(3) Detailed technical specifications for the efficiency of acoustic deterrent devices that were established in Article 3 and Annex II of Council Regulation (EC) No 812/2004 were not taken over by Regulation (EU) 2019/1241. Accordingly, this Regulation should establish such detailed technical specifications or conditions for the use of acoustic deterrent devices required now under Annex XIII Part A Point 1.1 of Regulation (EU) 2019/1241, similarly to those previously specified in Article 3 and Annex II of Regulation (EC) No 812/2004.

(4) Nevertheless, following advice of the Scientific, Technical and Economic Committee for Fisheries (STECF)[3], the development of new acoustic deterrent devices should not be constrained by technical specifications. Member States should, therefore, be allowed, for the purpose of this Regulation, to authorise the use of newly developed and efficient types of acoustic deterrent devices not in conformity with the technical specifications laid down in this Regulation, provided there is evidence that such devices are at least as effective in reducing incidental by-catch of cetacean species as those set in Regulation (EU) 2019/1241 (including further implementing rules adopted under this Regulation). It is therefore appropriate to establish the conditions under which the Member States can authorise use of acoustic deterrent devices that fulfil such alternative technical specifications or conditions.

(5) In view of the deficiencies highlighted by reports on the control and implementation of the provisions on technical specifications for the use of the acoustic deterrent devices received by the Commission so far, this Regulation should clarify that the acoustic deterrent devices need to be functional during the whole duration of the fishing operation, and not only at the moment when nets are set.

(6) 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

This Regulation establishes detailed rules on the signal and implementation characteristics of acoustic deterrent devices as referred to in Part A of Annex XIII of Regulation (EU) 2019/1241.

Article 2

1 The masters of Union fishing vessels shall ensure that the acoustic deterrent devices referred to in point 1.1 of Annex XIII to Regulation (EU) 2019/1241 are fully operational, during the whole fishing operation.

2 Such acoustic deterrent devices shall comply with one of the sets of the technical specifications and conditions of use defined in Annex I to this Regulation.

3 By way of derogation from paragraph 2, Member States may authorise the use of acoustic deterrent devices that do not fulfil the technical specifications or conditions of use defined in the Annex, provided that such devices are at least equally effective in the reduction of incidental catches of cetaceans as the acoustic deterrent devices with the technical specifications or conditions defined in the Annex, and this has been duly documented.

4 Member States shall inform the Commission of the authorisations issued in accordance with paragraph 3 within two months of the date of issue.

5 The notification referred to in paragraph 4 shall be accompanied with detailed technical and scientific information on the acoustic deterrent devices authorised according to paragraph 3 and their effects on incidental catches of cetaceans.

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2020/967. (See end of Document for details)*

Article 3

This Regulation shall enter into force on the thirtieth 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, 3 July 2020.

For the Commission

The President

Ursula VON DER LEYEN