Commission Implementing Regulation (EU) 2019/1248 of 22 July 2019 establishing measures to alleviate a serious threat to the conservation of the eastern Baltic cod (Gadus morhua) stock

COMMISSION IMPLEMENTING REGULATION (EU) 2019/1248

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establishing measures to alleviate a serious threat to the conservation of the eastern Baltic cod (*Gadus morhua*) stock

THE EUROPEAN COMMISSION,

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

Having regard to 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[(1)], and in particular Article 12(1) thereof,

Whereas:

(1) Article 12 of Regulation (EU) No 1380/2013 provides that the Commission may adopt emergency measures on duly justified imperative grounds of urgency relating to a serious threat to the conservation of marine biological resources. The Commission, at the reasoned request of a Member State or on its own initiative, may, in order to alleviate that threat, adopt such emergency measures in the form of immediately applicable implementing acts applicable for a maximum period of six months.

(2) Moreover, paragraph 2 of Article 5 of Regulation (EU) 2016/1139 of the European Parliament and of the Council[(2)] provides that remedial measures are to be taken when scientific advice indicates that the spawning stock biomass of a fish stock covered by that Regulation is below the reference point below which there may be reduced reproductive capacity. Those remedial measures are to ensure the rapid return of the concerned stock to levels above those capable of producing maximum sustainable yield (MSY).

(3) According to scientific advice from the International Council for the Exploration of the Sea (ICES), the eastern Baltic cod (*Gadus morhua*) stock suffers from an unsustainably low biomass due to a combination of declining recruitment, environmental factors and changes in the ecosystem leading to a high natural mortality and an excessive fishing mortality given the status of the stock. The stock is distressed and is expected to have reduced reproductive potential. Recruitment in 2017 was at the lowest point in the ICES time series, and recruitment in 2018 may have been even lower. The spawning stock biomass is at one of the lowest historically observed levels and the biomass of commercial sized cod is presently at the lowest level observed since the 1950s. Moreover, ICES estimates that the biomass will remain below the sustainability

reference point in the mid-term even with no fishing at all. In its stock advice for 2020 ICES therefore advises zero catches.

(4) The conservation of the eastern Baltic cod stock is seriously threatened because of the risk of a serious harm to the reproductive capacity of that stock caused by the steep decline of the spawning stock biomass. Moreover, ICES considers that fishing at any level will target the remaining few commercial sized cod, and therefore further deteriorate the stock structure and reduce its reproductive potential, which is already at a historic low. Furthermore, the peak spawning season of eastern Baltic cod stretches from May until August. There are therefore duly justified imperative grounds of urgency for adopting emergency measures because, firstly, the biomass of eastern Baltic cod is at such a dangerously low level that the stock is no longer able to replenish itself and is hence threatened with collapse, secondly, any continued fishing on that stock increases the risk of a its collapse, and, thirdly, the peak spawning season is ongoing.

(5) Emergency measures taken by Member States pursuant to Article 13 of Regulation (EU) No 1380/2013 would not be sufficient to address the situation as they would not ensure a uniform approach in all areas where the stock occurs. Moreover, at this stage, not all Member States have adopted or are intending to adopt such measures. Finally, at a meeting of the Group of Baltic Sea Member States (BaltFish) on 4 June 2019 Member States were not in a position to agree on a common approach.

(6) In the absence of sufficient Member States' measures and in view of the urgency to act in order to avoid a further deterioration of the stock structure and a reduction of its reproductive potential, it is appropriate to provide for remedial measures at the Union level on the basis of Article 12 of Regulation (EU) No 1380/2013.

(7) The management area of eastern Baltic cod comprises ICES subdivisions 25 - 32. In ICES subdivision 24 both cod from the eastern Baltic stock and cod from the western Baltic stock occur, but most of the catches are taken from the eastern Baltic stock. In order to provide adequate protection of the eastern Baltic stock and to avoid a concentration of catches of cod from the eastern Baltic stock in ICES subdivision 24, it is essential that the emergency measures cover ICES subdivision 24.

(8) In the light of scientific advice, it is appropriate to prohibit fishing for the eastern Baltic cod stock until year-end. The measure, however, also needs to be proportionate to its objective.

(9) According to ICES cod abundance and catches are very low in ICES subdivisions 27-32. As the implementation of the measures of this Regulation puts a non-negligible burden on the administration and on fishermen it would be disproportionate to include the areas where eastern Baltic cod hardly occurs in the scope of this Regulation.

(10) Furthermore, in subdivision 24 it is appropriate to exempt from the prohibition fishing for cod up to six nautical miles from shore in areas where the water depth is less than 20 meters by vessels of less than 12 meters length which use passive gears because it is mostly western Baltic cod which occurs in the shallow coastal areas of subdivision 24.

(11) Moreover, in view of the potentially severe socioeconomic implications of a total fishing stop, it is appropriate to target directed cod fisheries such as the directed

demersal trawler fisheries, which account for the vast majority of cod from the eastern Baltic stock in subdivisions 24, 25 and 26. Conversely, it is appropriate to exempt from the prohibition the unavoidable by-catches of those fishing activities not directed to cod which are carried out either with active gears with a mesh size not exceeding 45 mm in subdivisions 24, 25 and 26, or by vessels of less than 12 meters length fishing with passive gears in subdivisions 25-26, or in subdivision 24 up to six nautical miles from shore in areas where the water depth is more than 20 meters and, irrespective of the water depth, beyond six nautical miles from shore, in view of the limited part played by those fishing activities in the overall levels of cod catches and taking into account the difficulty of fishing all stocks in a mixed fishery at maximum sustainable yield at the same time. ICES estimates that the former account for around 1,5 % of total annual eastern Baltic cod landings. The amount of by-catch landed by the latter is low but as the precise quantity is unknown the by-catch should be limited to 10 % of the landings of each fishing trip.

(12) The number of vessels of less than 12 meters length using passive gears and catching cod as by-catch should not increase as compared to the period from 1 January 2018 to 30 June 2019. As Union vessels fishing with trawls, Danish seines or similar gear of a mesh size of no more than 45 mm cannot target cod, it is not necessary to limit the number of these vessels.

(13) The measures provided for in this Regulation will be submitted to the Committee for Fisheries and Aquaculture in order to obtain its opinion.

(14) For reasons of urgency, this Regulation should enter into force immediately after its publication,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation sets emergency measures to alleviate a serious threat to the eastern Baltic cod (*Gadus morhua*) stock.

Article 2

Emergency measures

1 It shall be prohibited for Union fishing vessels to fish for cod in ICES subdivisions 24, 25 and 26, and to retain on board, transfer, tranship, process on board or land cod and fisheries products from cod caught in that area.

2 By way of derogation from paragraph 1, the prohibition to fish for cod shall not apply to Union fishing vessels of less than 12 meters length overall fishing with gillnets, entangling nets or trammel nets, or with bottom set lines, longlines (except drifting lines), handlines and jigging equipment or similar passive gear in subdivision 24 up to six nautical miles measured from the baselines in areas where the water depth is less than 20 meters according to the coordinates on the official sea chart issued by the competent national authorities.