Commission Implementing Regulation (EU) 2018/317 of 2 March 2018 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

COMMISSION IMPLEMENTING REGULATION (EU) 2018/317

of 2 March 2018

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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[(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 10 January 2014 the Commission received a request from Italy 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*) in the territorial waters of Italy adjacent to the coast in the Gulf of Manfredonia (Apulia region).

(4) The request concerns vessels registered in the maritime Directorate of Manfredonia with a track record in the fishery of more than 5 years and operating under a management plan regulating boat seines fishing for transparent goby (*Aphia minuta*) in the Manfredonia fishing district.

(5) The Scientific, Technical and Economic Committee for Fisheries (STECF) assessed the derogation requested by Italy and the related management plan in July 2016. STECF highlighted need for clarifications on fishing effort, gears used, monitoring and scientific data. Italy provided adequate clarifications to the Commission and revised accordingly its management plan by changing gears used, reducing fishing effort and re-enforcing monitoring measures.

(6) Italy adopted the management plan by Decree[(2)] in accordance with Article 19(2) of Regulation (EC) No 1967/2006.

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

(8) In particular, there are specific geographical constraints given both the limited size of the continental shelf and the spatial distribution of the target species, which is exclusively limited to certain zones in the coastal areas at depths smaller than 50 m. The fishing grounds are therefore limited.

(9) Boat seines fishing is carried out close to the shore in shallow depths. The nature of this type of fishery is such that it cannot be undertaken with any other gears.

(10) Boat seines fishing has no significant impact on the marine environment 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.

(11) The derogation requested by Italy affects a total of 100 vessels, although only 30 vessels will be authorised daily, through a turnover mechanism. It can therefore be concluded that the derogation affects a limited number of vessels.

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

(13) The management plan sets out all relevant definitions on the fisheries concerned and guarantees no future increase of the fishing effort, as fishing authorisations will be issued to specified 100 vessels that are already authorised to fish by Italy.

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

(15) The requirements of Article 8(1)(h) of Regulation (EC) No 1967/2006 are not applicable since they relate to trawlers.

(16) As regards the requirement to comply with Article 9(3) of Regulation (EC) No 1967/2006 establishing the minimum mesh size, the Commission notes that in accordance with Article 9(7) of that Regulation, Italy authorised a derogation from Article 9(3) of that Regulation in its management plan, as the fisheries concerned are highly selective, have a negligible effect on the marine environment and are not affected by the provisions in Article 4(5) of that Regulation.

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

(18) The management plan ensures that catches of species mentioned in Annex III to Regulation (EC) No 1967/2006 are minimal. Moreover, according to Chapter 6.1.2 of the Italian management plan, the fishing for transparent goby (*Aphia minuta*) is limited to a fishing season from 1 November to 31 March each year.

(19) Boat seines do not target cephalopods.

(20) The fishing activities concerned fulfil the recording requirements laid down in Articles 14 and 15 of Council Regulation (EC) No 1224/2009[(3)].

(21) The Italian 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.

(22) The requested derogation should therefore be granted.

(23) Italy should report to the Commission at regular intervals and in accordance with the monitoring plan provided for in the Italian management plan.

(24) A limitation in duration of the derogation will allow ensuring 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.

(25) 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

1 Article 13(1) of Regulation (EC) No 1967/2006 shall not apply in territorial waters of Italy adjacent to the coast of the Manfredonia Gulf, to fishing for transparent goby (*Aphia minuta*) by boat seines.

2 The boat seines referred to in paragraph 1 shall be used by vessels:

a registered in the maritime Directorate of Manfredonia;

b having a track record in the fishery of more than 5 years and not involving any future increase in the fishing effort deployed; and

c holding a fishing authorisation and operating under the management plan adopted by Italy in accordance with Article 19(2) of Regulation (EC) No 1967/2006.

Article 2

Monitoring plan and report

Italy shall communicate to the Commission, within 1 year following the entry into force of this Regulation, a report drawn up in accordance with the monitoring plan established in the Italian management plan.

Article 3

Entry into force and period of application

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.