Commission Implementing Regulation (EU) 2017/2383 of 19 December 2017 extending the derogation from Council Regulation (EC) No 1967/2006 as regards the minimum distance from coast and the minimum sea depth for the 'volantina' trawlers fishing in the territorial waters of Slovenia

COMMISSION IMPLEMENTING REGULATION (EU) 2017/2383

of 19 December 2017

extending the derogation from Council Regulation (EC) No 1967/2006 as regards the minimum distance from coast and the minimum sea depth for the 'volantina' trawlers fishing in the territorial waters of Slovenia

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 metres 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 8 February 2013 the Commission received a request from Slovenia for a derogation from the first subparagraph of Article 13(1) of Regulation (EC) No 1967/2006, for the use of 'volantina' trawls in the territorial waters of Slovenia, at less than 50 meters depth, in the area between 1,5 and 3 nautical miles from the coast.

(4) The derogation requested by Slovenia complied with the conditions laid down in Article 13(5) and (9) of Regulation (EC) No 1967/2006 and was granted until 23 March 2017 by Commission Implementing Regulation (EU) No 277/2014[(2)].

(5) On 20 June 2016 the Commission received a request from Slovenia to extend the derogation beyond 23 March 2017. Slovenia provided up-to-date information justifying the extension of the derogation, in light of the requirements of Regulation (EC) No 1967/2006. The request concerns vessels with a track record in the fishery of more than five years and which operate under a management plan adopted by Slovenia on 13 February 2014[(3)] in accordance with Article 19(2) of Regulation (EC) No 1967/2006. 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.

(6) The Scientific, Technical and Economic Committee for Fisheries (STECF) assessed the derogation requested by Slovenia and the related draft management plan at its 52nd plenary session held from 4 to 8 July 2016.

(7) In light of the STECF evaluation, Slovenia submitted to the Commission additional scientific data and reports on 7 September 2016 and, on 27 December 2016, an updated management plan.

(8) STECF assessed the derogation requested by Slovenia and the additional documents at its 54th plenary session held from 27 to 31 March 2017. STECF highlighted need for clarifications on track record of authorised vessels, fishing gears used and bycatches. Slovenia provided adequate clarifications to the Commission and ensured the development of additional scientific study on catches and efforts to increase the selectivity of the gears.

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

(10) In particular, there are specific geographical constraints, as the territorial waters of Slovenia do not at any point reach a depth of 50 meters. In the absence of a derogation, volantina trawlers could therefore only operate beyond 3 nautical miles from the coast, where fishing grounds are significantly limited by an area devoted to commercial shipping routes.

(11) The management plan sets out all relevant definitions on the fisheries concerned and guarantees no future increase in the fishing effort, as fishing authorisations will be issued only to specified 12 vessels that are already authorised to fish by Slovenia.

(12) The ‘volantina’ trawl fishery cannot be undertaken with other gears, has no significant impact on marine environment, including protected habitats, and does not interfere with gears other than trawls, seines or similar towed nets.

(13) The derogation requested by Slovenia affects a limited number of only 12 vessels. The registration numbers of these vessels are specified in the management plan.

(14) 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.

(15) The requested derogation complies with Article 8(1)(h) of Regulation (EC) No 1967/2006 since it relates to trawlers operating with mesh sizes not smaller than 40 mm.

(16) The fishing activities concerned fulfil the requirements of Article 9(3) of Regulation (EC) No 1967/2006. ‘Volantina’ trawlers do not target cephalopods.

(17) The Slovenian 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 and in Articles 14 and 15 of Council Regulation (EC) No 1224/2009[(4)].

(18) The requested derogation should therefore be granted.

(19) Slovenia should report to the Commission in due time and in accordance with the monitoring plan provided for in the Slovenian management plan.

(20) A limitation in duration of the derogation should be established in order to allow prompt corrective management measures in case the report to the Commission shows a poor conservation status of the exploited stock while providing scope to improve the scientific basis for an improved management plan.

(21) Since the derogation granted by Implementing Regulation (EU) No 277/2014 expired on 23 March 2017, this Regulation should apply from 24 March 2017.

(22) 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

Article 13(1) of Regulation (EC) No 1967/2006 shall not apply in territorial waters of Slovenia, irrespective of the depth, between 1,5 and 3 nautical miles from the coast, to 'volantina' trawls which are used by vessels:

(a) bearing the registration number mentioned in the Slovenian management plan adopted by Slovenia in accordance with Article 19(2) of Regulation (EC) No 1967/2006;

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

(c) holding a fishing authorization and operating under the management plan.

Article 2

Monitoring plan and reporting

Slovenia 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.

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*.

It shall apply from 24 March 2017 until 27 March 2020.

This Regulation shall be binding in its entirety and directly applicable in all Member States.