Commission Delegated Regulation (EU) 2017/1181 of 2 March 2017 amending Delegated Regulation (EU) 2017/117 establishing fisheries conservation measures for the protection of the marine environment in the Baltic Sea and repealing Delegated Regulation (EU) 2015/1778

COMMISSION DELEGATED REGULATION (EU) 2017/1181

of 2 March 2017

amending Delegated Regulation (EU) 2017/117 establishing fisheries conservation measures for the protection of the marine environment in the Baltic Sea and repealing Delegated Regulation (EU) 2015/1778

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 11(2) thereof,

Whereas:

(1) Pursuant to Article 11 of Regulation (EU) No 1380/2013, Member States are empowered to adopt fisheries conservation measures in their waters that are necessary for the purpose of complying with their obligations under Union environmental legislation, including Article 6 of Council Directive 92/43/EEC[(2)] and Article 13(4) of Directive 2008/56/EC of the European Parliament and of the Council[(3)].

(2) Article 6 of Directive 92/43/EEC requires Member States to establish the necessary conservation measures for Special Areas of Conservation that correspond to the ecological requirements of those natural habitat types and species present on the sites as listed in the Annexes to that Directive. It also requires Member States to take appropriate steps to avoid, in the special areas of conservation, the deterioration of natural habitats and the habitats of species as well as significant disturbance of the species for which the areas have been designated.

(3) Pursuant to Article 13(4) of Directive 2008/56/EC Member States are to adopt programmes of measures, including spatial protection measures that contribute to coherent and representative networks of marine protected areas, and adequately cover the diversity of the constituent ecosystems, such as special areas of conservation pursuant to the Habitats Directive, special protection areas pursuant to the Birds Directive[(4)], and marine protected areas as agreed by the Community or Member States concerned in the framework of international or regional agreements to which they are parties.

(4) Where a Member State considers that measures need to be adopted for the purpose of complying with its obligations under Union environmental legislation and other

Member States have a direct management interest in the fishery to be affected by such measures, the Commission is empowered to adopt such measures by means of delegated acts upon a joint recommendation submitted by the interested Member States.

(5) On 5 September 2016, the Commission adopted Delegated Regulation (EU) 2017/117[(5)] establishing fisheries conservation measures for the protection of the marine environment in the Baltic Sea and repealing Commission Delegated Regulation (EU) 2015/1778[(6)].

(6) In accordance with Article 11(3) of Regulation (EU) No 1380/2013, Denmark provided the Commission and Member States having direct managing interest with relevant information on certain additional measures required, including their rationale, scientific evidence in support and details on their practical implementation and enforcement.

(7) On 30 November 2016 Denmark, Sweden, Germany and Poland submitted to the Commission a joint recommendation for fisheries conservation measures to protect reef structures in three additional Danish Natura 2000 sites in the Baltic Sea. That recommendation was submitted after having consulted the Baltic Sea Advisory Council.

(8) The recommended measures comprise the prohibition of fishing activities with mobile bottom contacting gear in reef zones (under habitat type 1170) and the surrounding buffer zones.

(9) Bottom fishing activity with mobile bottom contacting gear has a negative impact on reef habitats, as such activity affects both the reef structures and the biodiversity found at the reefs. Therefore the prohibition to fish with such gears in the relevant Danish reef areas, as set out in the joint recommendation, should be included in Delegated Regulation (EU) 2017/117.

(10) The Scientific, Technical and Economic Committee for Fisheries (STECF)[(7)] states in its scientific advice of 6 December 2016 that the proposed conservation objectives within the special areas referred to in the joint recommendation cannot be fully achieved without appropriate measures to prevent fishing activity in the areas.

(11) STECF identified some issues regarding the control and enforcement of the conservation measures in the sites concerned. Member States are required to adopt appropriate measures, allocate adequate resources and set up the structures necessary for ensuring control, inspection and enforcement of activities carried out within the scope of the common fisheries policy (CFP). This may include measures such as the requirement of submitting VMS positions with increased frequency by all vessels concerned or identifying the areas as high risk in the national control system based on risk management, addressing the concerns of STECF.

(12) Denmark provided detailed information on the measures ensuring monitoring and control taking account the current level of fishing activity in these areas. These control measures involve sea going fisheries inspections and constant monitoring by the Danish fisheries monitoring centre through the risk based management system. Automatic identification system is also used to supplement VMS data.

(13) It is important to ensure the assessment of the measures introduced by this Regulation, in particular as regards the control of compliance with fishing prohibitions. Therefore a further assessment should be performed by Denmark in order to ensure the compliance with prohibited fisheries at latest 18 months after this Regulation enters into force.

(14) Delegated Regulation (EU) 2017/117 should be amended accordingly.

(15) The fisheries conservation measures established by this Regulation are without prejudice to any other existing or future management measures aiming at the conservation of the sites concerned, including fisheries conservation measures,

HAS ADOPTED THIS REGULATION:

Article 1

Amendment of Delegated Regulation (EU) 2017/117

Delegated Regulation (EU) 2017/117 is amended as follows:

(1) in Article 2, point (c) is deleted;

(2) Article 5 is replaced by the following:

Article 5

Review

1 By 30 June 2017, Denmark, Germany and Sweden shall assess the implementation of the measures set out in Article 3 and 4 in areas 1 to 7 as defined in the Annex.

2 By 31 July 2017, Denmark, Germany and Sweden shall submit to the Commission a summary report of the assessement referred to in paragraph 1.

3 By 31 October 2018, Denmark, Sweden, Germany and Poland shall assess the implementation of the measures set out in Article 3 and 4 in areas 8, 9 and 10 as defined in the Annex.

4 By 30 November 2018, Denmark, Sweden, Germany and Poland shall submit to the Commission a summary report of the assessment referred to in paragraph 3.;

(3) the Annex is replaced by the text set out in the Annex to this Regulation.

Article 2

Entry into force

This Regulation shall enter into force on the twentieth 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.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/1181. (See end of Document for details)

Done at Brussels, 2 March 2017.

For the Commission

The President

Jean-Claude JUNCKER

***Changes to legislation:** There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/1181. (See end of Document for details)*

ANNEX

ANNEX

Restricted Areas: Coordinates of stone reef protection zones

Area 1: Habitat No 205, Natura 2000 site No 205, (EU code: DK00VA304) Munkegrund

Point	Latitude N	Longitude E
1S	55°57.190′	10°51.690′
2S	55°57.465′	10°51.403′
3S	55°57.790′	10°51.477′
4S	55°57.976′	10°52.408′
5S	55°57.985′	10°54.231′
6S	55°58.092′	10°54.315′
7S	55°58.092′	10°57.432′
8S	55°57.920′	10°57.864′
9S	55°57.526′	10°57.861′
10S	55°56.895′	10°57.241′
11S	55°57.113′	10°53.418′
12S	55°57.050′	10°53.297′
13S	55°57.100′	10°52.721′
14S	55°57.275′	10°52.662′
15S	55°57.296′	10°52.435′
16S	55°57.399′	10°52.244′
17S	55°57.417′	10°52.116′
18S	55°57.251′	10°52.121′
19S	55°57.170′	10°51.919′
20S	55°57.190′	10°51.690′

Area 2: Habitat No 174, Natura 2000 site No 198, (EU code: DK00VA255) Hatterbarn

Point	Latitude N	Longitude E
1S	55°51.942′	10°49.294′
2S	55°52.186′	10°49.309′
3S	55°52.655′	10°49.509′
4S	55°52.676′	10°49.407′
5S	55°52.892′	10°49.269′