Commission Delegated Regulation (EU) 2017/117 of 5 September 2016 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) 2017/117

of 5 September 2016

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, fisheries conservation measures may be adopted 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)].

(2) Article 6 of Council 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 natural habitat types and species present on the sites. 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) Denmark considered that, for the purpose of complying with Article 6 of Directive 92/43/EEC, conservation measures needed to be adopted in certain areas under its sovereignty in the Baltic Sea. If necessary fisheries conservation measures affect the fishery of other Member States, the Member States may submit these measures in joint recommendations to the Commission.

(4) Germany and Sweden have a direct management interest in the fishery to be affected by such measures. In accordance with Article 11(3) of Regulation (EU) No 1380/2013, Denmark provided Germany and Sweden with relevant information on the measures required, including their rationale, scientific evidence in support and details on their practical implementation and enforcement.

(5) On 13 March 2015 Denmark, Germany and Sweden submitted to the Commission a joint recommendation for fisheries conservation measures to protect reef structures in Danish Natura 2000 sites in the Baltic Sea. This recommendation was submitted after having consulted the Baltic Sea Advisory Council.

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/117. (See end of Document for details)*

(6) The recommended measures concerned seven Natura 2000 sites in the Baltic Sea. They comprised the prohibition of fishing activities with mobile bottom contacting gear in reef zones.

(7) In its scientific advice, the Scientific, Technical and Economic Committee on Fisheries ('STECF')[3] stated on 17 April 2015 that the conservation objectives within the Special Areas of Conservation referred to in the joint recommendation could not be fully achieved without appropriate measures to prevent fishing activity in the areas.

(8) STECF identified some concerns as regards the control and enforcement of the conservation measures and considered that additional control measures may be appropriate. In accordance with Article 5 of Council Regulation (EC) No 1224/2009[4] 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 vessels monitoring systems (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.

(9) On 25 June 2015, the Commission adopted Delegated Regulation (EU) 2015/1778[5] in order to establish fisheries conservation measures for the protection of the relevant reef zones in the Baltic Sea and the Kattegat, North Sea, on the basis of two joint recommendations submitted by the Member States concerned.

(10) 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 reef areas, as set out in the joint recommendations, was included in that Regulation.

(11) It was appropriate to ensure the assessment of the measures established by that Regulation, in particular as regards the control of compliance with fishing prohibitions.

(12) On 10 June 2016, having consulted the North Sea Advisory Council, Denmark, Germany and Sweden submitted to the Commission a joint recommendation for fisheries conservation measures to protect reef structures, pockmarks and sea-pen and burrowing megafauna communities in the Bratten area located in the Skagerrak (North Sea).

(13) Following that new joint recommendation, it is appropriate to repeal Delegated Regulation (EU) 2015/1778 and to rearrange the conservation measures by sea basin into two different legal instruments.

(14) This Regulation should only comprise the conservation fisheries measures which are currently applicable in the Baltic Sea.

(15) The conservation measures which are currently applicable in the Kattegat and those suggested for the Bratten area (Skagerrak) by the joint recommendation of 10 June 2016 should be included in a new separate Regulation concerning the North Sea.

(16) 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

Subject matter and scope

1 This Regulation establishes fisheries conservation measures necessary for compliance with obligations under Article 6 of Directive 92/43/EEC.

2 This Regulation applies to fishing vessels in the Baltic Sea.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply in addition to those laid down in Article 4 of Regulation (EU) No 1380/2013 and Article 2 of Commission Implementing Regulation (EU) No 404/2011[(6)]:

(a) ‘bottom contacting gear’ means any of the following gear: bottom trawl, beam trawl, bottom otter trawl, otter twin trawl, bottom pair trawl, nephrops trawl, shrimp trawl, seine net, Danish anchor seine, Scottish seine, boat or vessel seine and dredge;

(b) ‘restricted areas’ mean the geographical areas enclosed by sequentially joining with rhumb lines the positions listed in the Annex to this Regulation, which shall be measured according to the WGS84 coordinate system.

(c) **[**[F1]. . . . .**]**

Textual Amendments

F1 Deleted by 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.

Article 3

Fishing prohibition

1 It shall be prohibited to carry out any fishing activity with bottom contacting gear in the restricted areas.

2 Fishing vessels carrying on board any bottom contacting gear may carry out fishing activities in the restricted areas with gears other than those gears, provided that the bottom contacting gears be lashed and stowed in accordance with the conditions laid down in Article 47 of Regulation (EC) No 1224/2009.

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/117. (See end of Document for details)*

Article 4

Transit

Fishing vessels carrying on board any bottom contacting gear may transit across the restricted areas, provided that the bottom contacting gears be lashed and stowed in accordance with the conditions laid down in Article 47 of Regulation (EC) No 1224/2009.

[*F2**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.**]**

Textual Amendments

F2 Substituted by 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.

Article 6

Repeal

Delegated Regulation (EU) 2015/1778 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation and Commission Delegated Regulation (EU) 2017/118[(7)] as appropriate.

Article 7

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) 2017/117. (See end of Document for details)*