Commission Implementing Regulation (EU) 2015/2407 of 18 December 2015 renewing the 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) 2015/2407

of 18 December 2015

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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, amending Regulation (EEC) No 2847/93 and repealing Regulation (EC) No 1626/94[(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 16 March 2010 the Commission received a request from Italy for a derogation from the first subparagraph of Article 13(1) of Regulation(EC) No 1967/2006, for the use of boat seines fishing for transparent goby (*Aphia minuta*) in the territorial waters of the Geographical Sub-Area 9, as defined in Annex I to Regulation (EU) No 1343/2011 of the European Parliament and of the Council[(2)].

(4) The request covered vessels registered in the maritime Directorates of Genoa and Livorno which had a track record in the fishery of more than 5 years and operated under a management plan regulating boat seines fishing for transparent goby (*Aphia minuta*) in Geographical Sub-Area 9.

(5) The Scientific, Technical and Economic Committee for Fisheries (STECF) assessed in 2010 the derogation requested by Italy and the related draft management plan. Italy adopted the management plan by Decree[(3)] in accordance with Article 19(2) of Regulation (EC) No 1967/2006.

(6) The derogation requested by Italy complied with the conditions laid down in Article 13(5) and (9) of Regulation (EC) No 1967/2006 and was granted until 31 March 2014 by Commission Implementing Regulation (EU) No 988/2011[(4)].

(7) On 16 July 2015 the Italian authorities requested the Commission to renew the derogation which expired on 31 March 2014. Italy provided up-to-date information justifying the renewal of the derogation, including details on a reduction of the number of vessels authorised and on some further adjustments to the related management plan.

(8) On 16 July 2015, Italy informed the Commission of its intention to publish the updated management plan shortly.

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

(10) 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. Hence, the fishing grounds are limited.

(11) The derogation requested by Italy affects 117 vessels.

(12) The management plan presented by Italy guarantees no future increase of the fishing effort, as fishing authorisations will be issued to specified 117 vessels, involving a total effort of 5 754,5 kW that are already authorised to fish by Italy.

(13) The request covers vessels with a track record in the fishery of more than five years and which operate under a management plan adopted by Italy in accordance with Article 19(2) of Regulation (EC) No 1967/2006.

(14) 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.

(15) 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.

(16) Boat seines fishing has no significant impact on protected habitats 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.

(17) 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.

(18) The requirement of Article 8(1)(h) of Regulation (EC) No 1967/2006 is not applicable since it concerns trawlers.

(19) 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 given the fishing activities concerned are highly selective, have a negligible effect on the marine environment and are not carried out above protected habitats, Italy authorised in line

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2015/2407. (See end of Document for details)*

with Article 9(7) of Regulation (EC) No 1967/2006 a derogation from these provisions in its management plan.

(20) The fishing activities concerned fulfil the recording requirements laid down in Article 14 of Council Regulation (EC) No 1224/2009[(5)].

(21) The fishing activities concerned take place at a very short distance from the coast and therefore do not interfere with the activities of vessels using gears other than trawls, seines or similar towed nets.

(22) The activity of the boat seines is regulated in the Italian management plan to ensure that catches of species mentioned in Annex III to Regulation (EC) No 1967/2006 are minimal. Moreover, according to paragraph 5.1.2(a) of the Italian management plan, the fishing for *Aphia minuta* is limited to a fishing season from 1 November to 31 March each year.

(23) Boat seines do not target cephalopods.

(24) 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.

(25) Italy should report to the Commission in due time and in accordance with the monitoring plan provided for in the Italian management plan.

(26) A limitation in duration of the derogation will allow for 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.

(27) Accordingly, the derogation should apply until 31 March 2018.

(28) The requested extension of the derogation should therefore be granted.

(29) 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 Italy adjacent to the coast of Liguria and Tuscany, to fishing for transparent goby (*Aphia minuta*) by boat seines which are used by vessels:

(a) registered in the maritime Directorates (Direzioni Marittime) of Genoa and Livorno respectively;

(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