

COMMISSION IMPLEMENTING REGULATION (EU) No 988/2011

of 4 October 2011

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

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.
- (2) At the request of a Member State, the Commission may allow a derogation from the prohibition set out in 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 Italy has requested a derogation from Article 13(1) of that Regulation for the use of boat seines fishing for transparent goby (*Aphia minuta*) in the territorial waters of the Geographical Sub-Area 9 (GSA 9), as defined under the Agreement establishing the General Fisheries Commission for the Mediterranean ⁽²⁾.
- (4) The request covers vessels registered in the maritime Directorates of Genoa and Livorno which have a track record in the fishery of more than 5 years and operate under a management plan regulating boat seines fishing for transparent goby (*Aphia minuta*) in GSA 9.
- (5) The Scientific, Technical and Economic Committee for Fisheries (STECF) has assessed the derogation requested by Italy and the related draft management plan at its plenary session held from 8 to 12 November 2010.
- (6) Italy has adopted the management plan by Decree ⁽³⁾ in accordance with Article 19(2) of Regulation (EC) No 1967/2006.
- (7) The derogation requested by Italy complies with the conditions set out in Article 13(5) and (9) of Regulation (EC) No 1967/2006.
- (8) In particular, 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 50m, the fishing grounds are limited.
- (9) Moreover, the fishery cannot be undertaken with other gears, 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.
- (10) The derogation requested by Italy affects a limited number of vessels, i.e. 142 vessels.
- (11) 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.
- (12) The requirements of Article 8(1)(h) of Regulation (EC) No 1967/2006 are not applicable since they relate to trawlers.
- (13) Since the fishing activities concerned are highly selective, have a negligible effect on the environment and are not carried out above protected habitats, they are eligible for the derogation to the minimum mesh size referred to in Article 9(7) of Regulation (EC) No 1967/2006. Therefore, the minimum mesh size rules set by Article 9(3)(2) do not apply.
- (14) The Italian management plan includes measures for the monitoring of fishing activities, thus fulfilling the conditions set out in Article 23 and in the third subparagraph of Article 13(9) of Regulation (EC) No 1967/2006.
- (15) 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.
- (16) The Italian management plan ensures that catches of species mentioned in Annex III are minimal and that the fishing activities do not target cephalopods.

⁽¹⁾ OJ L 36, 8.2.2007, p. 6.

⁽²⁾ OJ L 190, 4.7.1998, p. 34.

⁽³⁾ Gazzetta Ufficiale della Repubblica Italiana 192, 19.8.2011, supplemento ordinario n. 192.

- (17) Italy communicated to the Commission the list of authorised fishing vessels and their characteristics, as well as the comparison with the characteristics of that fleet on 1 January 2000.
- (18) Accordingly, the requested derogation should be granted.
- (19) Italy should report to the Commission in due time and in accordance with the monitoring plan provided for in the Italian management plan.
- (20) In line with the request by Italy, a limitation in duration of the derogation will allow ensuring prompt corrective management measures in case the report to the Commission will show a poor conservation status of the exploited stock while providing scope to improve the scientific basis for an improved management plan.
- (21) 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 5 years; and
- (c) holding a fishing authorisation and operating under the management plan adopted by Italy in accordance with Article 19 of Regulation (EC) No 1967/2006 (hereinafter referred to as 'the management plan')⁽¹⁾.

This derogation shall apply until 31 March 2014.

Article 2

Monitoring plan and report

Italy shall communicate to the Commission, by 1 May 2014, a report drawn up in accordance with the monitoring plan established in the management plan.

Article 3

Entry into force

This Regulation shall enter into force on the third day following 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.

Done at Brussels, 4 October 2011.

For the Commission

The President

José Manuel BARROSO

⁽¹⁾ Gazzetta Ufficiale della Repubblica Italiana 192, 19.8.2011, supplemento ordinario n. 192.