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COMMISSION DELEGATED REGULATION (EU) .../...

of 13.10.2016

establishing a discard plan for mollusc bivalve *Venus spp.* in the Italian territorial waters

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

A key objective of the new Common Fisheries Policy (CFP), as set out in Regulation (EU) 1380/2013 is the progressive elimination of discards in all EU fisheries. Discarding constitutes a substantial waste of resources and negatively impacts on the sustainable exploitation of resources as well as the economic viability of fisheries. The landing obligation in Union waters will apply as of 1 January 2016 to certain demersal fisheries. The reformed policy also provides for increased regionalisation, which is intended both to move away from micromanagement at Union level, and also to ensure that rules are adapted to the specific characteristics of each fishery and sea area.

The new CFP provides for a series of provisions to facilitate the implementation of the landing obligation. There are generic flexibility provisions which can be applied by Member States in the context of quota management. In addition, the new CFP provides for specific flexibility mechanisms that need to be implemented through multiannual plans, or in the absence of multiannual plans, in the so-called discard plans. Those discard plans are envisaged as a temporary measure with a maximum duration of three years. They are developed as joint recommendations agreed by groups of Member States from the same region or sea basin.

As from 1 January 2017 the landing obligation will be compulsory for the species that define the fisheries (other than small pelagics) and that are subject to a minimum conservation reference size according to Annex III of Council Regulation (EC) No 1967/2006 (the "Mediterranean Regulation"). The fisheries targeting the mollusc bivalve *Venus spp.* are subject to this provision. In accordance with Article 15(5) of Regulation (EU) No 1380/2013, a discard plan may contain the following elements:

- specific provisions on fisheries or species covered by the landing obligation;
- specification of exemptions to the landing obligation if fisheries or species meet certain criteria related to high survivability;
- provisions for *de minimis* exemptions as specified in Article 15(5)(c) of Regulation (EU) No 1380/2013;
- provisions on documentation of catches;
- the fixing of minimum conservation reference sizes (MCRS);

In light of this, Italy submitted to the European Commission a proposal of a three-year discard plan for the fisheries targeting *Venus spp.* by hydraulic dredges in the Italian territorial waters.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

For the purpose of implementing the regionalised approach to Italian territorial waters, Italy submitted to the Commission services on 24 February 2016 a Recommendation containing the following elements:

- A description of the fisheries covered by the discard plan;
- A derogation from the minimum conservation reference size as set out by Annex III to Regulation (EC) No 1967/2006;
- A number of specific technical measures;
- A number of specific monitoring and control measures.

In accordance with Article 18 of Regulation (EU) No 1380/2013, the proposed delegated act is based on the Recommendation developed and submitted to the Commission by the Member State concerned (Italy), who has a direct management interest in the fisheries of *Venus spp.* in Italian territorial waters. The Recommendation submitted by Italy takes into account the views of the Mediterranean Advisory Council (MEDAC) as expressed in a report dated 21 December 2015.

The main elements of the Recommendation submitted to the Commission by Italy with respect to the application of the landing obligation to *Venus spp.* fisheries were evaluated by the Scientific, Technical and Economic Committee for Fisheries (the STECF) Expert Working Group and conclusions were presented in a report issued during the STECF plenary meeting of 10 - 15 April 2016¹.

According to the conclusions of the STECF, *Venus spp.* are among the species with a high survival rate after the catch, which justifies for a request for derogation from the landing obligation for the discarded fraction of the catch. Furthermore, the STECF concluded that a reduction from 25 mm to 22 mm of overall length of the minimum conservation reference size for *Venus spp.* is compatible with the length at maturity, the sexual maturity of the *Venus spp.* being at 18mm. Such reduction of the minimum conservation reference size from 25 mm to 22 mm is predicted to lead to a reduction of only 8% of the reproductive potential of the stock, which is not considered to be an important impact. Finally, as regards monitoring and control measures, the STECF concluded that the monitoring program foreseen in the Recommendation is sufficient to evaluate the effects of the discard plan.

However, the STECF noted that further scientific studies of survivability of the *Venus spp.* should be conducted, that the overall fishing effort for *Venus spp.* should be reduced and that there is a need to ensure the implementation of adequate inspection and control of fishing operations.

On the basis of the STECF evaluation report and following a request from the Commission, the Italian authorities revised their Recommendation for the application of the landing obligation to *Venus spp.* fisheries.

With respect to the fishing effort, Italy operated a reduction in the overall fishing effort for *Venus spp.* fisheries by freezing the number of vessels authorised at the levels established in 2011 and by limiting the number of fishing days for *Venus spp.* to 4 days per week, per vessel. Italy also reduced the volume of the daily catch limitation applicable to each vessel from 600 kg to 400kg.

With respect to survivability issues, Italy provided with measures aiming at increasing the survivability of the *Venus spp.* stock. Restocking areas shall be designated for the purpose of relocating specimens that are caught undersize. In restocking areas, mollusc fisheries shall be prohibited and a rotation of restocking areas shall be ensured. During fishing operations, caught specimen shall be subject to a first screening of their size at sea and to a second screening of their size at landing at a designated point.

With respect to scientific data collection, Italy introduced a system of continuous scientific research as regards restocking areas and the survivability and growth of relocated specimen. Scientific assessments will take place on a regular basis and at least three months after the restocking of caught undersize specimens.

¹ https://stecf.jrc.ec.europa.eu/documents/43805/1415547/2016-04_STECF+16-06+-+Venus+clam_JRC101340.pdf

With respect to technical measures, Italy has developed a pilot project with the aim of increasing the selectivity of the screening equipment for *Venus spp.* fisheries.

With respect to control, Italy introduced additional elements in its national plan for control and monitoring of the *Venus spp.* fisheries, pursuant to which all vessels authorised for *Venus spp.* fisheries shall be equipped with a Vessel Monitoring System (VMS), all landings shall be carried out at designated landing sites, for inspection purposes, and all designated landing sites shall be equipped for the purpose of operating the second screening of the size of caught specimens. Furthermore, an inspection program shall be implemented in coordination with the European Fisheries Control Agency (EFCA). Italy will also establish a list of vessels in order to ensure appropriate control over the implementation of the landing obligation.

With respect to market measures, Italy introduced a system of certification by the consortium of producer organisations of landed specimens that comply with the minimum reference size.

Finally, Italian authorities shall evaluate annually the state of the *Venus spp.* fisheries, the effectiveness of the applicable technical measures and the state of implementation of the national inspection program.

On the basis of these elements that take into consideration the position of the STECF, the discard plan for *Venus spp.* can be considered in line with the objectives of the sustainable exploitation of the *Venus spp.* stock in the Italian territorial waters.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

Summary of the proposed action

The main legal action is to adopt measures that would facilitate the implementation of the landing obligation.

The Regulation specifies the species and fisheries to which specific measures would apply, such as the exemption from the minimum conservation reference size.

Legal basis

Articles 15(1)(d) and 15(6) and Articles 18(1) and (3) of Regulation (EU) No 1380/2013 and Article 15a and 29a of Regulation No 1967/2006.

Subsidiarity principle

The proposal falls under the exclusive competence of the European Union.

Proportionality principle

The proposal is within the scope of the delegated powers provided to the Commission by Article 15(6) of Regulation (EU) No 1380/2013 and does not go beyond what is necessary to achieve the purpose of that provision.

Choice of instrument

Proposed instrument: Commission Delegated Regulation.

Other means would not be adequate for the following reason: The Commission has been granted powers to adopt a discard plan by means of delegated acts. The Member State having a direct management interest submitted their joint recommendation. Measures provided in the joint recommendation and included in this proposal are based on the best available scientific advice and fulfil all the relevant requirements set out in Art 18(5) of Regulation (EU) No 1380/2013.

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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 Fishery Policy, amending Council Regulation (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 ⁽²⁾, and in particular Article 15(6) thereof,

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 ⁽³⁾, and in particular Articles 15a thereof,

Whereas:

- (1) Regulation (EU) No 1380/2013 aims to progressively eliminate discards in all Union fisheries through the introduction of a landing obligation for catches of species subject to catch limits.
- (2) Article 15(6) of Regulation (EU) No 1380/2013 empowers the Commission to adopt discard plans by means of delegated acts for a period of no more than three years on the basis of joint recommendations developed by Member States in consultation with the relevant Advisory Councils. Discard plans may also include technical measures regarding fisheries.
- (3) Italy, as the single Member State with a direct management interest in the mollusc bivalve *Venus spp.* fisheries, in the Italian territorial waters, submitted a recommendation to the Commission in line with the procedure of Article 18 of Regulation (EU) No 1380/2013. This recommendation was submitted in the form of a national management plan for discard of the *Venus spp.* stock, after consultation of the Mediterranean Advisory Council (MEDAC). Upon submission of this recommendation, the Scientific, Technical and Economic Committee for Fisheries (STECF) reviewed the scientific contributions presented by Italy. The measures included in the joint recommendation comply with the provisions of Article 18(3) of Regulation (EU) No 1380/2013.
- (4) Article 15a of Regulation (EC) No 1967/2006 empowers the Commission to establish, for the purpose of adopting discard plans and for the species subject to the landing obligation, a minimum conservation reference size with the aim of ensuring the protection of juveniles of marine organisms. Minimum conservation reference sizes

² OJ L 354, 28.01.2013, p. 22.

³ OJ L 125, 27.04.1998, p.1.

may derogate, where appropriate, from the sizes established in Annex III to that Regulation.

- (5) According to the conclusions of the STECF on the national management plan for discard of the *Venus spp.* stock, *Venus spp.* is among the species with a high survival rate, which justifies for a request for derogation from the landing obligation for the discarded fraction of the catch. A reduction of a minimum conservation reference size from 25 mm to 22 mm is not incompatible with the length at maturity, so it should not have a significant impact on the protection of the juvenile organisms. It is predicted to lead to only a small reduction of the reproductive potential of the stock, which is not considered to have any important impact on the stock. Finally, it was concluded that the proposed scientific monitoring program is likely to provide sufficient data to evaluate the effects of the discard plan.
- (6) In order to ensure appropriate control over the implementation of the landing obligation, the Member State should establish a list of vessels covered by the present Regulation.
- (7) As the measures provided for in this Regulation have a direct impact on the economic activities linked to fisheries and the planning of the fishing season for Union vessels, it should enter into force on the third day following its publication in the *Official Journal of the European Union*. In accordance with Article 15(6) of Regulation (EU) No 1380/2013, this Regulation should apply for a period of no more than three years.

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation specifies the details for implementing the landing obligation that shall apply to *Venus spp.* fisheries in the Italian territorial waters, pursuant to Article 15(1)(d) of Regulation (EU) No 1380/2013.

Article 2

Minimum conservation reference size

1. By way of derogation from the minimum conservation reference size established in Annex III to Regulation (EC) No 1967/2006, and for the purposes of Article 15(11) of Regulation (EU) No 1380/2013, the minimum conservation reference size of *Venus spp.* in the Italian territorial waters shall be of a total length of 22mm.
2. The measurement of the size of the *Venus spp.* shall take place in accordance with Annex IV of Regulation (EC) No 1967/2006.

Article 3

List of vessels

1. Member State authorities shall determine the vessels subject to the landing obligation.
2. By 31 December 2016, Member State authorities shall submit to the Commission, using the secure Union control website, the list of all vessels authorised to fish *Venus spp.* using hydraulic dredges in the Italian territorial waters. Member State authorities shall maintain this list updated at all times.

Article 4

Entry into force

The present Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2017 until 31 December 2019.

However, Article 3 shall apply from the entry into force.

The present Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels, 13.10.2016

For the Commission
The President
Jean-Claude JUNCKER