



Brussels, 30.10.2017
C(2017) 7101 final

COMMISSION DELEGATED REGULATION (EU) No .../..

of 30.10.2017

**authorising the use of alternative T90 trawls in Baltic Sea fisheries, by way of derogation
from Council Regulation (EC) No 2187/2005**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Under the Common Fisheries Policy, fisheries in the Baltic Sea are mainly regulated through the technical measures established by Council Regulation (EC) No 2187/2005 of 21 December 2005 for the conservation of fishery resources through technical measures in the Baltic Sea, the Belts and the Sound. Article 3 and Annex II of Regulation 2187/2005 define the ranges of mesh size admissible for each target species when fishing with trawls, Danish seines and similar gears in the Baltic Sea. Further specifications of the T90-trawl are described in Appendix 2 of Annex II (including Figure 1).

In July 2016, the Council and the European Parliament adopted Regulation (EU) 2016/1139 establishing a multiannual plan for the stocks of cod, herring and sprat in the Baltic Sea and the fisheries exploiting those stocks. The multiannual plan provides for certain accompanying technical measures to be adopted, by means of delegated acts, in order to contribute to the achievement of the objectives of the plan. According to Article 8 of this Regulation the Commission is empowered to adopt delegated acts in accordance with Article 16 of this Regulation and Article 18 of Regulation (EU) No 1380/2013 regarding specifications of modifications or additional devices to the fishing gears, to ensure or improve selectivity, to reduce unwanted catches or to minimize the negative impact on the ecosystem.

According to Article 8(2) of the Regulation (EU) 2016/1139 the measures shall contribute to the achievement of the objectives set out in the plan which according to Article 3(2) is to contribute to the elimination of discards by avoiding and reducing, as far as possible, unwanted catches, and to the implementation of the landing obligation.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

During the autumn 2015 Swedish fishermen have developed and proposed a new gear design for trawl fishery for cod in the Baltic Sea in developing an alternative codend for T90 trawls. Gear trials were conducted and assessed by the Department of Aquatic Resources at the Swedish University of Agricultural Sciences (SLU Aqua). The result of the gear trials is reported in the scientific report “Gear trials in the Baltic: Increased selectivity with a modified T90 cod end”. The report concludes that the gear trials showed better size selectivity than the standard codend for T90 trawls.

Being aware of the importance of solid and meaningful input from stakeholders in the process of developing more selective gears in the Baltic Sea, and in light of Article 18(2) of the Basic Regulation, the BALTFISH High Level Group (HLG) had an exchange of view with the Baltic Sea Advisory Council (BSAC) on the envisaged Joint Recommendation (JR) and the appropriate way forward on 26 April 2017. BSAC and fishermen repeatedly stated that they are in favour of being able to use modified gears that have been tested in the Baltic Sea with a resulting indication of reduced by-catches.

BALTFISH (HLG) has concurred that in order to contribute to the objective of eliminating discards by avoiding and reducing, as far as possible, unwanted catches, and to facilitate the implementation of the landing obligation, the development of selective gears is of high importance in the Baltic Sea, therefore it recommended to adopt respective provisions which

are laid down in this delegated act based of the JR submitted to the Commission on 31 May 2017¹.

The JR and the report on scientific gear trials conducted and assessed by the Department of Aquatic Resources at the Swedish University of Agricultural Sciences (SLU Aqua) were also peer reviewed by the Scientific Technical and Economic Committee for Fisheries (STECF). STECF experts evaluated the results of the trials in the Expert Working Group meeting held on 6-9 June 2017 (EWG 17-03²) which were endorsed in the STECF Plenary meeting held on 10-14 July 2017³

STECF concluded that the results from a series of catch comparison experiments showed that the modified codend provided positive benefits in terms of reducing unwanted catches of cod below the minimum conservation reference size. A modified codend has a smaller mesh size, larger number of meshes in the codend circumference and is longer compared to the existing T90 trawl codend. However STECF mentioned that other trials are ongoing using the same codend and the results of them could be included in a future evaluation to demonstrate that the presented results are correct.

On the basis of the evaluation by STECF and internal assessment by Commission services, the Commission considers that the JR submitted is in line with Article 8(2) of Regulation (EU) 2016/1139 and in line with Article 18(5) of Regulation (EU) No 1380/2013.

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. Allowing to apply alternative modifications to the existing gears will minimise the by-catch of cod below the minimum conservation reference size.

Legal basis

Articles 8 of Regulation of the European Parliament and of the Council (EU) No 2016/1139.

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 8(1) of Regulation (EU) No 2016/1139 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 delegated acts regarding certain technical measures on the basis of the JR. Member States having a direct management interest submitted their JR. Measures provided in the JR and included in this proposal are based on the best available scientific

¹ Joint Recommendation of the BALTFISH High Level Group. Technical measures for ICES subareas 22-32 (the Baltic Sea) – alternative codend for T90 (ARES(2017)2788261 – 02/06/2017)

² https://stecf.jrc.ec.europa.eu/c/document_library/get_file?uuid=d54c2307-f95c-45e1-a03b-5fab23a9f82d&groupId=43805

³ https://stecf.jrc.ec.europa.eu/documents/43805/1780485/2017-07_STECF+PLEN+17-02_JRCxxx.pdf

advice and fulfil all the relevant requirements set out in Article 18(5) of Regulation (EU) No 1380/2013.

COMMISSION DELEGATED REGULATION (EU) No .../..

of 30.10.2017

authorising the use of alternative T90 trawls in Baltic Sea fisheries, by way of derogation from Council Regulation (EC) No 2187/2005

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Regulation (EU) No 2016/1139 of the European Parliament and of the Council establishing a multiannual plan for the stocks of cod, herring and sprat in the Baltic Sea and the fisheries exploiting those stocks, amending Council Regulation (EC) No 2187/2005 and repealing Council Regulation (EC) No 1098/2007¹, and in particular Article 8 thereof,

Whereas:

- (1) Regulation (EU) No 1380/2013 of the European Parliament and of the Council² aims to progressively eliminate discards in all Union fisheries through the introduction of a landing obligation for catches of species subject to catch limits. Measures to gradually eliminate discards may be included in multiannual plans.
- (2) Regulation (EU) 2016/1139 establishes a multiannual plan for the stocks of cod, herring and sprat in the Baltic Sea and the fisheries exploiting those stocks. It provides inter alia for technical measures to be adopted by the Commission in order to contribute to the achievement of the objectives of that multiannual plan. In particular, the Commission may adopt delegated acts regarding modifications to fishing gears intended to ensure or improve selectivity, to reduce unwanted catches or to minimize the negative impact on the ecosystem.
- (3) Council Regulation (EC) No 2187/2005³ lays down technical conservation measures in relation to taking and landing of fishery resources in the Baltic Sea. That Regulation defines the ranges of mesh size and other specifications i.a. the fishing gears admissible for each target species in the Baltic Sea.
- (4) Denmark, Germany, Estonia, Latvia, Lithuania, Poland, Finland and Sweden have a direct fisheries management interest in the Baltic Sea. Those Member States have submitted a joint recommendation⁴ to the Commission, after consulting the Baltic Sea Advisory Council. The recommendation indicates that certain modifications to the specifications of characteristics of codend in the existing T90 trawls, as defined in

¹ OJ L 191, 15.7.2016, p. 1

² 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 (OJ L 354, 28.12.2013, p. 22).

³ Council Regulation (EC) No 2187/2005 of 21 December 2005 for the conservation of fishery resources through technical measures in the Baltic Sea, the Belts and the Sound, amending Regulation (EC) No 1434/98 and repealing Regulation (EC) No 88/98 OJ L 349, 31.12.2005, p. 1

⁴ Joint Recommendation of the BALTFISH High Level Group. Technical measures for ICES subareas 22-32 (the Baltic Sea) – alternative codend for T90.

Regulation (EC) No 2187/2005, will improve selectivity and reduce the amounts of unwanted catches of cod. Scientific contribution confirming that indication was obtained from the Scientific, Technical and Economic Committee for Fisheries (STECF).

- (5) The measures suggested in the joint recommendation, concerning the use of alternative T90 trawls in addition to the T90 trawls defined in Regulation (EC) No 2187/2005, contribute to the achievement of the objectives of the multiannual plan established by Regulation (EU) 2016/1139. Those measures should therefore be adopted in line with Article 18(3) of Regulation (EU) No 1380/2013,

HAS ADOPTED THIS REGULATION:

Article 1
Subject matter

This Regulation authorises the use, in certain Baltic Sea fisheries, of T90 trawls meeting specifications which are different from the specifications laid down in Regulation (EC) No 2187/2005.

Article 2
Scope

This Regulation shall apply to Union fishing vessels operating in the Baltic Sea fisheries referred to in Article 1 of Regulation (EU) No 2016/1139.

Article 3
Definitions

For the purposes of this Regulation, the following definitions shall apply:

- (a) 'T90 trawls' means trawls, Danish seines, and similar gears having a codend and extension piece produced from a standard diamond knotted netting turned 90⁰ so that the main direction of run of the netting twine is parallel to the towing direction.
- (b) 'Member States concerned' means Denmark, Germany, Estonia, Latvia, Lithuania, Poland, Finland and Sweden

Article 4
Alternative specifications for the T90 trawl codend

1. The use of T90 trawls having a codend compliant with the following specifications shall be authorised by way of derogation from Annex II to Regulation (EC) No 2187/2005:
- (a) the mesh size of the codend shall be at least 115 mm, by way of derogation from footnote 2 to Annex II and point (b) of Appendix 2 to that Annex;
- (b) the number of meshes in any circumference in the codend *sensu strictu* and the extension piece, excluding joinings and selvages, shall be 80 meshes round, by way of derogation from point (e) of Appendix 2 to that Annex ;
- (c) the length of the codend shall be at least 9 m;
2. The codend shall meet all other specifications laid down in Appendix 2 to that Annex.

Article 5
Recording of catches

Member States concerned shall ensure that catches made using the fishing gear described in Article 4 are recorded separately from catches made using other fishing gears.

Article 6
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.

Done at Brussels, 30.10.2017

For the Commission
The President
Jean-Claude JUNCKER