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COVER NOTE

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	5 September 2016
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

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Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 5.9.2016 establishing fisheries conservation measures for the protection of the marine environment in the North Sea

Delegations will find attached document C(2016) 5549 final.

Encl.: C(2016) 5549 final



Brussels, 5.9.2016
C(2016) 5549 final

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

of 5.9.2016

**establishing fisheries conservation measures for the protection of the marine
environment in the North Sea**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Under the Common Fisheries Policy (CFP) fisheries management measures may be adopted for the purpose of compliance with environmental legislation as laid down in Article 11 of Regulation (EU) No 1380/2013¹.

In accordance with the relevant provisions of EU Nature directives (Habitats² and Birds³ Directives) Member States are obliged to designate respectively Special Areas of Conservation and Special Protection Areas in order to protect habitats and species of Community interest. These areas form a European ecological network under the title Natura 2000. For these sites Member States have to establish the necessary conservation measures and take appropriate steps for the protection of the natural habitats and species for which the sites have been designated. Such measures shall correspond to the ecological requirements of the natural habitats and species present on the site, and may include measures related to fisheries.

Pursuant to Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive)⁴ Member States are to take the necessary measures to achieve or maintain good environmental status in the marine environment by the year 2020 at the latest. For that purpose, Article 13(4) of the Directive requires Member States to establish Programmes of measures including spatial protection measures contributing to coherent and representative networks of marine protected areas, adequately covering the diversity of the constituent ecosystems.

If Member States find that certain fisheries conservation measures are required to comply with their obligations under Article 13(4) of the Marine Strategy Framework Directive, Article 4 of the Birds Directive or Article 6 of the Habitats Directive, those measures have to be adopted in accordance with the rules of the CFP, a policy falling under the exclusive competence of the EU.

A key innovation of the CFP is the introduction of provisions on regional cooperation between Member States having direct management interest in certain fisheries or areas.

In accordance with Article 18 of Regulation (EU) No 1380/2013, the proposal is based on the joint recommendations (JR) elaborated and submitted to the Commission by the Member States concerned.

Waters under the sovereignty of Denmark

¹ 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. 22–61)

² Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora

³ Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7)

⁴ OJ L 164, 25.6.2008, p. 19

The Natura 2000 sites concerned by this proposal have been designated by Denmark for the protection, *inter alia*, of reef habitats (1170 reefs and 1180 “bubbling reefs”: submarine structures made by leaking gases). This type of marine habitats is threatened by direct physical disturbances and high nutrient content in the water column. The conservation status of these habitat types in Danish territorial waters of the Western Baltic, Kattegat, Skagerrak and the North Sea is assessed as unfavourable.

In December 2011, nature management plans were adopted for the sites designated before 2010⁵, and the sites were also designated as Special Areas of Conservation (SACs). In accordance with the Habitats Directive, the necessary conservation measures must be established for those sites.

The overall aim of the Regulation is to ensure that fisheries measures under the CFP adequately contribute to the protection of reef structures, and therewith to the obligation of achieving favourable conservation status for these habitat types, in accordance with Article 6 of the Habitats Directive.

Fishing activity with mobile bottom contacting gear is identified as threat to reefs. Therefore it is proposed to prohibit such activities in areas mapped as reefs. In areas mapped as “bubbling reefs”, a total commercial fishing ban is proposed because the use of any net may damage those structures. These reef structures should be protected from impact from fishing activity by delineating buffer zones around reef structures.

Scientific advice from Aarhus University (Danish Centre for Environment and Energy), the Danish Technical University (Institute for Aquatic Resources) and International Council for the Exploration of the Sea (ICES)⁶ alongside the site-specific management plans and mapping of marine habitats, serve as the basis for the fishery management measures in this Regulation.

Sweden and Germany have fishing rights in the Danish territorial waters in Kattegat. These are important fishing areas for both Denmark and Sweden. However, analysis of fishery data show, that the conservation measures will have no or limited impact on Danish and Swedish fishing activity because in general, fishing activity does not take place in reefs in these areas. During the last years virtually no German vessels have been registered as fishing in these areas. This however, should not justify postponing or failing to take necessary conservation measures since this type of fisheries could occur in the future.

When evaluating the practical implementation and enforcement of the proposed measures, it was found that, with the current fishing activity in mind, the existing fisheries control measures laid down in Regulation (EC) No 1224/2009 are sufficient to ensure compliance with the fishing prohibitions. Having said that, it is planned to reassess the control system once the measures have been in place for 18 months.

Bratten, Sweden

In Sweden in 2015 there were 315 Natura 2000 sites with listed marine species or habitats. The marine protected area Bratten in the Skagerrak was designated as Natura 2000 site (code SE0520189) in 2011 for the protection of reefs (1170). It is also designated for the protection of sea-pen and burrowing megafauna communities under MSFD.

⁵ Danish Administrative order no. 1114, 25 November 2011: <https://www.retsinformation.dk/Forms/R0710.aspx?id=139270>

⁶ Reference to be completed later

In addition to fishing vessels flying the flag of Sweden, Denmark also has historical fishing rights within the 12 nautical miles zones and in the EEZ of Sweden. The analysis of available electronic data (VMS etc.) from the German authorities has shown that there are no German fisheries taking place in the area. However, since Bratten is part of ICES division IIIa, Germany has fishing opportunities for a number of target species in the concerned area. Norwegian fishermen also have access to the Bratten area but analysis of the Norwegian fishing activity shows that it is low.

The overall aim of the proposed fisheries conservation measures is to ensure adequate protection of bottom habitats with high conservation values in order to contribute to achieving their conservation objectives. Thereby the proposed measures contribute to the obligation of achieving favourable conservation status under the Habitats Directive Article 6 as well as the obligation to achieve or maintain a good environmental status in marine waters by 2020 according to the Marine Strategy Framework Directive.

The recommended fisheries conservation measures concern parts of the marine protected area Bratten in the Skagerrak. They comprise the prohibition of fishing activities of commercial fishing vessels in areas hosting bottom habitats with high conservation values. These areas are laid out as no-take zones.

With regard to the proposal to close the fishery using pelagic trawls, the added value of the no-take zones in Bratten is to remove by-catches of large predatory fish, and occasional physical disturbance of the seafloor. Today, pelagic trawl fisheries are of very minor importance in the Bratten area and operate mainly further west in the Skagerrak. The relatively small no-take zones are thus neither expected to generate any significant economic impact nor displacement of these fisheries. This however, should not justify postponing or failing to take necessary conservation measures since this type of fisheries could occur in the future.

To ensure adequate protection of the no-take zones and enable more accurate control and enforcement, all fishing vessels inside the marine protected area Bratten should be fitted with and maintain in operation an automatic identification system (AIS). This means the extension of the already mandatory system for fishing vessels of 15 metres length overall or more to the smaller fleet.

A key innovation of the CFP is the introduction of provisions on regional cooperation between Member States having direct management interest in certain fisheries or areas.

In accordance with Article 18 of Regulation 1380/2013, the proposal is based on the joint recommendations (JR) elaborated and submitted to the Commission by the Member States concerned.

- (1) To this end, Delegated Regulation (EU) 2015/1778⁷ was adopted on the basis of joint recommendations submitted by Denmark, Germany and Sweden in March 2015.
- (2) On 10 June 2016 another joint recommendation, relating to fisheries conservation measures for Bratten area located in Skagerrak (North Sea) in accordance with Article 11 of Regulation 1380/2013 was submitted by Sweden, Denmark and

⁷ Commission Delegated Regulation (EU) 2015/1778 of 25 June 2015 establishing fisheries conservation measures to protect reef zones in waters under the sovereignty of Denmark in the Baltic Sea and Kattegat (OJ L 259, 6.10.2015, p. 5)

Germany, and a number of similar joint recommendations are being prepared by the Member States concerned. For legal clarity and consistency, it is appropriate to combine all fisheries conservation measures adopted for compliance with environmental obligations applicable in a sea basin in one regulation, namely one regulation for the Baltic Sea and another for the North Sea. Accordingly, Regulation (EU) 2015/1778 should be repealed and its provisions split into two regulations.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

Stakeholder consultations

(a) Waters under the sovereignty of Denmark

Since spring 2011 the Danish authorities held formal and informal consultations with various stakeholders both within and outside Denmark.

In Denmark, national coordination with stakeholders took place in the ‘Natura 2000 Dialogue Forum’ involving green NGO’s, fishermen organizations, Ministry of Environment and research institutes. The fisheries management measures in this Regulation were discussed in the forum at seven meetings between March 2011 and December 2014.

Several additional meetings were organised with the Danish Fishermen Organization and DTU Aqua, and an informal meeting with WWF Denmark.

Internationally, a pre-consultation meeting was held in March 2012 in Copenhagen with German and Swedish authorities, the North Sea Advisory Council, Baltic Sea Advisory Council, ICES, DTU Aqua, Danish Ministry of Environment and the European Commission. The proposal has been discussed with Sweden and Germany in ad hoc working groups comprising of representatives from fisheries and environmental departments.

Since Denmark and Sweden have designated Natura 2000 sites in Kattegat adjacent to each other – bilateral meetings have also taken place in Copenhagen and Gothenburg in 2011 and 2013 for further discussions.

(b) Bratten, Sweden

From May 2012 four stakeholder meetings have been arranged with fishermen from Sweden and Denmark as well as the County Administrative Board of Västra Götaland, fisheries agencies from Sweden, Norway and Denmark and scientists from Gothenburg University and the Institute of Marine Research in Lysekil. A workshop was held in March 2013 to discuss sustainable use of the Bratten area and to develop the management plan, where also NGOs were invited. The proposed fisheries conservation measures were sent out for national and regional consultation in October 2013.

Joint recommendations

In accordance with the procedure described in Article 18 of Regulation (EU) No 1380/2013, the joint recommendation (JR) is the result of discussions between the Member States having a direct management interest.

(a) Waters under the sovereignty of Denmark

During the period June-December 2014 representatives from both fishery and environmental departments of DK, SE and DE drafted the final version of the joint recommendation. This was signed by all Member States having direct management interest on 10 March 2015 and submitted to the Commission on 13 March 2015.

The joint recommendation target three Natura 2000 sites in Danish waters of the Kattegat. The sites are designated for reef structures (including "bubbling reefs"). For the protection of these structures it is foreseen that fishing with bottom contacting gear be prohibited in reef areas and a total fishing ban be introduced in bubbling reef areas. A revision of the monitoring and control of the implementation of the measures is proposed after 18 months from the entry into force of those measures.

(b) Bratten, Sweden

On 1 July 2015 a draft proposal on Bratten was sent out broadly (for example Nature and Fisheries Directors in the North Sea Member States, North Sea Advisory Council and the European Commission). Four pre-consultation meetings were held in Göteborg between September 2015 and January 2016. The JR was signed by all Member States having direct management interest and submitted to the Commission on 10 June 2016.

Scientific, Technical and Economic Committee for Fisheries (STECF)

(a) Waters under the sovereignty of Denmark

The main elements of the final joint JR submitted to the Commission were evaluated by the STECF during its plenary meeting of 13-17 April 2015.

On the specific elements STECF concluded that⁸

1. the proposed conservation measures, which relate to 3 of the 55 currently unprotected Danish Natura 2000 sites where reefs are present, is a step forwards to minimise the negative impacts of fishing activities on the marine ecosystem and ensure that fisheries activities avoid the degradation of the marine environment as stipulated under Article 2(3) of Regulation 1380/2013.

2. the proposed measures contribute towards ensuring that the habitats of Community interest addressed in the recommendation are maintained and restored at favourable conservation status inside the delineated areas as stipulated under Article 2 of Directive 92/43/EEC.

3. that although the current catch inside the Natura 2000 sites under consideration seems to be limited, some fishing activity is present especially by passive gears in at least one area where bubbling reefs have been identified. Thus, STECF considers that the conservation objectives within the SACs referred to in the joint recommendation cannot be fully achieved without appropriate measures to prevent fishing activity in the areas. STECF identifies some issues regarding the controllability of the sites. STECF considers that for effective implementation of the measures, the Danish control system that alerts authorities when vessels enter the control area should be extended to all fishing vessels equipped with VMS operating in proximity to the areas. Furthermore, STECF considers that additional measures may be appropriate for fishing vessels without VMS systems (e.g. <12m). These measures should be introduced at the same time as the implementation of the closed areas.

(b) Bratten, Sweden

⁸ http://stecf.jrc.ec.europa.eu/documents/43805/991908/STECF-PLN-15-01_JRCxxx.pdf

The main elements of the final joint JR submitted to the Commission were evaluated by the STECF during its plenary meeting of 4-8 July 2016⁹.

On the specific elements STECF concluded that

1. Regarding ToR 1, STECF concludes that the proposed conservation measures in Bratten MPA, where reefs, pockmarks and threatened species are present, would contribute to minimise the negative impacts of fishing activities on the marine ecosystem and to ensure that fisheries activities avoid the degradation of the marine environment as stipulated under Article 2(3) of Regulation 1380/2013.

2. Regarding ToR 2, STECF concludes that the proposed measures would contribute to ensure that the sensitive habitats addressed in the recommendation are maintained and restored at favourable conservation status inside the delineated areas as stipulated under Article 2 of Directive 92/43/EEC. However, STECF notes that the proposed boundaries of the no-take zones are positioned very close to the reefs and do not encompass a buffer zone defined in accordance with ICES Guidelines. STECF considers that buffer zones are useful for conservation purposes and controllability, while corridors defined in the proposal appear really small. Therefore, if buffer zones were to be implemented, that would imply an aggregation of some of the closest no-take zones into larger ones.

3. Regarding ToR 3, STECF notes that current catches inside the no-take zones under consideration seems to be limited. Nevertheless, some fishing activity is present especially by demersal trawlers. Thus, STECF considers that the habitat conservation objectives within the special areas referred to in the joint recommendation cannot be fully achieved without appropriate measures to prevent fishing activity in the areas. However, STECF notes that very few sensible habitats take place in area 14 whose closure, approved by all stakeholders, is mainly justified by a precautionary approach to avoid a future increase of the fishing pressure on deep sea floors.

On the basis of the evaluation by STECF and internal assessment by Commission services, the Commission considers that the JR submitted are in line with Article 11 of Regulation (EU) No 1380/2013 as outlined above.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

Summary of the proposed action

The main legal action is to adopt measures that would be necessary to comply with obligations under Union environmental law.

The regulation specifies the fisheries in certain areas to which specific measures would apply.

Legal basis

Articles 11(2) and 18(1) and (3) of Regulation of the European Parliament and of the Council (EU) No 1380/2013

Subsidiarity principle

⁹ https://stecf.jrc.ec.europa.eu/documents/43805/1471816/2016-07_STECF+PLEN+16-02_JRCxxx.pdf

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 11(2) 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 fisheries conservation measures necessary for compliance with obligations under Union environmental law by means of delegated acts. Member States 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 Article 11 of Regulation (EU) No 1380/2013.

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

of 5.9.2016

establishing fisheries conservation measures for the protection of the marine environment in the North Sea

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/EC¹⁰, 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 Directive 92/43/EEC¹¹ and Article 13(4) of Directive 2008/56/EC¹².
- (2) Article 6 of 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) Pursuant to Article 13(4) of Directive 2008/56/EC Member States are to adopt programmes of measures, including spatial protection measures that contribute to coherent and representative networks of marine protected areas, and adequately cover the diversity of the constituent ecosystems, such as special areas of conservation pursuant to the Habitats Directive, special protection areas pursuant to the Birds Directive¹³, and marine protected areas as agreed by the Community or Member States

¹⁰ OJ L 354, 28.12.2013, p. 22

¹¹ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7)

¹² Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive) (OJ L 164, 25.6.2008, p. 19)

¹³ Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7)

concerned in the framework of international or regional agreements to which they are parties.

- (4) 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 Kattegat, North 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.
- (5) Denmark, 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 with relevant information on the measures required, including their rationale, scientific evidence in support and details on their practical implementation and enforcement.
- (6) On 13 March 2015, having consulted the North Sea Advisory Council, Denmark, Germany and Sweden submitted to the Commission two joint recommendations for fisheries conservation measures to protect reef structures in three Danish Natura 2000 sites in the Kattegat, North Sea and seven sites in the Baltic. They comprise the prohibition of fishing activities with mobile bottom contacting gear in reef (habitat type 1170) zones and the prohibition of all fishing activities in bubbling reef (under habitat type 1180) zones.
- (7) The Scientific, Technical and Economic Committee on Fisheries ('STECF')¹⁴ stated in its scientific advice of 17 April 2015 that the conservation objectives within the Special Areas of Conservation referred to in the joint recommendations 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 Regulation (EC) No 1224/2009¹⁵. 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) 2015/1778¹⁶ in order to establish fisheries conservation measures for the protection of the relevant reef zones in the Baltic Sea and the Kattegat.

¹⁴ http://stecf.jrc.ec.europa.eu/documents/43805/991908/STECF-PLN-15-01_JRCxxx.pdf

¹⁵ Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 (OJ L 343, 22.12.2009, p. 1)

¹⁶ OJ L 259, 6.10.2015, p. 5

- (10) Delegated Regulation (EU) 2015/1778 provided for the prohibition to fish with mobile bottom contacting gear in the relevant reefs areas in the Baltic Sea and the Kattegat, since such fishing has a negative impact on reef habitats and affects both the reef structures and the biodiversity found at the reefs.
- (11) Furthermore that Regulation prohibited all fishing activity in the relevant bubbling reef areas in the Kattegat since bubbling reefs are especially fragile structures and any physical impact is a threat to their conservation status.
- (12) 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.
- (13) Sweden now considers that, for the purpose of complying with Article 6 of Directive 92/43/EEC and Article 13(4) of Directive 2008/56/EC, conservation measures need to be adopted in certain areas under its sovereignty and jurisdiction in the Skagerrak, North Sea.
- (14) Denmark, 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, Sweden provided Denmark and Germany with relevant information on the measures required, including their rationale, scientific evidence in support and details on their practical implementation and enforcement.
- (15) On 10 June 2016, having consulted the North Sea Advisory Council, Denmark, Germany and Sweden submitted to the Commission a further 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. The measures would prohibit fishing activities in a number of zones.
- (16) In Bratten, it is necessary to prohibit all fishing activities in the relevant reef areas, considering the increased difficulty in controlling fishing activities and minimal pelagic fishery.
- (17) To ensure appropriate control of fishing activities in the marine protected area Bratten, all fishing vessels should be fitted with and maintain in operation an automatic identification system (AIS) during their stay in Bratten, creating an alert zone around the closed areas.
- (18) STECF¹⁷ states in its scientific advice of 8 July 2016 that the proposed conservation objectives in Bratten MPA, where reefs, pockmarks and threatened species are present, cannot be fully achieved without appropriate measures to prevent fishing activity in the areas.
- (19) However, STECF notes that the proposed boundaries of the no-take zones are positioned very close to the reefs and do not encompass a buffer zone defined in accordance with ICES Guidelines. STECF considers that buffer zones are useful for conservation purposes and controllability, while corridors defined in the proposal appear really small. In addition, very few sensible habitats take place in area 14 whose

¹⁷ https://stecf.jrc.ec.europa.eu/documents/43805/1471816/2016-07_STECF+PLEN+16-02_JRCxxx.pdf

closure, approved by all stakeholders, is mainly justified by a precautionary approach to avoid a future increase of the fishing pressure on deep sea floors.

- (20) Following the new joint recommendation submitted on 10 June 2016, it is appropriate to repeal Delegated Regulation (EU) 2015/1778 and to rearrange the relevant conservation measures by sea basin into two different legal instruments.
- (21) This Regulation should only apply to the North Sea and comprise the conservation measures currently applicable in the Kattegat and those suggested for the Bratten area in the joint recommendation of 10 June 2016.
- (22) The conservation measures currently applicable in the Baltic Sea should be included in a separate new Regulation.
- (23) 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 and Article 13(4) of Directive 2008/56/EC.
2. This Regulation applies to fishing vessels in the North 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, Article 4 of Regulation (EC) No 1224/2009 and Article 2 of Commission Implementing Regulation (EU) No 404/2011¹⁸:

(a) 'bottom contacting gear' means any of the following gears: 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) 'Areas 1' mean the geographical areas enclosed by sequentially joining with rhumb lines the positions listed in Annex I to this Regulation, which shall be measured according to the WGS84 coordinate system;

¹⁸ Commission Implementing Regulation (EU) No 404/2011 of 8 April 2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy (OJ L 112, 30.4.2011, p.1)

(c) ‘Areas 2’ mean the geographical areas enclosed by sequentially joining with rhumb lines the positions listed in Annex II to this Regulation, which shall be measured according to the WGS84 coordinate system.

(d) ‘Bratten’ means the geographical area enclosed by sequentially joining with rhumb lines the positions listed in Annex III to this Regulation, which shall be measured according to the WGS84 coordinate system.

(e) ‘Member States concerned’ means Denmark, Germany and Sweden.

Article 3

Fishing prohibition

1. It shall be prohibited to carry out any fishing activity with bottom contacting gears in Areas 1. Fishing vessels carrying on board any bottom contacting gear may carry out fishing activities in Areas 1 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.
2. It shall be prohibited to carry out any fishing activity in Areas 2.

Article 4

Transit

1. Fishing vessels carrying on board any bottom contacting gear may transit across Areas 1, 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.
2. Fishing vessels may transit across Areas 2, provided that any gear carried on board be lashed and stowed in accordance with the conditions laid down in Article 47 of Regulation (EC) No 1224/2009.

Article 5

Automatic identification system

All fishing vessels present in Bratten shall be fitted with and maintain in operation an automatic identification system (AIS) which meets the performance standards set out in Article 10(1) of Regulation (EC) No 1224/2009.

Article 6

Review

1. Member States concerned shall assess the implementation of the measures set out in Article 3 and 4 by 30 June 2017, including the control of compliance with the fishing prohibitions applicable in:
 - (a) Areas 1 and
 - (b) the following Areas 2:
 - (i) Herthas Flak bubbling reef zone and
 - (ii) Læsø Trindel & Tønneberg Banke bubbling reef zone
2. Member States concerned shall submit a summary report of the review to the Commission by 31 July 2017.

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.

Done at Brussels, 5.9.2016

For the Commission
The President
Jean-Claude JUNCKER