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Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 13.10.2022 amending Regulation (EU) 2019/1241 as regards specific technical measures to reduce by-catches of cod in the Baltic Sea

Delegations will find attached document C(2022) 7280 final.

Encl.: C(2022) 7280 final



EUROPEAN
COMMISSION

Brussels, 13.10.2022
C(2022) 7280 final

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

of 13.10.2022

**amending Regulation (EU) 2019/1241 as regards specific technical measures to reduce
by-catches of cod in the Baltic Sea**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Regulation (EU) 2019/1241¹ establishes the framework of technical measures that should contribute to achieving the CFP objectives to fish at maximum sustainable yield levels, reduce unwanted catches and eliminate discards, and contribute to the achievement of good environmental status as set out in Directive 2008/56/EC² of the European Parliament and of the Council. Such technical measures should contribute to the protection of juveniles and spawning aggregations of marine species by using selective gear. Annex VIII of this Regulation establishes regional technical measures for the Baltic Sea.

Where the Commission has been granted powers to adopt measures by means of delegated acts, Article 18 of the Basic Regulation provides that Member States with a direct management interest may submit joint recommendations to achieve the objectives of the relevant Union conservation measures, the multiannual plans or the specific discard plans.

Article 15(2) of Regulation (EU) 2019/1241 empowers the Commission to adopt delegated acts in accordance with Article 29 of this Regulation and Article 18 of Regulation (EU) No 1380/2013³ to amend, supplement, repeal or derogate from the technical measures set out in the Annexes.

According to Article 18 of Regulation (EU) No 1380/2013, this delegated act is based on a joint recommendation submitted by Denmark, Germany, Estonia, Latvia, Lithuania, Poland, Finland and Sweden, the Baltic Sea Member States ('BALTFISH'), in October 2021.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The Baltic Sea Member States have agreed on specific technical measures to reduce as much as possible the incidental catches of cod in demersal fisheries targeting flatfish due to the precarious situation of cod stocks in the Baltic Sea^{4,5}. The chair of the regional group (Latvia) submitted a joint recommendation on 26 October 2021 that suggests a list of new fishing devices to reduce the incidental catches of cod by at least 55% as compared to the baseline gears. The aim is to allow for a continued demersal trawl fishery while trying to minimise the incidental catches of cod.

BALTFISH submitted this joint recommendation to the Baltic Sea Advisory Council (BSAC) on 14 September 2021 for consultation. On 27 September 2021, the BSAC replied by providing preliminary comments and inviting BALTFISH to a joint technical meeting to present and discuss the draft joint recommendation at a technical level. The BSAC and BALTFISH met on 5 October 2021 to discuss the technical details, gear selectivity parameters and other relevant issues of the joint recommendation.

¹ OJ L 198, 25.07.2019, p. 105.

² 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).

³ OJ L 354, 28.12.2013, p.22.

⁴ <https://www.ices.dk/sites/pub/Publication%20Reports/Advice/2021/2021/cod.27.24-32.pdf>

⁵ <https://www.ices.dk/sites/pub/Publication%20Reports/Advice/2021/2021/cod.27.22-24.pdf>

The Commission consulted the Expert Group on Fisheries and Aquaculture on 14 September 2022 in a meeting attended by representatives of the European Parliament as observers.

The STECF assessed the joint recommendation during the plenary 15-19 November 2021 (PLEN 21-03) and concluded that the selectivity characteristics of all proposed gears are at least equivalent to the baseline gears and that catches below minimum conservation reference size will be reduced compared to the current baseline gears.

On the basis of a joint recommendation submitted by the Member States in accordance with Article 15(2) of Regulation (EU) 2019/1241, the Commission may consider adding to the gears established in this Delegated Regulation other alternative fishing gears that reduce the incidental catches of cod by at least 55% as compared to the baseline gears.

The by-catch reduction efficiency of the recommended gears should be periodically evaluated because it is dependent on the length structure of the cod population. Hence, the Commission, in close cooperation with BALTFISH Member States, will assess as of the third year of application of these measures if the length structure of the cod population impacts the bycatch reduction efficiency of the new gears.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

Summary of the proposed action

The main legal action is to adopt changes to the current provisions that are set out in Annex VIII of Regulation (EU) 2019/1241. In particular, the provisions adopted would introduce a number of selectivity devices to reduce incidental catches of cod in the demersal fishery in the Baltic Sea.

Legal basis

Article 15(2) of Regulation (EU) 2019/1241. The proposals in the joint recommendations aim to amend Annex VIII of Regulation (EU) 2019/1241.

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

of 13.10.2022

amending Regulation (EU) 2019/1241 as regards specific technical measures to reduce by-catches of cod in the Baltic Sea

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2019/1241 of the European Parliament and of the Council of 20 June 2019 on the conservation of fisheries resources and the protection of marine ecosystems through technical measures, amending Council Regulations (EC) No 1967/2006, (EC) No 1224/2009 and Regulations (EU) No 1380/2013, (EU) 2016/1139, (EU) 2018/973, (EU) 2019/472 and (EU) 2019/1022 of the European Parliament and of the Council, and repealing Council Regulations (EC) No 894/97, (EC) No 850/98, (EC) No 2549/2000, (EC) No 254/2002, (EC) No 812/2004 and (EC) No 2187/2005¹, and in particular Article 15(2) thereof,

Whereas:

- (1) Annex VIII to Regulation (EU) 2019/1241 provides for technical measures for the Baltic Sea.
- (2) Denmark, Germany, Estonia, Latvia, Lithuania, Poland, Finland and Sweden ('the Member States concerned') have a direct fisheries management interest in the Baltic Sea. On 26 October 2021, the Member States concerned submitted a joint recommendation to the Commission in accordance with Article 18(1) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council² and Article 15(3) of Regulation (EU) 2019/1241, proposing the adoption of a delegated act to add new selectivity devices to Annex VIII of Regulation (EU) 2019/1241.
- (3) The joint recommendation proposes specific technical measures to protect the Baltic cod stocks, which are heavily depleted according to the annual assessment of the International Council for the Exploration of the Sea ('ICES')^{3,4}, including a derogation from the currently allowed mesh sizes. Only mesh sizes proposed in this Regulation should therefore apply in ICES subdivisions 22-26 for the demersal fishery when the directed fishery for cod is prohibited.

¹ OJ L 198, 25.07.2019, p. 105.

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 <https://www.ices.dk/sites/pub/Publication%20Reports/Advice/2021/2021/cod.27.24-32.pdf>

⁴ <https://www.ices.dk/sites/pub/Publication%20Reports/Advice/2021/2021/cod.27.22-24.pdf>

- (4) The Member States concerned agreed that when the directed fishery for cod is prohibited, it is necessary to reduce incidental catches of cod when fishing for flatfish in the main distribution area of Baltic cod (ICES subdivisions 22-26) by at least 55%, in order to avoid further deterioration of these stocks.
- (5) For ICES subdivisions 22 to 26, the joint recommendation suggests the use of a Roofless selection device to be added to either the baseline gears, a modified T90 codend (with a mesh size of at least 125 mm and a reinforcement of the selvages with lastridge ropes), or a square mesh codend (consisting of two panels and a minimum mesh size of at least 125 mm).
- (6) The Scientific, Technical and Economic Committee for Fisheries ('STECF') assessed the Roofless device in November 2021 and concluded⁵ that the cod reduction efficiency is higher than 75% when the Roofless device is combined with the modified T90 codend or the square mesh codend. When combined with the baseline gears, the catch reduction efficiency is above 70%. According to the STECF, the Roofless device releases the majority of cod, irrespective of their size. Considering the evidence regarding the status of the stock, reducing the mortality of cod individuals is key to support its recovery.
- (7) For ICES subdivisions 24 to 26, the joint recommendation proposes, in addition to the aforementioned gear and device combinations, the possibility to use on its own the modified T90 codend. The STECF concluded that, for an optimal performance, the modified T90 codend should be used in combination with the Roofless selection device. Nevertheless, even on its own, the modified T90 reduces incidental catches of cod by 56% on average.
- (8) As regards the square mesh codend, the joint recommendation does not propose its use without the Roofless device because it never meets the required by-catch reduction target of at least 55%.
- (9) Overall, the STECF concluded that the gears and combinations proposed in the joint recommendation are at least equivalent, in terms of exploitation patterns, to the baseline gears and that catches below minimum conservation reference size will be reduced compared to the baseline gears as required by Article 15(4) of Regulation (EU) 2019/1241. Regulation (EU) 2019/1241 should therefore be amended to include those gears and combinations.
- (10) The STECF also stated that the proposed quantitative by-catch reduction target of 55% is linked to the size structure of cod populations and may need further adjustments. The joint recommendation proposed an annual revision of the measures from the third year of application of those measures to assess whether the selectivity parameters are fit for purpose. To facilitate data collection in this regard, Member States should ensure that catches made by these gears are recorded separately.
- (11) This Regulation is complemented by Implementing Regulation 2022/XXX laying down the detailed technical specifications of selective devices to reduce incidental catches of cod in the Baltic Sea.

⁵ <https://stecf.jrc.ec.europa.eu/documents/43805/14840948/STECF+PLEN+21-03.pdf/0909ec89-4bf6-4eeb-bb94-e2cf5a19bc92>

- (12) In order to allow sufficient time to equip vessels with the new selectivity devices, this Regulation should apply as from 90 days after its publication,

HAS ADOPTED THIS REGULATION:

Article 1

Annex VIII to Regulation (EU) 2019/1241 is amended in accordance with the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from *[Publications office, please insert date 90 days after publication]*

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 13.10.2022

For the Commission
The President
Ursula VON DER LEYEN