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Proposal for a

**COUNCIL REGULATION**

**fixing for 2016 the fishing opportunities for certain fish stocks and groups of fish stocks  
applicable in the Baltic Sea**

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

In accordance with Regulation (EU) No 1380/2013 of 11 December 2013 on the Common Fisheries Policy, the exploitation of living marine biological resources shall restore and maintain populations of harvested species above levels which can produce the maximum sustainable yield. One important tool in this respect is the annual fixing of fishing opportunities in the form of total allowable catches (TACs) and quotas.

The objective of this proposal is to fix, for the commercially most important fish stocks in the Baltic Sea, the fishing opportunities for Member States for 2016. With a view to simplifying and clarifying the annual TAC and quota decisions, fishing opportunities in the Baltic Sea have been fixed by a separate Regulation since 2006.

- **Consistency with existing policy provisions in the policy area**

The proposal establishes quotas at the levels consistent with the objectives of Regulation (EU) No 1380/2013 of 11 December 2013 on the Common Fisheries Policy. It takes into account the recent changes introduced by the Regulation (EU) 2015/812 which abolished the fishing effort system for cod stocks in the Baltic Sea (Article 4(4)(c)).

- **Consistency with other Union policies**

The proposed measures are in accordance with the objectives and rules of the Common Fisheries Policy and are consistent with the Union's policy on sustainable development.

### 2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

Article 43(3) of the Treaty on the Functioning of the European Union (TFEU).

- **Subsidiarity (for non-exclusive competence)**

The proposal falls under the Union's exclusive competence as referred to in Article 3(1)(d) TFEU. The subsidiarity principle therefore does not apply.

- **Proportionality**

The proposal complies with the proportionality principle for the following reasons.

The Common Fisheries Policy is a common policy. According to Article 43(3) TFEU it is incumbent upon the Council to adopt measures on the fixing and allocation of fishing opportunities.

The Council Regulation in question allocates fishing opportunities to Member States. Having regard to Article 16(6) and (7) and Article 17 of Regulation (EU) No 1380/2013, Member States are free to allocate such opportunities among regions or operators according to the criteria set in the mentioned Articles. Therefore, Member States have ample room for manoeuvre on decisions related to the social/economic model of their choice to exploit their allocated fishing opportunities.

The proposal has no new financial implications for Member States. This particular Regulation is adopted by the Council every year, and the public and private means to implement it are already in place.

- **Choice of the instrument**

Proposed instrument: Regulation.

This is a proposal for fisheries management on the basis of Article 43(3) TFEU.

### **3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

- **Stakeholder consultations**

The Baltic Sea Advisory Council (BSAC) was consulted at its Joint Demersal/Pelagic Working Group meeting in June 2015 on the basis of the Communication from the Commission concerning Consultation on the Fishing Opportunities for 2016 under the Common Fisheries Policy (COM(2015) 239 final). The scientific basis for the proposal was provided by ICES. The preliminary views expressed on all the fish stocks concerned were considered and taken into account as far as possible in the proposal without contradicting existing policies or causing any deterioration in the state of vulnerable resources.

The scientific advice on catch limitations was also discussed with MS in the regional forum BALTFISH in June 2015.

- **Collection and use of expertise**

The scientific organisations consulted were the International Council for the Exploration of the Sea (ICES).

The Union asks ICES each year for scientific advice on the state of important fish stocks. The advice received covers all Baltic stocks for which TACs are proposed.

- **Impact assessment**

The total amount of the Baltic fishing opportunities expressed in tonnes proposed for 2016 will decrease by 15% when compared to 2015 and will be set at the level of approximately 570 thousand tonnes<sup>1</sup>. Those fishing opportunities expressed in number of individual fish will increase by 6% and will amount to 115 874 pieces.

When calculated on the stock basis, an increase is observed in quotas of two herring stocks – on average by 10%, Main Basin salmon – 10%, plaice – 18% while decreases are observed for Gulf of Bothnia and Gulf of Riga herring stocks – on average by 28%, Gulf of Finland salmon – by 24%, eastern cod stock – by 20% and sprat – by 14%.

Based on average landed fish prices observed in 2013 among eight Baltic Sea countries<sup>2</sup>, the value of fishing opportunities in 2016 will amount to approximately 256 million euros. This represents a decrease by 19%. The biggest decrease is observed in Gulf of Bothnia herring TAC, i.e. from 62 million euros in 2015 to 38 million euros in 2016. However taking into account the fact that the herring quota in 2014 was not fully utilised and presuming that the same catch rate remains in 2016, the reduction in quota value will be less significant. Although the sprat quota is to be reduced by 14%, the value of the quota will increase by about 100 thousand euros. This is due to the price increase by 17% which in 2013 amounted to 289 EUR /tonne.

The proposal reflects not only short-term concerns but is also part of a longer-term approach whereby the level of fishing is gradually reduced to and maintained at long-term sustainable

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<sup>1</sup> Excluding eastern cod stock and including the converted weight of salmon stocks (1 piece is on average 4.5 kg)

<sup>2</sup> EUMOFA, yearly data, retrieved from <http://www.eumofa.eu> on 22/05/2014

levels. The approach taken in line with the proposal will therefore, in the medium to long term, result in a stable fishing effort and higher quotas. The long term effects of the approach are expected to be more sustainable fishing activities and increased landings

- **Regulatory fitness and simplification**

The proposal continues to provide for simplification of administrative procedures for public authorities (EU or national), as it contains provisions similar to those of the 2015 Regulation on the fishing opportunities in the Baltic Sea.

The present regulation simplifies the fisheries management as it no longer limits the fishery by way of establishing fixed number of days at sea that fishing vessels could spend fishing in previous years. This will reduce the administrative burden on the MS. As concluded by scientists the absence of the fishing effort limitation will not jeopardise the stock status as the effective monitoring of the quota uptake is sufficient to control the fishing pressure on the stocks.

The proposal concerns an annual Regulation for the year 2016 and therefore does not include a revision clause.

#### **4. BUDGETARY IMPLICATIONS**

The proposal has no implications for the EU budget.

#### **5. OTHER ELEMENTS**

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The monitoring of the use of fishing opportunities in the form of TACs and quotas has been established by Council Regulation (EC) No 1224/2009.

- **Detailed explanation of the specific provisions of the proposal**

The proposal fixes for 2016 the fishing opportunities for certain stocks or groups of stocks for Member States fishing in the Baltic Sea.

The landing obligation for stocks caught in certain fisheries started become applicable from 1 January 2015. In the Baltic Sea these fisheries cover stocks under TACs and quotas in this Regulation, namely: small pelagic fisheries (herring and sprat stocks), salmon fisheries (salmon stocks), as well as, cod fisheries (cod stocks), where the species define the fishery. Catches of species that do not define the fisheries but are covered by TACs, i.e. plaice will be covered by the landing obligation in the Baltic from 1 January 2017 as stipulated in Commission Delegated Regulation (EU) No 1396/2014.

With introduction of the landing obligation, in accordance with Article 16(2) of Regulation (EU) No 1380/2013, the fishing opportunities proposed shall reflect the change from amount landed to amount caught. Such change has been exercised for 2015 fishing opportunities regulation and is no longer applicable for the stocks mentioned above.

The fishing opportunities should also be fixed in accordance with Articles 16(1) (referring to the principle of relative stability) and 16(4) (referring to the objectives of the Common Fisheries Policy and the rules provided for in multiannual plans).

The proposed figures reflect current scientific advice and consultation with the BSAC. Where relevant, in order to set the EU quotas for stocks shared with the Russian Federation, the respective quantities of these stocks were deducted from the TACs advised by ICES.

Given the Commission's intention of ensuring the sustainable use of fishery resources in line with the Union's policy and international commitments while maintaining stable fishing opportunities, annual variations in TACs are limited as far as practicable taking account of the status of a given stock.

The TACs and quotas allocated to Member States are shown in the Annex to the Regulation.

All five pelagic stocks (four stocks of herring and one sprat stock), plaice and Main Basin salmon in the Baltic Sea are to be fished at MSY levels in 2016; therefore the TACs proposed correspond to the MSY fishing mortality. The TACs for Gulf of Finland salmon and eastern cod correspond to the approach developed by ICES which is applied to data limited stocks. The advice and the TAC for western cod stock still to be clarified by ICES.

Due to changes in biology of the eastern cod stock, ICES did not provide biological reference points for this stock, i.e. actual fishing mortality. The plan has been developed under the assumption that the cod growth remains stable which is no longer the case. In recent years, as recognized by ICES, the growth of the eastern cod stock has been reduced dramatically and the biological reference points can no longer be established. Therefore according to ICES, the multi-annual plan for Baltic cod stocks cannot be used as a basis for an advice for eastern cod stock and instead ICES advised the TAC based on the data limited approach. This renders Articles 6, 7 and 8 of the multiannual plan inapplicable for eastern cod stock in 2016, as the rules for setting TACs contained in the plan are based on these reference points. Therefore, pending a proposal for a new multi-annual plan for the Baltic and in order to prevent that the eastern cod stock is over-exploited due to lack of established TACs, it is appropriate to fix the fishing opportunities based on the approach developed by ICES, in accordance with Article 5(1) of the plan and 43(3) of the Treaty.

Council Regulation (EC) No 847/96 introduced additional conditions for year-to-year management of TACs, including flexibility provisions under Articles 3 and 4 for precautionary and analytical stocks respectively. Under its Article 2, when fixing the TACs, the Council shall decide to which stocks Articles 3 and 4 shall not apply, in particular on the basis of the biological status of the stocks. More recently, the flexibility mechanism was introduced for all stocks covered by the landing obligation by Article 15(9) of Regulation (EU) No 1380/2013. Therefore, in order to avoid excessive flexibility that would undermine the principle of rational and responsible exploitation of living marine biological resources and hinder the achievement of the objectives of the Common Fisheries Policy, it should be clarified that Article 3 and 4 of Regulation (EC) No 847/96 apply only where Member States do not use the year-to-year flexibility provided for in Article 15(9) of Regulation 1380/2013.

Proposal for a

## **COUNCIL REGULATION**

### **fixing for 2016 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Article 43(3) of the Treaty provides that the Council is to adopt measures on the fixing and allocation of fishing opportunities, on a proposal from the Commission.
- (2) Article 6 of Regulation (EU) No 1380/2013 of the European Parliament and of the Council<sup>3</sup> requires that measures for the conservation and sustainable exploitation of marine biological resources are adopted, thereby taking into account available scientific, technical and economic advice including, where relevant, reports drawn up by the Scientific, Technical and Economic Committee for Fisheries ('STECF') and other advisory bodies, as well as any advice received from Advisory Councils established for the relevant geographical areas or fields of competence.
- (3) It is incumbent upon the Council to adopt measures on the fixing and allocation of fishing opportunities, including certain conditions functionally linked thereto, as appropriate. In accordance with Article 16 of Regulation (EU) No 1380/2013, fishing opportunities should be allocated to Member States in such a way as to ensure relative stability of fishing activities of each Member State for each stock or fishery and having due regard to the objectives of the Common Fisheries Policy (CFP) established in that Regulation.
- (4) The total allowable catches (TACs) should therefore be established, in line with Regulation (EU) No 1380/2013, on the basis of the available scientific advice, taking into account biological and socioeconomic aspects whilst ensuring fair treatment between fishing sectors, as well as in the light of the opinions expressed during the consultation with stakeholders.
- (5) The fishing opportunities for stocks subject to specific multiannual plans should be established in accordance with the rules laid down in those plans. Consequently, catch

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<sup>3</sup> 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).

limits for the cod stocks in the Baltic Sea should be established in accordance with the rules laid down in Council Regulation (EC) No 1098/2007<sup>4</sup>.

- (6) Due to changes in the biology of the eastern cod stock, the International Council for the Exploration of the Sea ('ICES') has not been able to establish the biological reference points for cod stocks in ICES subdivisions 25-32 and instead it advised that the TAC for that cod stock be based on the data limited approach. The absence of biological reference points made it impossible to follow the rules for fixing and allocating the fishing opportunities for cod stock in these subdivisions set out in Regulation (EC) No 1098/2007. As not fixing and allocating fishing opportunities could seriously threaten the sustainability of the cod stock, it is appropriate to fix the TAC on the basis of the data limited approach, at a level corresponding to the approach developed and advised by ICES.
- (7) The use of fishing opportunities set out in this Regulation is subject to Council Regulation (EC) No 1224/2009<sup>5</sup>, and in particular to Articles 33 and 34 thereof concerning the recording of catches and fishing effort, and the transmission to the Commission of data on the exhaustion of fishing opportunities. This Regulation should therefore specify the codes relating to landings of stocks subject to this Regulation that are to be used by the Member States when sending data to the Commission.
- (8) Council Regulation (EC) No 847/96<sup>6</sup> introduced additional conditions for year-to-year management of TACs, including, under Articles 3 and 4, flexibility provisions for precautionary and analytical TACs. Under Article 2 of that Regulation, the Council, when fixing the TACs, is to decide to which stocks Articles 3 or 4 shall not apply, in particular on the basis of the biological status of the stocks. More recently, Article 15(9) of Regulation (EU) No 1380/2013 has introduced the year-to-year flexibility mechanism for all stocks that are subject to the landing obligation. To avoid excessive flexibility, which would undermine the principle of rational and responsible exploitation of living marine biological resources, hinder the achievement of the objectives of CFP and deteriorate the biological status of the stocks, it should be established that Articles 3 and 4 of Regulation (EC) No 847/96 apply to analytical TACs only where the year-to-year flexibility provided for in Article 15(9) of Regulation (EU) No 1380/2013 is not used.
- (9) In order to avoid interruption of fishing activities and to ensure the livelihoods of Union fishermen, this Regulation should apply from 1 January 2016. For reasons of urgency, this Regulation should enter into force immediately after its publication.

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<sup>4</sup> Council Regulation (EC) No 1098/2007 of 18 September 2007 establishing a multiannual plan for the cod stocks in the Baltic Sea and the fisheries exploiting those stocks, amending Regulation (EEC) No 2847/93 and repealing Regulation (EC) No 779/97 (OJ L 248, 22.9.2007, p. 1).

<sup>5</sup> 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).

<sup>6</sup> Council Regulation (EC) No 847/96 of 6 May 1996 introducing additional conditions for year-to-year management of TACs and quotas (OJ L 115, 9.5.1996, p. 3).

HAS ADOPTED THIS REGULATION:

## **Chapter I**

### **General Provisions**

#### *Article 1*

##### **Subject matter**

This Regulation fixes for 2016 the fishing opportunities for certain fish stocks and groups of fish stocks in the Baltic Sea.

#### *Article 2*

##### **Scope**

This Regulation shall apply to Union fishing vessels operating in the Baltic Sea.

#### *Article 3*

##### **Definitions**

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

- (1) 'ICES' means International Council for the Exploration of the Sea;
- (2) 'Baltic Sea' means ICES zones IIIb, IIIc and IIId;
- (3) 'subdivision' means an ICES subdivision of the Baltic Sea as defined in Annex I to Council Regulation (EC) No 2187/2005<sup>7</sup>;
- (4) 'fishing vessel' means any vessel equipped for commercial exploitation of marine biological resources;
- (5) 'Union fishing vessel' means a fishing vessel flying the flag of a Member State and registered in the Union;
- (6) 'stock' means a marine biological resource that occurs in a given management area;
- (7) 'total allowable catch' (TAC) means the quantity of each stock that can be:
  - (i) caught over the period of a year, in the case of fisheries subject to a landing obligation pursuant to Article 15 of Regulation (EU) No 1380/2013; or
  - (ii) landed over the period of a year, in the case of fisheries not subject to a landing obligation pursuant to Article 15 of Regulation (EU) No 1380/2013.
- (8) 'quota' means a proportion of the TAC allocated to the Union, a Member State or a third country.

<sup>7</sup>

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 (OJ L 349, 31.12.2005, p. 1.)



## **Chapter II**

### **Fishing Opportunities**

#### *Article 4*

##### **TACs and allocations**

The TACs, the quotas and the conditions functionally linked thereto, where appropriate, are set out in the Annex.

#### *Article 5*

##### **Special provisions on allocations**

The allocation of fishing opportunities among Member States as set out in this Regulation shall be without prejudice to:

- (a) exchanges made pursuant to Article 16(8) of Regulation (EU) No 1380/2013;
- (b) deductions and reallocations made pursuant to Article 37 of Regulation (EC) No 1224/2009;
- (c) additional landings allowed under Article 3 of Regulation (EC) No 847/96 or under Article 15(9) of Regulation 1380/2013;
- (d) quantities withheld in accordance with Article 4 of Regulation (EC) No 847/96 or transferred under Article 15(9) of Regulation 1380/2013;
- (e) deductions made pursuant to Articles 105, 106 and 107 of Regulation (EC) No 1224/2009.

#### *Article 6*

##### **Conditions for landing catches and by-catches not subject to the landing obligation**

Catches and by-catches of plaice shall be retained on board or landed only where they have been taken by Union fishing vessels flying the flag of a Member State that has a quota and provided that quota is not exhausted.

## **Chapter III**

### **Final Provisions**

#### *Article 7*

##### **Data transmission**

When, pursuant to Articles 33 and 34 of Regulation (EC) No 1224/2009, Member States send the Commission data relating to quantities of stocks caught or landed, they shall use the stock codes set out in the Annex to this Regulation.

#### *Article 8*

##### **Flexibility**

1. Except where specified otherwise in the Annex to this Regulation, Article 3 of Regulation (EC) No 847/96 shall apply to stocks subject to precautionary TACs and Article 3(2) and (3) and Article 4 of that Regulation shall apply to stocks subject to an analytical TAC.

2. Article 3(2) and (3) and Article 4 of Regulation (EC) No 847/96 shall not apply where a Member State uses the year-to-year flexibility provided for in Article 15(9) of Regulation (EU) No 1380/2013.

*Article 9*  
**Entry into force**

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

It shall apply from 1 January 2016.

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

Done at Brussels,

*For the Council*  
*The President*