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THE EUROPEAN PARLIAMENT

THE COUNCIL

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) 2016/1139 as regards fishing capacity reduction in the Baltic Sea, and Regulation (EU) No 508/2014 as regards permanent cessation of fishing activities for fleets fishing for Eastern Baltic cod, Western Baltic cod and Western Baltic herring

REGULATION (EU) 2020/...
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of ...

**amending Regulation (EU) 2016/1139 as regards fishing capacity reduction
in the Baltic Sea, and Regulation (EU) No 508/2014 as regards
permanent cessation of fishing activities for fleets fishing for Eastern Baltic cod,
Western Baltic cod and Western Baltic herring**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Acting in accordance with the ordinary legislative procedure²,

¹ OJ C 106, 31.3.2020, p. 10.

² Position of the European Parliament of 11 November 2020 (not yet published in the Official Journal) and decision of the Council of

Whereas:

- (1) Regulation (EU) 2016/1139 of the European Parliament and of the Council¹ establishes a multiannual plan for the stocks of cod, herring and sprat in the Baltic Sea ('the Baltic Multiannual Plan'). The Baltic Multiannual Plan is to implement the ecosystem-based approach to fisheries management in order to ensure that negative impacts of fishing activities on the marine ecosystem are minimised. It is to be coherent with Union environmental legislation, in particular with the objective of achieving good environmental status in the marine environment by 2020 as set out in Directive 2008/56/EC of the European Parliament and of the Council².

¹ Regulation (EU) 2016/1139 of the European Parliament and of the Council of 6 July 2016 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 1098/2007 (OJ L 191, 15.7.2016, p. 1).

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).

- (2) The provisions of the Baltic Multiannual Plan regarding the adoption of details for the implementation of the landing obligation provided for in Regulation (EU) No 1380/2013 of the European Parliament and of the Council¹ in Union waters of the Baltic Sea should also apply to Atlantic salmon (*Salmo salar*) as regards the high survivability exemption.
- (3) According to scientific assessment carried out by the International Council for the Exploration of the Sea (ICES), many species and habitats of the Baltic Sea are not in good condition. Annual nutrient inputs still exceed regionally agreed goals in the central Baltic Sea, the Archipelago Sea and the Gulf of Finland. Nutrient concentrations remain relatively high, as does the extent of deep-water areas with poor or no oxygen. Contaminant levels remain elevated compared with most European seas. That overall environmental situation affects food web functionality, reduces resilience and resistance against further environmental changes, and diminishes prospects for socio-economic benefits, including fishing opportunities.

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).

- (4) The declining condition of Eastern Baltic cod (*Gadus morhua*) has been linked to that situation. According to ICES, the stock of Eastern Baltic cod suffers from an unsustainably low biomass due to a combination of declining recruitment, low availability of prey species, environmental factors and changes in the ecosystem - such as oxygen depletion, increased temperature or pollution - leading to a high natural mortality approximately three times the fishing mortality, and an excessive fishing mortality given the status of the stock. The biomass of commercial sized Eastern Baltic cod is currently at the lowest level observed since the 1950s. Moreover, ICES estimated that the Eastern Baltic cod spawning stock biomass will remain below the sustainability reference point in the medium-term (until 2024) even with no fishing at all and therefore advised zero catches in its stock advice for 2020.
- (5) The Baltic Multiannual Plan requires that, when scientific advice indicates that a stock is under threat, remedial measures are to be taken, including the reduction of fishing opportunities and specific conservation measures, and that those measures are to be supplemented by all other appropriate measures. Remedial measures may include suspending the targeted fishery for the stock and the adequate reduction of fishing opportunities. The choice of measures is to be made in accordance with the nature, seriousness, duration and repetition of the situation.

- (6) Based on the stock assessment for Eastern Baltic cod, the Commission adopted Implementing Regulation (EU) 2019/1248¹, prohibiting Union fishing vessels from fishing for cod in ICES Subdivisions 24, 25 and 26 until 31 December 2019. That prohibition has had a significant impact on the Eastern Baltic region, especially on the small artisanal fishing sector. It has also had an impact on the Western Baltic fisheries.
- (7) Council Regulation (EU) 2019/1838² provides for a necessary and unprecedented reduction of 92 % of fishing opportunities for 2020 compared to 2019 for Eastern Baltic cod, and limits the use of the total allowable catch ('TAC') to by-catches only. No targeted fishery for this stock is therefore to be allowed. Fishing operations conducted for the purpose of scientific investigations are allowed to follow the trends in stock biomass. Since in ICES Subdivision 24 mostly Eastern Baltic cod is present, the use of the Western Baltic cod TAC in ICES Subdivision 24 has also been limited to by-catches of cod.

¹ Commission Implementing Regulation (EU) 2019/1248 of 22 July 2019 establishing measures to alleviate a serious threat to the conservation of the Eastern Baltic cod (*Gadus morhua*) stock (OJ L 195, 23.7.2019, p. 2).

² Council Regulation (EU) 2019/1838 of 30 October 2019 fixing for 2020 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea and amending Regulation (EU) 2019/124 as regards certain fishing opportunities in other waters (OJ L 281, 31.10.2019, p. 1).

- (8) The fishing fleets currently dependent on Eastern Baltic cod do not have the possibility to fish for other stocks as an alternative. It is estimated that offsetting the economic losses caused by the Eastern Baltic cod closure would require additional catches of around 20 000 tonnes in alternative species. However, Regulation (EU) 2019/1838 provides for major reductions for other stocks for 2020, in particular in respect of Western Baltic cod, with a reduction of 60 %, and in respect of Western Baltic herring (*Clupea harengus*), with a reduction of 65 % for the western stock and of 27 % in the Gulf of Bothnia.
- (9) Analysis shows that the fleet segments with the highest dependency on Eastern Baltic cod encompass more than 300 vessels, mainly trawlers and netters in Lithuania, Latvia and Poland, and to a lesser extent, in Denmark and Germany. Those fleet segments are of significant socio-economic importance, representing between approximately 20 % and 50 % of the respective national fleet in Lithuania, Latvia and Poland, expressed in full-time equivalents. Only a minority of fleet segments seem resilient enough to survive a short-term, but not a medium or long-term, closure. The rest either already suffer from a poor situation that will be made worse by the closure or will see their profitability erode completely. Indeed, the quota uptake for Eastern Baltic cod has been below 60 % for many years already, dropping further to 40 % in 2018 and even lower in 2019; the quota uptake until the start of the Commission emergency measures in mid-July 2019 was 19 %, reflecting the biological problem with that fishery. Given that Eastern Baltic cod is not expected to recover to healthy levels even in the medium term, there will be a persistent structural imbalance for those fleet segments, thus justifying the restructuring of the fleet.

- (10) Restructuring of the fleets is to be carried out in line with Regulation (EU) No 1380/2013, which requires Member States to put in place measures to adjust the fishing capacity of their fleets to their fishing opportunities over time, taking into account trends and based on the best available scientific advice, with the objective of achieving a stable and enduring balance between them. In order to achieve that objective, Member States are to send to the Commission, by 31 May each year, a report in which the balance between the fishing capacity of their fleets and their fishing opportunities is assessed. If the assessment clearly demonstrates that the fishing capacity is not effectively balanced with the fishing opportunities, the Member State concerned is to prepare and include in its report an action plan for the fleet segments with identified structural overcapacity.
- (11) In the political agreement of the Council of 15 October 2019 on 2020 catch limits in the Baltic Sea, the Member States concerned declared that, if they need to reduce the fishing capacity of the fleet to manage the adverse socio-economic consequences of the decline of the fisheries, they will present an action plan to the Commission in accordance with Regulation (EU) No 1380/2013. On 17 October 2019, the Member States concerned also recognised that, in view of the need to reduce the fishing capacity of the fleet, it is important to avoid public aid for investments in additional fishing capacity. Member States should be allowed at any time to send to the Commission their annual reports on fishing capacity and fishing opportunities or amendments to those reports in order to introduce or amend such an action plan.

- (12) The fishing capacity levels of Member States implementing permanent cessation measures in fleet segments that have targeted Eastern Baltic cod, Western Baltic cod or Western Baltic herring ('the three stocks concerned') should not exceed the average fishing capacity levels of vessels with fishing opportunities for the three stocks concerned in the years 2015 to 2019. Those fishing capacity levels should be reduced when vessels are withdrawn with public aid, with the aim of rebuilding the three stocks concerned. Those Member States should ensure that vessels from other fleet segments cannot be transferred to the fleet segments that fish for any of the three stocks concerned by not re-allocating fishing capacity to those vessel groups before five years following the date of withdrawal, or before the stock concerned has been above $MSY B_{trigger}$ for a period of three years, whichever occurs earlier. In order to ensure that fishing capacity levels are not exceeded, Member States should inform the Commission about their initial fishing capacity level and any changes to it.
- (13) Given the serious condition of the three stocks concerned, Member States should enhance monitoring and control of vessels with by-catch quota for Eastern Baltic cod or with fishing opportunities for Western Baltic cod or Western Baltic herring. Furthermore, the threshold quantity as of which a fishing vessel is required to send prior notification of landing and to land its catch in a specific place should be reduced to 250 kilograms for Eastern Baltic cod and Western Baltic cod.
- (14) Regulation (EU) 2016/1139 should therefore be amended accordingly.

- (15) ICES issued an analytical assessment of the stock of Eastern Baltic cod, but could neither provide fishing mortality ranges nor various reference points because of a lack of required data. Therefore, data collection should be improved.
- (16) The European Maritime and Fisheries Fund (‘EMFF’) established by Regulation (EU) No 508/2014 of the European Parliament and of the Council¹ provided for permanent cessation of fishing activities until 31 December 2017 as a tool to reduce identified structural overcapacity. Where Member States identified a structural imbalance, the resulting action plan under Regulation (EU) No 1380/2013 therefore allowed them to include permanent cessation of fishing activities as a way to meet the objectives of the action plan.

¹ Regulation (EU) No 508/2014 of the European Parliament and of the Council of 15 May 2014 on the European Maritime and Fisheries Fund and repealing Council Regulations (EC) No 2328/2003, (EC) No 861/2006, (EC) No 1198/2006 and (EC) No 791/2007 and Regulation (EU) No 1255/2011 of the European Parliament and of the Council (OJ L 149, 20.5.2014, p. 1).

- (17) In order to mitigate the seriously harmful socio-economic consequences for communities and businesses engaged in fishing caused by the persistent and negative environmental situation in the Baltic Sea and the resulting severe reductions in fishing opportunities and in view of the specific measures provided for in the Baltic Multiannual Plan, public support for the permanent cessation of fishing activities through the scrapping of fishing vessels should be available to allow Member States to meet the objectives of their action plans under Regulation (EU) No 1380/2013 and reduce any identified structural imbalance in the fleet segments concerned. Regulation (EU) No 508/2014 should therefore be amended accordingly to reintroduce support for permanent cessation for the vessels in the fleet segments concerned.
- (18) In order to ensure the consistency of fleet structural adaptation in the Baltic Sea with the conservation objectives laid down in the Baltic Multiannual plan, support for the permanent cessation of fishing activities through the scrapping of fishing vessels in the fleet segments concerned should be strictly conditional upon compliance with Regulation (EU) No 1380/2013 and with the specific fishing capacity ceilings for the fleet segments concerned.
- (19) Given the fragile ecosystem in the Baltic Sea, support for the permanent cessation of fishing activities should not be granted for the retrofitting of fishing vessels for activities other than commercial fishing, such as recreational fishing, which could have a detrimental impact on the ecosystem. Therefore, the support should only be granted for the scrapping of fishing vessels.

- (20) Regulation (EU) No 1380/2013 provides that the fishing capacity corresponding to the fishing vessels withdrawn with public aid is not to be replaced. Moreover, that Regulation provides that the entry into the fleet of new fishing capacity without public aid is to be compensated for by the prior withdrawal of fishing capacity without public aid of at least the same amount.
- (21) Since support under Regulation (EU) No 508/2014 may be provided until the end of 2023, the last annual report on the implementation of the operational programmes should be submitted by 31 May 2024. Regulation (EU) No 508/2014 should therefore be amended accordingly.
- (22) In view of the bad economic situation of Union fishing vessels which are significantly dependent on the three stocks concerned and the need to ensure the availability of support under the EMFF for permanent cessation of fishing activities of those vessels in 2020, this Regulation should enter into force as a matter of urgency on the day following that of its publication in the *Official Journal of the European Union*,

HAVE ADOPTED THIS REGULATION:

Article 1
Amendments to Regulation (EU) 2016/1139

Regulation (EU) 2016/1139 is amended as follows:

(1) in Article 1, the following paragraph is added:

“3. This Regulation also specifies details for the implementation of the landing obligation in the Union waters of the Baltic Sea for Atlantic salmon (*Salmo salar*) in ICES Subdivisions 22-32.”;

(2) in Article 7(1), the following subparagraph is added:

“However, in respect of Atlantic salmon, the delegated powers conferred upon the Commission under the first subparagraph shall be limited to the measures referred to in point (a) of that subparagraph.”;

(3) the following Chapter is inserted:

“CHAPTER VI A

FISHING CAPACITY REDUCTION

Article 8a

Fishing capacity reduction for Eastern Baltic cod, Western Baltic cod and Western Baltic herring

1. Member States which have adopted an action plan in accordance with Article 22(4) of Regulation (EU) No 1380/2013 for fleet segments which include fishing vessels that have targeted Eastern Baltic cod, Western Baltic cod or Western Baltic herring (‘the three stocks concerned’) may implement measures for the permanent cessation of fishing activities in accordance with Article 34 of Regulation (EU) No 508/2014.
2. Support for measures referred to in paragraph 1 shall be granted only if the action plan as referred to in paragraph 1 sets out specific fishing capacity reduction targets for fishing vessels with fishing opportunities for one or more of the three stocks concerned.
3. Member States may at any time send or amend their annual report referred to in Article 22(2) of Regulation (EU) No 1380/2013 in order to introduce or amend their action plan.

4. The fishing capacity ceiling of a Member State implementing permanent cessation measures as referred to in paragraph 1 of this Article shall decrease by an amount equal to the fishing capacity corresponding to the fishing vessels that are withdrawn with public aid in accordance with Article 22(6) of Regulation (EU) No 1380/2013 and Article 34(5) of Regulation (EU) No 508/2014.
5. Member States shall communicate to the Commission any decreases in the fishing capacity ceilings of Member States in the reports to be submitted in accordance with Article 22(2) of Regulation (EU) No 1380/2013.
6. Member States implementing the permanent cessation measures as referred to in paragraph 1 shall communicate to the Commission the yearly average for the years 2015 to 2019 of the total fishing capacity of all fishing vessels with an allocation of fishing opportunities for any of the three stocks concerned. Moreover, Member States shall communicate to the Commission the total amount of fishing capacity withdrawn for fishing vessels with an allocation of fishing opportunities for any of the three stocks concerned.

7. Member States implementing the permanent cessation measures as referred to in paragraph 1 shall ensure that the fishing capacity of fishing vessels with an allocation of fishing opportunities for any of the three stocks concerned does not exceed the yearly average fishing capacity communicated to the Commission in accordance with paragraph 6 by not re-allocating fishing capacity to any of those vessel groups before five years following the date of withdrawal, or before the stock concerned has been above $MSY B_{trigger}$ for a period of three years, whichever occurs earlier.”;

(4) in Article 11, paragraph 1 is replaced by the following:

“1. By way of derogation from Article 17(1) of Regulation (EC) No 1224/2009, the prior notification obligation laid down in that Article shall apply to masters of Union fishing vessels of an overall length of eight metres or more retaining on board at least 250 kilograms of cod or two tonnes of pelagic stocks.”;

(5) in Article 14, point (a) is replaced by the following:

“(a) 250 kilograms of cod;”;

(6) the following Article is inserted:

“Article 14a

Control of catches of Eastern Baltic cod, Western Baltic cod and Western Baltic herring

Member States shall enhance monitoring and control of vessels with by-catch quota for Eastern Baltic cod or with fishing opportunities for Western Baltic cod or Western Baltic herring.”.

Article 2
Amendments to Regulation (EU) No 508/2014

Regulation (EU) No 508/2014 is amended as follows:

(1) Article 34 is amended as follows:

(a) in paragraph 2, the following subparagraph is added:

“However, in the case of Eastern Baltic cod as referred to in point (b) of Article 1(1) of Regulation (EU) 2016/1139 of the European Parliament and the Council^{*}, the two calendar years referred to in points (a) and (b) of the first subparagraph of this paragraph shall be 2017 and 2018.

^{*} Regulation (EU) 2016/1139 of the European Parliament and of the Council of 6 July 2016 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 1098/2007 (OJ L 191, 15.7.2016, p. 1).”;

(b) paragraph 4 is replaced by the following:

“4. Support under this Article may be granted until 31 December 2017, unless permanent cessation measures are adopted in order to achieve the objectives of the following multiannual plans:

- (a) the multiannual plan for the conservation and sustainable exploitation of demersal stocks in the western Mediterranean Sea, established by Regulation (EU) 2019/1022 of the European Parliament and of the Council*;
- (b) the multiannual plan for the stocks of cod, herring and sprat in the Baltic Sea and the fisheries exploiting those stocks, established by Regulation (EU) 2016/1139, with regard to vessels that have targeted Eastern Baltic cod, Western Baltic cod or Western Baltic herring as set out in Article 8a of Regulation (EU) 2016/1139.

* Regulation (EU) 2019/1022 of the European Parliament and of the Council of 20 June 2019 establishing a multiannual plan for the fisheries exploiting demersal stocks in the western Mediterranean Sea and amending Regulation (EU) No 508/2014 (OJ L 172, 26.6.2019, p. 1).”;

(c) paragraph 4a is replaced by the following:

“4a. Expenditure related to the permanent cessation measures adopted in order to achieve the objectives of Regulation (EU) 2019/1022 shall be eligible for support under the EMFF from 16 July 2019.

Expenditure related to the permanent cessation measures adopted in order to achieve the objectives of Regulation (EU) 2016/1139, in particular Article 8a thereof, shall be eligible for support under the EMFF from ... [date of entry into force of this Regulation].”;

(d) in paragraph 6, the first subparagraph is replaced by the following:

“6. By way of derogation from paragraph 1, support may be granted for the permanent cessation of fishing activities without scrapping provided that the vessels retrofit for activities other than commercial fishing. That derogation shall not apply to support granted under paragraph 4, point (b).”;

(2) in Article 114, paragraph 1 is replaced by the following:

“1. By 31 May 2016, and by 31 May of each subsequent year up to and including 2024, Member States shall submit to the Commission an annual report on the implementation of the operational programme in the previous calendar year. The report submitted in 2016 shall cover the calendar years 2014 and 2015.”.

Article 3
Entry into force

This Regulation shall enter into force on the 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 ...,

For the European Parliament
The President

For the Council
The President
