



Council of the
European Union

Brussels, 26 August 2021
(OR. en)

11398/21

Interinstitutional File:
2021/0278(NLE)

PECHE 283

PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	26 August 2021
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2021) 491 final
Subject:	Proposal for a COUNCIL REGULATION fixing for 2022 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea, and amending Regulation (EU) 2021/92 as regards certain fishing opportunities in other waters

Delegations will find attached document COM(2021) 491 final.

Encl.: COM(2021) 491 final



EUROPEAN
COMMISSION

Brussels, 26.8.2021
COM(2021) 491 final

2021/0278 (NLE)

Proposal for a

COUNCIL REGULATION

fixing for 2022 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea, and amending Regulation (EU) 2021/92 as regards certain fishing opportunities in other waters

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

In line with Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy ('CFP Basic Regulation'), the exploitation of living marine biological resources must restore and maintain populations of harvested species above levels which can produce the maximum sustainable yield ('MSY'). An important tool in this respect is the annual fixing of fishing opportunities in the form of total allowable catches ('TAC') and quotas.

Regulation (EU) 2016/1139 of the European Parliament and of the Council of 6 July 2016 establishing a multiannual management plan for the stocks of cod, herring and sprat in the Baltic sea and the fisheries exploiting those stocks ('MAP') further specifies the values of fishing mortalities expressed as ranges. These values are used in this proposal to reach the CFP objectives and in particular to reach and maintain MSY.

The objective of this proposal is to fix, for the commercially most important fish stocks in the Baltic Sea, the Member States' fishing opportunities for 2022. To simplify and clarify 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 sets quotas at the levels consistent with the objectives of Regulation (EU) No 1380/2013.

• Consistency with other Union policies

The proposal is in line with the CFP objectives and rules, and is 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) of the TFEU. The subsidiarity principle therefore does not apply.

• Proportionality

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

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

This proposal for a Council Regulation allocates fishing opportunities to Member States. Under 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 those 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 Regulation is adopted by the Council every year, and the public and private means to implement it are already in place.

- **Choice of instrument**

Proposed instrument: Regulation.

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

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

- **Stakeholder consultations**

The Baltic Sea Advisory Council ('BSAC') was consulted based on the Communication from the Commission concerning Consultation on the Fishing Opportunities for 2022 under the Common Fisheries Policy COM(2021) 279 final. The scientific basis for the proposal was provided by the International Council for the Exploration of the Sea ('ICES'). The preliminary views expressed by stakeholders on all the fish stocks concerned were taken into account as far as possible without contradicting existing policies or causing any deterioration in the state of vulnerable resources.

The scientific advice on catch limitations and status of the stocks were also discussed with Member States in the regional forum BALTFISH in June 2021.

- **Collection and use of expertise**

ICES, which is a scientific organisation, was consulted.

The Union seeks scientific advice on the state of important fish stocks from ICES each year. The advice received covers all Baltic stocks and TACs are proposed for the commercially most important stocks (<http://www.ices.dk/advice/Pages/Latest-Advice.aspx>).

- **Impact assessment**

The proposal is part of a long-term approach where fishing is adjusted to and maintained at long-term sustainable levels. This approach is expected to result in a stable fishing pressure, higher quotas and therefore an improved income for fishermen and their families. The increased landings are expected to benefit the fishing industry, consumers, processing and retail industry as well as for the rest of the industry linked to commercial and recreational fishing.

Decisions taken on the Baltic fishing opportunities over the past years had succeeded until 2019 in bringing fishing mortality for stocks with an MSY advice in line with the MSY ranges at the moment of the TAC setting for all stocks except for western Baltic herring, and in rebuilding stocks and rebalancing fishing capacity and fishing opportunities. Unfortunately, eastern Baltic cod came under severe pressure in 2019 and ICES estimates that that stock will most probably remain in a depleted condition in the years to come.

Western Baltic cod has also been struggling to recover to healthy levels for several years and since 2020 the biomass of central Baltic herring has also dropped below healthy levels. Several salmon populations have also been very weak for many years. Therefore progress is still needed to rebuild all stocks and to bring them in line with MSY.

On 28 May 2021 ICES published its scientific advice for the Baltic stocks though postponing the advice for western Baltic cod and the two salmon TACs to mid-September. ICES estimates that the biomass of western Baltic herring and eastern Baltic cod remains below safe

biological limits. The biomass of central Baltic herring remains below healthy limits. The biomass of western Baltic cod has been below healthy limits for several years. Eastern Baltic cod receives precautionary advice. Five stocks receive an MSY advice out of which three are at healthy levels (sprat, herring in the Gulf of Riga and herring in the Gulf of Bothnia), and two are not (western and central Baltic herring). Plaice is composed of two stocks one of which receives MSY advice, the other one precautionary advice.

Taking the above into account and pending the publication of the ICES advice for three TACs and complementary ICES information for a fourth stock, the proposal would close the directed fishery of western Baltic herring with a TAC for unavoidable by-catches, and decrease fishing opportunities for herring in the Gulf of Bothnia by 5% and central herring by 54%. The proposal would increase fishing opportunities for Gulf of Riga herring by 21%, and roll over those for plaice, sprat and by-catches of eastern cod.

The economic impact of the proposal for 2022 will therefore be a reduction in fishing opportunities in all Member States. All in all, the current proposal (i.e. without western cod, western herring, and the two salmon TACs) leads to a level of approximately 434 500 tonnes for the Baltic fishing opportunities, representing a 11.6% reduction when compared to the amended 2021 fishing opportunities.

- **Regulatory fitness and simplification**

The proposal remains flexible in the application of quota exchange mechanisms which were already introduced in the Regulations concerning fishing opportunities in the Baltic Sea in the previous years. There are no new provisions or new administrative procedures proposed for public authorities (EU or national) which could increase the administrative burden.

The proposal concerns an annual Regulation that applies for 2022 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 was established by Council Regulation (EC) No 1224/2009.

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

The proposal fixes fishing opportunities for certain stocks or groups of stocks for Member States fishing in the Baltic Sea for 2022.

Regulation (EU) 2016/1139 establishing the MAP for the Baltic Sea entered into force on 20 July 2016. Under the provisions of this plan, the fishing opportunities are to be fixed in line with the objectives of the plan and are to comply with the target fishing mortality ranges provided in the best available scientific advice, in particular by ICES or a similar independent scientific body. For stocks benefiting from an MSY advice, Article 4(3) of the MAP provides that the TAC is in principle to be set at or below the F_{MSY} point value ('lower F_{MSY} range'), though the TAC can also always be set below the F_{MSY} ranges according to Article 4(4) of the MAP. For healthy stocks, the TAC may, under the conditions set out in Article 4(5) of the MAP, be set above the F_{MSY} point value ('upper F_{MSY} range'). For stocks with a biomass below healthy limits (' $B_{trigger}$ '), Article 5(1) of the MAP provides that appropriate remedial

measures are to be taken to ensure the rapid return of the stock to healthy levels and in particular the TAC is to be set at a level reduced below the upper F_{MSY} range, taking into account the decrease in biomass. If a stock's biomass is even below safe biological limits (' B_{lim} '), Article 5(2) of the MAP provides that additional remedial measures are to be taken. Remedial measures may in particular include suspending the targeted fishery for the stock concerned and the adequate reduction of fishing opportunities for those stocks or other stocks in the fisheries. Other remedial measures may also be adopted but should be functionally linked to the fishing opportunities. The choice of measures should be made in accordance with the nature, seriousness, duration and repetition of the situation.

According to the CFP Basic Regulation, fishing opportunities for stocks receiving precautionary advice are to be set at levels ensuring at least a comparable degree of conservation. The CFP Basic Regulation also states in its Recital 8 that management decisions relating to mixed fisheries should take into account the difficulty of fishing all stocks in a mixed fishery at maximum sustainable yield at the same time, in particular where scientific advice indicates that it is very difficult to avoid the phenomenon of 'choke species' by increasing the selectivity of the fishing gears used.

The fishing opportunities are proposed in line with Articles 16(1) (referring to the principle of relative stability) and 16(4) (referring to the CFP objectives and the rules provided for in multiannual plans) of the CFP Basic Regulation.

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. The TACs and quotas allocated to Member States are set out in Annex to the proposal.

For western Baltic herring the stock size estimated by ICES slightly increased but remains at merely 54% of the limit spawning biomass reference point, below which there may be reduced reproductive capacity (' B_{lim} ') as established by ICES. Recruitment has been low for many years and dropped to a historic low. As no catch scenario would bring the biomass above B_{lim} in the near future, ICES reiterated its advice for zero catches for the fourth year in a row.

The Commission therefore proposes pursuant to Articles 5(2) and 4(4) of the MAP to close the directed fishery except for purely scientific fisheries and to set a TAC for unavoidable by-catches to avoid choking other fisheries. This year, ICES has for the first time published a technical service paper about unavoidable by-catches of western Baltic herring in other fisheries. However, it does not mention Baltic fisheries. The Commission asked ICES to provide such information. The Commission will update its proposal and propose a TAC level once it will have received this information from ICES.

For eastern Baltic cod ICES is still unable to determine the values of the MSY fishing mortality ranges and therefore issued a precautionary advice. For the third year in a row, ICES published an advice for zero catches in 2022. ICES estimates that the stock size continues to be below safe biological limits (' B_{lim} ') and that it will remain below in the medium term even with no fishing at all. Moreover, ICES estimates that the biomass has slightly fallen since 2020 and recruitment remains historically low. Given the depleted stock situation, severe measures have been adopted since 2019. The targeted fishery of eastern Baltic cod has been closed except for purely scientific fisheries, and the TAC is limited to unavoidable by-catches to avoid choking most of the other fisheries in the Baltic Sea.

Furthermore, further remedial measures functionally linked to the fishing opportunities were adopted in the form of a spawning closure covering the peak spawning period and the potential spawning areas with exceptions for purely scientific fisheries, certain small-scale

coastal fisheries using passive gears and pelagic fisheries for human consumption undertaken outside of the main potential spawning areas. Moreover, recreational fishing has been banned since 2020 in the main distribution area since the quantities caught would be substantial when compared to the by-catch TAC. Given that these remedial measures have not yet had the time to result in an improved stock status, it is appropriate to maintain them and keep the TAC level unchanged.

Regarding western Baltic cod, due to issues concerning high retrospective inconsistencies identified during the assessment process, ICES decided to postpone its advice to mid-September 2021. ICES has however been indicating since 2019 that the stock's situation was fragile and deteriorating again. Moreover, the stock has been relying on a single good year class whose biomass has however regularly been revised downwards. There are at the moment no indications that the perception of the overall stock status would have significantly improved. Pending the ICES advice, it is therefore appropriate to maintain unchanged the remedial measures functionally linked to the fishing opportunities existing in 2021 for spawning closures and certain restrictions for directed and recreational fisheries. The Commission will update its proposal on the TAC level and bag limit for recreational angling once ICES will have issued its advice.

ICES estimated in 2020 that the biomass of central Baltic herring had fallen below healthy levels ('B_{trigger}'). It was expected last year that the biomass would be back above healthy levels in 2021 but it has actually further decreased and has come close to B_{lim}. Moreover, last year ICES had estimated that the 2019 year-class was strong but it turns out to be below average, meaning that there has been no strong recruitment since 2015. The Commission, in line with Article 5(1) of the MAP therefore proposes to set the fishing opportunities at the lower point of the F_{MSY} range. ICES estimates that with this level of fishing mortality the biomass should be back above healthy levels in 2023.

The proposed TACs for herring in the Gulf of Riga, herring in the Gulf of Bothnia and sprat correspond to the MSY fishing mortality range as referred to in Article 4(3) of the MAP. The biomass of sprat is healthy but the fishing pressure remains too high. Moreover, ICES advises to consider multispecies interactions as sprat is an important forage species for cod. Furthermore, sprat is caught in a mixed fishery with herring whose TAC has to be significantly decreased for the second year in a row under the rules of the MAP. The Commission therefore proposes not to increase the sprat TAC but to roll it over.

The TAC for plaice corresponds to a combination of the MSY advice for the stock in subdivisions 21 to 23 and of the ICES approach for data limited stocks (precautionary advice) for the stock in subdivisions 24 to 32. Both stocks are developing well, but multispecies interactions should be taken into account. Cod is an unavoidable by-catch in plaice fisheries, and the by-catch levels can be significant particularly as long as more selective fishing gears are not used. The Commission proposes to maintain the fishing opportunities for eastern Baltic cod at a very low level, and the postponed ICES advice for western Baltic cod is not expected to advise a significant catch increase. The Commission therefore proposes to roll-over the TAC for plaice in line with Article 4(4) of the MAP.

ICES decided to postpone its advice for the two salmon TACs to mid-September 2021. The Commission will update its proposal once ICES will have issued its advice. That said, in an assessment carried out in 2020 for salmon in the main basin, ICES found out that the reference points and the past advice were inconsistent with the MSY approach. Furthermore, several salmon river populations have been weak for many years with at best limited signs of recovery. The mixed-stock commercial and recreational sea fisheries in the main basin target all stocks, including those weak stocks. ICES therefore estimated that there was no harvest

rate for the mixed-stock commercial sea fisheries which would ensure that all salmon populations in the TAC area reach MSY within one salmon generation.

Council Regulation (EC) No 847/96 introduced further 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 is to decide to which stocks Articles 3 and 4 are not to apply, in particular based on the biological status of the stocks. More recently, the flexibility mechanism was introduced for all stocks covered by the landing obligation under Article 15(9) of Regulation (EU) No 1380/2013. Therefore, to avoid excessive flexibility that would undermine the principle of rational and responsible exploitation of living marine biological resources and hinder achieving the CFP objectives, 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.

The Commission also proposes to amend Regulation (EU) 2021/92 to set a TAC for Norway pout whose fishery starts on 1 November. The TAC level is set in 'pm' pending the publication of the ICES advice expected in early October 2021 and the consultations with the United Kingdom.

Proposal for a

COUNCIL REGULATION

fixing for 2022 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea, and amending Regulation (EU) 2021/92 as regards certain fishing opportunities in other waters

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 6 of Regulation (EU) No 1380/2013 of the European Parliament and of the Council¹ requires that conservation measures be adopted taking into account available scientific, technical and economic advice, including, where relevant, reports drawn up by the Scientific, Technical and Economic Committee for Fisheries and other advisory bodies, as well as advice from Advisory Councils established for the relevant geographical areas of competence and Member States' joint recommendations.
- (2) The Council is to adopt measures on the fixing and allocation of fishing opportunities, including certain conditions functionally linked to those fishing opportunities, as appropriate. Article 16(1) of Regulation (EU) No 1380/2013 provides that fishing opportunities should be allocated to Member States in such a way as to ensure the relative stability of fishing activities of each Member State for each stock or fishery.
- (3) Article 2(2) of Regulation (EU) No 1380/2013 provides that the objective of the CFP is to achieve the maximum sustainable yield ('MSY') exploitation rate by 2015 where possible and, on a progressive, incremental basis at the latest by 2020 for all stocks. The objective of the transitory period until 2020 was to balance the achievement of MSY for all stocks with the possible socio-economic aspects relating to the possible adjustments of related fishing opportunities.
- (4) The total allowable catches ('TAC') should therefore be established, in accordance with Regulation (EU) No 1380/2013, based on the available scientific advice, taking into account biological and socio-economic aspects while ensuring fair treatment between fishing sectors and taking into account the opinions expressed during the consultation with stakeholders.
- (5) Regulation (EU) 2016/1139 of the European Parliament and of the Council² establishes a multiannual plan for the stocks of cod, herring and sprat in the Baltic Sea

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).

² 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

and for the fisheries exploiting those stocks ('the plan'). The plan aims to ensure that exploitation of living marine biological resources restores and maintains populations of harvested species above levels which can produce MSY. Article 16(4) of Regulation (EU) No 1380/2013 provides that for stocks subject to specific multiannual plans, the fishing opportunities are to be established in accordance with the rules laid down in those plans.

- (6) In accordance with Article 4(1) of the plan, the fishing opportunities for stocks listed in Article 1 of the plan were to be fixed to achieve fishing mortality at MSY expressed in ranges as soon as possible and, on a progressive, incremental basis, by 2020. The catch limits applicable in 2022 for the relevant stocks in the Baltic Sea are therefore to be established in line with the plan's objectives.
- (7) The International Council for the Exploration of the Sea ('ICES') published its annual stock advice for Baltic stocks on 28 May 2021. It indicated that the biomass of western Baltic herring in subdivision 20 to 24 was only 54% of the limit spawning stock biomass reference value, below which there might be reduced reproductive capacity (' B_{lim} '). Furthermore recruitment remains at historically low levels. ICES therefore published for the fourth consecutive year an advice for zero catches. In accordance with Article 5(2) of Regulation (EU) 2016/1139, all appropriate remedial measures are to be adopted to ensure a rapid return of the stock concerned to levels above the level capable of producing MSY. Moreover, that provision requires further remedial measures to be adopted. Given the depleted situation of the stock, it is appropriate to close the directed fishery with an exception for fishing operations conducted for the exclusive purpose of scientific investigations and in full compliance with the conditions set out in Article 25 of Regulation (EU) 2019/1241 of the European Parliament and of the Council.³ Furthermore, to avoid the phenomenon of 'choke species' and to strike the right balance between continuing fisheries in view of the potentially severe socio-economic implications, and the need to achieve a good biological status for the stock, taking into account the difficulty of fishing all stocks in a mixed fishery at maximum sustainable yield at the same time, it is appropriate to set a TAC for unavoidable by-catches.
- (8) As regards the eastern Baltic cod stock, since 2019 ICES has been able to base its precautionary advice again on a more data-rich assessment. ICES estimates that the biomass continues to be below B_{lim} and has further declined since last year. ICES therefore published for the third consecutive year an advice for zero catches. Since 2019 strict conservation measures have been adopted in the Union. Pursuant to Article 5(2) of Regulation (EU) 2016/1139 the targeted fishery of eastern Baltic cod was closed and the TAC was set at a very low level for unavoidable by-catches of eastern Baltic cod to avoid the phenomenon of 'choke species' in other fisheries. Furthermore, further remedial measures functionally linked to the fishing opportunities were adopted in the form of spawning closures and the prohibition of recreational fishing in the main distribution area. Given the ICES advice and the unchanged stock situation, it

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).

³ 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 2187/2005 (OJ L 198, 25.7.2019, p. 105).

is appropriate to maintain unchanged the level of fishing opportunities and the functionally linked remedial measures.

- (9) [Placeholder for western Baltic cod]
- (10) In 2020 ICES estimated that the biomass of central Baltic herring had dropped below the spawning stock biomass reference point below which specific and appropriate management action is to be taken ('B_{trigger}'). In 2021, ICES estimated that the biomass has dropped further and is now close to B_{lim}. It is therefore appropriate to set the fishing opportunities according to Article 5(1) of Regulation (EU) 2016/1139.
- (11) According to ICES advice, cod is by-caught in plaice fisheries. Sprat is caught in a mixed fishery with herring and is a prey species for cod. It is appropriate to take these multispecies interactions into account when setting the fishing opportunities for plaice and sprat.
- (12) [Placeholder for salmon in the main basin]
- (13) [Placeholder for salmon in the Gulf of Finland]
- (14) The introduction of a ban on fishing for sea trout beyond four nautical miles and of a limitation of by-catches of sea trout to 3% of the combined catch of sea trout and salmon has strongly contributed to a substantial reduction of previously important misreporting of catches in the salmon fishery, in particular as sea trout catches. It is therefore appropriate to maintain this provision to maintain a low level of misreporting.
- (15) The use of the fishing opportunities set out in this Regulation is subject to Council Regulation (EC) No 1224/2009⁴, and in particular Articles 33 and 34 thereof on recording catches and fishing effort, and on the transmission of data to the Commission 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 Member States when sending data to the Commission.
- (16) Council Regulation (EC) No 847/96⁵ introduced additional conditions for the 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, when fixing the TACs, the Council is to decide to which stocks Articles 3 or 4 are not to apply, in particular based on the biological status of the stocks. More recently, the year-to-year flexibility mechanism was introduced by Article 15(9) of Regulation (EU) No 1380/2013 for all stocks that are subject to the landing obligation. Therefore, to avoid excessive flexibility that would undermine the principle of rational and responsible exploitation of living marine biological resources, hinder achieving the CFP objectives 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.

⁴ Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Union 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).

⁵ 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).

- (17) Moreover given that the biomass of the stock of eastern Baltic cod and western Baltic herring is below B_{lim} and that only by-catch and scientific fisheries are permitted in 2022, Member States have undertaken not to apply the year-to-year flexibility provided in Article 15(9) of Regulation (EU) No 1380/2013 for these stocks in 2022 so that catches in 2022 will not exceed the TAC set for eastern Baltic cod and western Baltic herring.
- (18) The fishing year for Norway pout in ICES division 3a and United Kingdom and European Union waters of ICES subarea 4 and United Kingdom waters in ICES division 2a is from 1 November to 31 October. Based on new scientific advice, a TAC for Norway pout should be established for those areas. Council Regulation (EU) 2021/92⁶ should therefore be amended accordingly.
- (19) To avoid the interruption of fishing activities and to ensure the livelihoods of Union fishermen, this Regulation should apply from 1 January 2022. However, this Regulation should apply to Norway pout in ICES division 3a and the United Kingdom and European Union waters of ICES subarea 4 and United Kingdom waters in ICES division 2a from 1 November 2021 until 31 October 2022. For reasons of urgency, this Regulation should enter into force immediately upon publication.

HAS ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

This Regulation fixes the fishing opportunities for certain fish stocks and groups of fish stocks in the Baltic Sea for 2022 and amends certain fishing opportunities in other waters fixed by Regulation (EU) 2021/92.

Article 2

Scope

1. This Regulation shall apply to Union fishing vessels operating in the Baltic Sea.
2. This Regulation shall also apply to recreational fisheries where they are expressly referred to in the relevant provisions.

Article 3

Definitions

For the purposes of this Regulation, the definitions laid down in Article 4 of Regulation (EU) No 1380/2013 apply. In addition, the following definitions apply:

⁶ Council Regulation (EU) 2021/92 of 28 January 2021 fixing for 2021 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters (OJ L 31 of 29.1.2021, p. 31).

- (1) 'subdivision' means an International Council for the Exploration of the Sea ('ICES') subdivision of the Baltic Sea as defined in Annex III to Council Regulation (EC) No 218/2009⁷;
- (2) 'total allowable catch' ('TAC') means the quantity of each stock that can be caught over the period of a year;
- (3) 'quota' means a proportion of the TAC allocated to the Union, a Member State or a third country;
- (4) 'recreational fisheries' means non-commercial fishing activities exploiting marine biological resources such as for recreation, tourism or sport.

CHAPTER II

FISHING OPPORTUNITIES

Article 4 **TACs and allocations**

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

Article 5 **Special provisions on allocation of fishing opportunities**

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 (EU) No 1380/2013;
- (d) quantities withheld in accordance with Article 4 of Regulation (EC) No 847/96 or transferred under Article 15(9) of Regulation (EU) No 1380/2013;
- (e) deductions made pursuant to Articles 105 and 107 of Regulation (EC) No 1224/2009.

Article 6 **Conditions for landing of catches and by-catches**

The stocks of non-target species within the safe biological limits referred to in Article 15(8) of Regulation (EU) No 1380/2013 which qualify for the derogation from the obligation to count catches against the relevant quota are identified in the Annex to this Regulation.

⁷ Regulation (EC) No 218/2009 of the European Parliament and of the Council of 11 March 2009 on the submission of nominal catch statistics by Member States fishing in the north-east Atlantic (recast) (OJ L 87, 31.3.2009, p. 70).

Article 7
Closures to protect cod spawning

1. It shall be prohibited to fish with any type of fishing gear in subdivisions 25 and 26 from 1 May to 31 August.
2. An exemption from the prohibition laid down in paragraph 1 shall apply in the following cases:
 - (a) fishing operations conducted for the exclusive purpose of scientific investigations provided that those investigations are carried out in full compliance with the conditions set out in Article 25 of Regulation (EU) 2019/1241;
 - (b) Union fishing vessels of less than 12 metres in length overall that fish with gillnets, entangling nets or trammel nets, with bottom set lines, longlines, drifting lines, handlines and jigging equipment or similar passive gear in areas where the water depth is less than 20 metres according to the coordinates on the official sea chart issued by the competent national authorities;
 - (c) Union fishing vessels fishing in subdivision 25 where water depth is less than 50 metres for pelagic stocks for direct human consumption, using gears with a mesh size of 45 mm or less, and whose landings are sorted.
3. It shall be prohibited to fish with any type of fishing gear in subdivisions 22 and 23 from 1 February to 31 March and in subdivision 24 from 15 May to 15 August.
4. An exemption from the prohibition laid down in paragraph 3 shall apply in the following cases:
 - (a) fishing operations conducted for the exclusive purpose of scientific investigations provided that those investigations are carried out in full compliance with the conditions set out in Article 25 of Regulation (EU) 2019/1241;
 - (b) Union fishing vessels of less than 12 metres in length overall that fish with gillnets, entangling nets or trammel nets, with bottom set lines, longlines, drifting lines, handlines and jigging equipment or similar passive gear in areas where the water depth is less than 20 metres according to the coordinates on the official sea chart issued by the competent national authorities;
 - (c) Union fishing vessels fishing in subdivision 24 where the water depth is less than 40 metres for pelagic stocks for direct human consumption, using gears with a mesh size of 45 mm or less, and whose landings are sorted.
5. Masters of fishing vessels as referred to in paragraph 2, points (b) or (c) and paragraph 4, points (b) or (c) shall ensure that their fishing activity can be monitored at any time by the control authorities of the Member State.

Article 8
Measures on recreational fisheries for cod in subdivisions 22-26

1. In recreational fisheries, no more than [pm] specimens of cod may be retained per fisherman per day in subdivisions 22 and 23 and in subdivision 24 within six nautical miles measured from the baselines.
2. By way of derogation from paragraph 1, no more than [pm] specimens of cod may be retained per fishermen per day in subdivisions 22 and 23 and in subdivision 24

within six nautical miles measured from the baselines in the period from 1 February to 31 March 2022.

3. Recreational fishing for cod shall be prohibited in subdivision 24 beyond six nautical miles measured from the baselines, and in subdivisions 25 and 26.
4. Paragraphs 1, 2 and 3 are without prejudice to more stringent national measures.

Article 9

Measures on sea trout and salmon fishing in subdivisions 22-32

1. Fishing for sea trout beyond four nautical miles measured from the baselines in subdivisions 22-32 shall be prohibited for fishing vessels from 1 January to 31 December 2022. When fishing for salmon in those waters, by-catches of sea trout shall not exceed 3% of the total catch of salmon and sea trout at any moment on board or landed after each fishing trip.
2. Paragraph 1 is without prejudice to more stringent national measures.

Article 10

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 11

Data transmission

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

CHAPTER III

FINAL PROVISIONS

Article 12

Amendment to Regulation (EU) 2021/92

In Annex IA, the Fishing opportunities table for Norway pout and associated by-catches in ICES division 3a and the United Kingdom and European Union waters of ICES subarea 4 and United Kingdom waters in ICES division 2a is replaced by the following:

“

Species:	Norway pout and associated by-catches <i>Trisopterus esmarkii</i>	Zone:	3a; United Kingdom and European Union waters of subarea 4; United Kingdom waters of 2a (NOP/2A3A4.)
Year	2021	2022	

				Analytical TAC
Denmark	116 447	(¹)(³)	pm	(¹)(⁶)
Germany	22	(¹)(²)(³)	pm	(¹)(²)(⁶)
The Netherlands	86	(¹)(²)(³)	pm	(¹)(²)(⁶)
Union	116 555	(¹)(³)	pm	(¹)(⁶)
United Kingdom	11 745		pm	
Norway	0	(⁴)	pm	(⁴)
Faroe Islands	0	(⁵)	pm	(⁵)
TAC	Not relevant			

(1)	Up to 5 % of the quota may consist of by-catches of haddock and whiting (OT2/*2A3A4). By-catches of haddock and whiting counted against the quota pursuant to this provision and by-catches of species counted against the quota pursuant to Article 15(8) of Regulation (EU) No 1380/2013 shall, together, not exceed 9% of the quota.
(2)	Quota may be fished in United Kingdom and European Union waters of ICES zones 2a, 3a and 4 only.
(3)	Union quota may only be fished from 1 November 2020 to 31 October 2021.
(4)	A sorting grid shall be used.
(5)	A sorting grid shall be used. Includes a maximum of 15 % of unavoidable by-catches (NOP/*2A3A4), to be counted against this quota.
(6)	Union quota may be fished from 1 November 2021 to 31 October 2022.

“

Article 13 **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*.

It shall apply from 1 January 2022. However, Article 12 shall apply from 1 November 2021 until 31 October 2022.

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

Done at Brussels,

For the Council
The President