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**PROPOSAL**

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| From: | Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director |
| date of receipt: | 28 August 2020 |
| To: | Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union |
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| Subject: | Proposal for a COUNCIL REGULATION fixing for 2021 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea, and amending Regulation (EU) 2020/123 as regards certain fishing opportunities in other waters |

Delegations will find attached document COM(2020) 436 final.

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EUROPEAN
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Brussels, 28.8.2020
COM(2020) 436 final

2020/0208 (NLE)

Proposal for a

# COUNCIL REGULATION

**fixing for 2021 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea, and amending Regulation (EU) 2020/123 as regards certain fishing opportunities in other waters**

# EXPLANATORY MEMORANDUM

## 1. CONTEXT OF THE PROPOSAL

### • Reasons for and objectives of the proposal

In accordance with Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy (CFP), the exploitation of living marine biological resources shall restore and maintain populations of harvested species above levels which can produce the maximum sustainable yield (MSY). One important tool in this respect is the annual fixing of fishing opportunities in the form of total allowable catches (TACs) 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 (hereafter "MAP") further specifies the values of fishing mortalities expressed as ranges which are used in this proposal in order to reach the objectives of the CFP, especially reaching and maintaining the MSY.

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 2021. 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.

### • 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 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 on the basis of the Communication from the Commission concerning Consultation on the Fishing Opportunities for 2021 under the Common Fisheries Policy COM(2020) 248 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 various stakeholders 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 and status of the stocks were also discussed with Member States in the regional forum BALTFISH in June 2020.

- **Collection and use of expertise**

The scientific organisation consulted was the International Council for the Exploration of the Sea (ICES).

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 whereby the level of 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 hence an improved income for fishermen and their

families. The increased landings are expected to be beneficial for the fishing industry, consumers, processing and retail industry as well as for the rest of the ancillary 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 dire condition in the years to come. Hence progress is still necessary to rebuild all stocks, some of them still below safe biomass limits, and to bring all stocks in line with MSY.

The latest best available scientific advice estimates that the biomass of two stocks is below healthy limits (central Baltic herring and western Baltic cod), two even below safe biological limits (western Baltic herring and eastern Baltic cod). Next to eastern Baltic cod three other stocks receive precautionary advice (Gulf of Bothnia herring and the two salmon stocks). Two stocks receive an MSY advice and are at healty levels (sprat and herring in the Gulf of Riga). Plaice is composed of two stocks one of which receives MSY advice, the other one precautionary advice.

Taking the above into account, the Commission proposal would decrease fishing opportunities for western Baltic herring by 50%, for eastern Baltic cod by 70%, for western Baltic cod by 11%, for Central herring by 36% and for salmon in the Gulf of Finland by 10%. The Commission proposal would increase fishing opportunities for Gulf of Riga herring by 15% and for salmon in the main basin by 9%, and roll over those for herring in the Gulf of Bothnia, sprat and plaice.

The economic impact of the proposals for 2021 will therefore be a reduction for the fleets in all Member States. All in all, the Commission proposal leads to a level of approximately 425 000 tonnes for the Baltic fishing opportunities, representing a 11.3% reduction when compared to 2020.

- **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 elements or new administrative procedures proposed for public authorities (EU or national) which could increase the administrative burden.

The proposal concerns an annual Regulation for the year 2021 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 for 2021 the fishing opportunities for certain stocks or groups of stocks for Member States fishing in the Baltic Sea.

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 accordance 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 benefitting 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 (so-called "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 spelled out in Article 4(5) of the MAP, be set above the $F_{MSY}$ point value (so-called "upper $F_{MSY}$ range"). For stocks with a biomass below healthy limits (so-called "$B_{trigger}$") 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 (so-called "$B_{lim}$"), Article 5(2) of the MAP provides that additional remedial measures are to be taken. 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. Finally, the Basic Regulation states in its recital 8 that management decisions relating in 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 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) of Regulation (EU) No 1380/2013.

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 shown in Annex to the Regulation.

For western Baltic herring the stock size estimated by ICES continues to be below the limit spawning biomass reference point, below which there may be reduced reproductive capacity ($B_{lim}$) as established by ICES. Taking into account the further decrease in estimated biomass of western Baltic herring to merely 48% of the minimum reference value ($B_{lim}$), the Commission proposes pursuant to Articles 5(2) and 4(4) of the MAP to set the TAC at a level lower than the ranges of $F_{MSY}$. The Commission proposes to use the lower range value and to add a further decrease as a remedial measure. This results in a TAC of 1 575 tonnes (-50%).

For eastern Baltic cod, after several years ICES was once again in a position to undertake an analytical assessment last year. However, ICES was not able to determine the values of the

MSY fishing mortality ranges and therefore issued a precautionary advice. Moreover, ICES estimated that the stock size was below safe biological limits ($B_{lim}$) and that it would remain below in the medium term even with no fishing at all. ICES estimates that the biomass has further decreased since last year and reiterated for 2021 its advice for zero catches. However, like last year setting a zero TAC would choke most of the fisheries in the Baltic Sea. In May 2020 ICES provided an updated advice on levels of cod by-catches in other fisheries. Therefore, based on a similar approach as the one adopted last year, the Commission proposes to set a TAC limited to unavoidable by-catches in other fisheries with an exception for purely scientific fisheries. Based on this scientific advice, the Commission proposes to set the fishing opportunities to the level corresponding to a by-catch level of 20%. Moreover, given the status of the stock of eastern Baltic cod and ICES' advice that spawning closures can have additional benefits for the stock which cannot be achieved by TAC alone (e.g. increased recruitment through undisturbed spawning), the Commission proposes to maintain the existing summer spawning closure with an exception for purely scientific fisheries and certain small-scale coastal fisheries using passive gears. Finally, the Commission proposes to maintain the prohibition of recreational fishing in subdivisions 25 and 26 since the quantities caught would be substantial when compared to the by-catch TAC.

Regarding western Baltic cod, ICES indicated last year that the stock's situation was fragile and deteriorating again. Therefore, fishing opportunities were set in the low part of the lower $F_{MSY}$ range and a prolonged and enlarged winter spawning closure was re-introduced for subdivisions 22-23 – with an exception for purely scientific fisheries and certain small-scale coastal fisheries using passive gears – as ICES considers that such closures can have additional benefits that cannot be achieved by TAC alone. As recreational fishing substantially contributes to fishing mortality, the bag limit for recreational fishing was reduced to the same extent as the reduction of the TAC. Finally, as eastern and western Baltic cod mix in subdivision 24 and following the emergency measures adopted in 2019, directed fishing for cod was forbidden and only unavoidable by-catches allowed to be caught beyond six nautical miles from shore in subdivision 24, with an exception for purely scientific fisheries and certain small-scale coastal fisheries using passive gears. Furthermore, and in order to establish a level playing field with the eastern Baltic cod management area, recreational fishing beyond six nautical miles from shore was prohibited in subdivision 24 since mostly eastern Baltic cod occurs in these areas, and a summer spawning closure introduced from 1 June to 31 July with an exception for purely scientific fisheries and certain small-scale coastal fisheries using passive gears. Despite positive prospects last year, the stock's biomass has remained below healthy levels ($B_{trigger}$). For 2021 the Commission therefore proposes to maintain the accompanying measures unchanged while aligning the closure period in subdivision 24 with the closure period in subdivisions 25-26, i.e covering (1 May to 31 Aug), and to set the fishing opportunities at the lower point value ($F_{lower}$) while adding the quantities for cod by-catches in subdivision 24 provided by ICES corresponding to a by-catch level of 20% except for small-scale coastal fisheries fishing with passive gears for which 100% are added since these fisheries are not covered by the by-catch limitation.

ICES estimates that the biomass of central herring has fallen below healthy levels ($B_{trigger}$). The Commission, in accordance with Article 5(1) therefore proposes to set the fishing opportunities below the upper $F_{MSY}$ range. ICES estimates that with this level of fishing mortality the biomass should be back above healthy levels already in 2021.

The proposed TACs for herring in the Gulf of Riga, and sprat correspond to the MSY fishing mortality range as referred to in Article 4(3) of Regulation (EU) 2016/1139. Sprat continues to rely on a single good year class only, its estimated biomass was revised downwards and has

decreased. The latest year class 2019, which is estimated to be above average, should therefore be preserved for future years. Moreover, inter-species considerations should be taken into account because sprat is caught in a mixed fishery with herring whose TAC has to be significantly decreased under the rules of the MAP. Under these circumstances and in order to avoid risking exacerbating future decreases, the Commission proposes not to increase the TAC and proposes thus a roll-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 for the stock in subdivisions 24 to 32. The Commission proposes a roll-over because of inter-species considerations. Cod is an unavoidable by-catch in plaice fisheries, and the Commission proposes to reduce the fishing opportunities for cod.

The TACs for salmon in the main basin, Gulf of Finland salmon and herring in the Gulf of Bothnia correspond to the approach developed by ICES which is applied to data limited stocks. The Commission proposes to set the fishing opportunities according to the quantities advised by ICES. Regarding main-basin salmon, Finland and Estonia asked for the limited inter-area flexibility introduced two years ago to be maintained. Given that the Commission proposes to increase the fishing opportunities in the main basin but to reduce those in the Gulf of Finland, the Commission proposes to increase the inter-area flexibility to 25% and 500 specimens.

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 is to 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.

2020/0208 (NLE)

Proposal for a

# COUNCIL REGULATION

## fixing for 2021 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea, and amending Regulation (EU) 2020/123 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 Council[1] 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 received from Advisory Councils established for the relevant geographical areas or fields of competence and joint recommendations made by Member States.

(2) 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. 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 and having due regard to the objectives of the Common Fisheries Policy ('CFP') set out in Regulation (EU) No 1380/2013.

(3) Article 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.

(4) The total allowable catches ('TACs') should therefore be established, in accordance with Regulation (EU) No 1380/2013, on the basis of the available scientific advice, taking into account biological and socio-economic aspects whilst ensuring fair treatment between fishing sectors, as well as in having regard to the opinions expressed during the consultation with stakeholders.

[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).

(5) Regulation (EU) 2016/1139 of the European Parliament and of the Council[2] establishes a multiannual plan for the stocks of cod, herring and sprat in the Baltic Sea 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 the MSY. To that end, the target fishing mortality for the stocks concerned, expressed in ranges, is to be achieved as soon as possible and, on a progressive, incremental basis, by 2020. The catch limits applicable in 2021 for the cod, herring and sprat stocks in the Baltic Sea therefore are to be established in line with the objectives of the plan.

(6) The International Council for the Exploration of the Sea ('ICES') indicated that the biomass of western Baltic herring in subdivision 20 to 24 was only 48% of the limit spawning stock biomass reference value, below which there may be reduced reproductive capacity ($B_{lim}$). In its annual stock advice of 29 May 2020, ICES therefore issued scientific advice for no catches. In accordance with Article 5(2) of Regulation (EU) 2016/1139, all appropriate remedial measures are therefore 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. To that end, it is necessary to take into account the timeline for the achievement of the objectives of the CFP in general and of the plan in particular in view of the expected effect of the remedial measures taken, whilst at the same time adhering to the objectives of achieving economic, social and employment benefits as set out in Article 2 of Regulation (EU) No 1380/2013. Accordingly, and in line with Article 4(4) of Regulation (EU) 2016/1139, it is appropriate that fishing opportunities for western Baltic herring are set lower than the fishing mortality ranges, so as to take into account the decrease in the biomass.

(7) As regards the eastern Baltic cod stock, ICES has been able to base its precautionary advice again on a more data-rich assessment since 2019. ICES estimates that the biomass is below $B_{lim}$ and has further decreased since last year. ICES therefore reiterated its advice for zero catches of eastern Baltic cod for 2021. However, ICES has not been in a position to determine the values of the fishing mortality ranges. Like last year, if the fishing opportunities for eastern Baltic cod were set at the level indicated in the scientific advice, the obligation to land all catches in mixed fisheries with by-catches of eastern Baltic cod would lead to the phenomenon of 'choke species'. In order 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 establish a specific TAC for by-catches of eastern Baltic cod. The fishing opportunities are to be set in accordance with Article 5(2) of Regulation (EU) 2016/1139.

(8) In May 2020 ICES provided an updated advice on levels of cod by-catches in other fisheries. It is appropriate to set the fishing opportunities in accordance with this special advice, with an exception for fishing operations conducted for the exclusive purpose of scientific investigations and in full compliance with the conditions set out

[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 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).

in Article 25 of Regulation (EU) 2019/1241 of the European Parliament and of the Council[3]. Moreover, pursuant to Article 5(2) of Regulation (EU) 2016/1139 additional remedial measures are to be taken to ensure the rapid return of the stock to levels above the level capable of producing MSY. As scientific advice indicates that spawning closures in particular can have additional benefits for a stock that cannot be achieved by TAC alone, for example an increased recruitment through undisturbed spawning, it is appropriate to maintain the existing summer spawning closure. Furthermore, scientific advice indicates that the relative importance of recreational fisheries of eastern Baltic cod depends on the TAC level. Given the very reduced TAC, the quantities caught in recreational fisheries are considered substantial and it is therefore appropriate to maintain the prohibition of recreational fishing of cod in subdivisions 25-26 where eastern Baltic cod is most abundant.

(9) As regards the western Baltic cod stock, ICES revised the estimated biomass downwards and estimates that the biomass of the western Baltic cod stock has not recovered above the spawning stock biomass reference point below which specific and appropriate management action is to be taken ($B_{trigger}$). It is therefore appropriate to maintain the accompanying measures introduced for 2020 and to set the fishing opportunities in accordance with Article 5(1) of Regulation (EU) 2016/1139 while taking into account the levels of cod by-caught in other fisheries in subdivision 24 advised by ICES in order to be coherent with the approach followed in the eastern Baltic cod management area. Moreover, scientific advice indicates that the western and eastern cod stocks mix in subdivision 24. In order to protect the eastern cod stock and ensure a level playing field with the eastern Baltic cod management area, the use of the TAC in subdivision 24 should continue to be limited to by-catches of cod with an exemption 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 and for small-scale coastal fishermen fishing with passive gears in areas up to six nautical miles from shore where the water depth is less than 20 meters since western cod is predominant in those shallow coastal areas. Moreover, the closure period in subdivision 24 should be aligned with the closure period in subdivisions 25-26 in order to ensure an equivalent protection in line with ICES advice.

(10) Accordingly, and in order to ensure a level playing field with subdivisions 25-26, recreational fishing of cod in subdivision 24 should continue to be prohibited beyond six nautical miles from shore. Moreover, as the scientific advice indicates that recreational fisheries contribute significantly to the overall fishing mortality of that stock and taking into account the status of that stock and the reduction of the TAC, the daily bag limit per fisherman should be maintained. This is without prejudice to the principle of relative stability applicable to commercial fishing activities. Finally, given the fragile status of the stock and the fact that scientific advice indicates that spawning closures in particular can have additional benefits for a stock that cannot be achieved by TAC alone, for example an increased recruitment through undisturbed

[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).

spawning, the winter spawning closure should be maintained, with an exception for certain small-scale coastal fishermen and the aforementioned scientific investigations.

(11) ICES estimates that the biomass of central Baltic herring has dropped below the spawning stock biomass reference point below which specific and appropriate management action is to be taken ($B_{trigger}$). It is thererfore appropriate to set the fishing opportunities according to Article 5(1) of Regulation (EU) 2016/1139.

(12) According to ICES advice, cod is by-caught in plaice fisheries. Furthermore, sprat is caught in a mixed fishery with herring and is a prey specis for cod. It is appropriate to take these inter-species considerations into account for setting the fishing opportunities for plaice and sprat.

(13) In order to guarantee the full use of coastal fishing opportunities, a limited inter-area flexibility for salmon from ICES subdivisions 22-31 to ICES subdivision 32 was introduced since 2019. Given the changes in fishing opportunities for those two stocks, it is appropriate to increase this flexibility.

(14) The introduction of a prohibition of 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 stronlgy 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 in order 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 1224/2009[4], and in particular to Articles 33 and 34 thereof concerning the recording of catches and fishing effort, and to the transmission of data on the exhaustion of fishing opportunities to the Commission. 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 847/96[5] 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, when fixing the TACs, the Council 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, 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, in order to avoid excessive flexibility that would undermine the principle of rational and responsible exploitation of living marine biological resources, hinder the achievement of the objectives of the CFP and deteriorate the biological status of

[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).

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.

(17) Moreover given that the biomass of the stock of eastern Baltic cod is below $B_{lim}$ and that only by-catch and scientific fisheries are permitted in 2021, Member States have undertaken not to apply Article 15(9) of Regulation (EU) No 1380/2013 for this stock in 2021 so that catches in 2021 will not exceed the TAC set.

(18) Based on new scientific advice, a preliminary TAC for Norway pout in ICES division 3a and Union waters of ICES division 2a and ICES subarea 4 should be established for the period from 1 November 2020 to 31 October 2021.

(19) In order to avoid the interruption of fishing activities and to ensure the livelihoods of Union fishermen, this Regulation should apply from 1 January 2021. However, this Regulation should apply to Norway pout in ICES division 3a and Union waters of ICES division 2a and ICES subarea 4 from 1 November 2020 until 31 October 2021. 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 2021 and amends certain fishing opportunities in other waters fixed by Regulation (EU) 2020/123[6].

*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.

[6] Council Regulation (EU) 2020/123 of 27 January 2020 fixing for 2020 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 25, 30.1.2020, p. 1).

*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:

(1) 'subdivision' means an ICES subdivision of the Baltic Sea as defined in Annex III to Council Regulation (EC) No 218/2009[7];

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

*Article 5*

***Special provisions on allocations 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;

[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).

(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.

*Article 7*

***Measures on recreational fisheries for cod in subdivisions 22-26***

1. In recreational fisheries, no more than five 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 two 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 2021.

3. Recreational fishing shall be prohibited in subdivision 24 beyond six nautical miles measured from the baselines, and in subdivisions 25 and 26.

3. Paragraphs 1, 2 and 3 are without prejudice to more stringent national measures.

*Article 8*

***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 is prohibited for fishing vessels from 1 January to 31 December 2021. 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 9*

***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 10*

***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 11*

***Amendment to Regulation (EU) 2020/123***

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

“

| Species: | Norway pout and associated by-catches<br>*Trisopterus esmarkii* | | | | Zone: | 3a; Union waters of 2a and 4<br>(NOP/2A3A4.) |
|---|---|---|---|---|---|---|
| **Year** | **2020** | | **2021** | | | |
| | | | | | | Analytical TAC |
| Denmark | 64 940 | (1)(3) | pm | (1)(6) | | Article 3 of Regulation (EC) No 847/96 shall not apply |
| Germany | 12 | (1)(2)(3) | pm | (1)(2)(6) | | Article 4 of Regulation (EC) No 847/96 shall not apply |
| The Netherlands | 48 | (1)(2)(3) | pm | (1)(2)(6) | | |

| | | | | |
|---|---|---|---|---|
| Union | 65 000 | (1)(3) | pm | (1)(6) |
| Norway | 14 500 | (4) | pm | (4) |
| Faroe Islands | 5 000 | (5) | pm | (5) |
| TAC | Not relevant | | 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 Union waters of ICES zones 2a, 3a and 4 only. |
| (3) | Union quota may only be fished from 1 November 2019 to 31 October 2020. |
| (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 2020 to 31 October 2021. |

”

*Article 12*

***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 2021. However, Article 11 shall apply from 1 November 2020 until 31 October 2021.

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

Done at Brussels,

*For the Council*
*The President*