



Council of the
European Union

Brussels, 28 August 2023
(OR. en)

12451/23

**Interinstitutional File:
2023/0301(NLE)**

PECHE 322

PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	28 August 2023
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

No. Cion doc.:	COM(2023) 492 final
Subject:	Proposal for a COUNCIL REGULATION fixing the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea for 2024 and amending Regulation (EU) 2023/194 as regards certain fishing opportunities in other waters

Delegations will find attached document COM(2023) 492 final.

Encl.: COM(2023) 492 final



Brussels, 28.8.2023
COM(2023) 492 final

2023/0301 (NLE)

Proposal for a

COUNCIL REGULATION

**fixing the fishing opportunities for certain fish stocks and groups of fish stocks
applicable in the Baltic Sea for 2024 and amending Regulation (EU) 2023/194 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 Council¹ on the common fisheries policy (the ‘CFP Basic Regulation’), living marine biological resources must be exploited in a way that restores and maintains populations of harvested species above levels which can produce the maximum sustainable yield (MSY). An important tool for ensuring this 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 Council² laying down the multiannual plan (MAP) for the Baltic Sea further specifies target ranges for fishing mortality. These ranges are used in this proposal to reach the objectives of the common fisheries policy (CFP) and in particular to reach and maintain MSY.

This proposal aims to fix Member States’ fishing opportunities for 2024 for the most commercially significant fish stocks in the Baltic Sea. This proposal also aims to regulate marine recreational fisheries to the extent required to conserve the fish stocks covered by this Regulation. 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 TACs and quotas at levels consistent with the objectives of the CFP Basic Regulation.

- **Consistency with other Union policies**

The proposal is consistent with other Union policies, in particular with the policies in the field of the environment.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legal basis for the proposal is Article 43(3) of the Treaty on the Functioning of the European Union (TFEU).

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 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).

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

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

- **Proportionality**

The proposal allocates fishing opportunities to Member States according to the objectives of the CFP Basic Regulation and the Baltic MAP. Under Article 16(6), Article 16(7) and Article 17 of the CFP Basic Regulation, Member States are to decide how the fishing opportunities allocated to them are allocated to fishing vessels flying their flag according to certain criteria set out in those Articles. Therefore, Member States can exercise the necessary margin of discretion while distributing the allocated TACs, in line with their preferred social/economic model for using their allocated fishing opportunities covered by the proposal.

- **Choice of instrument**

A regulation is considered the most appropriate instrument as it makes it possible to set requirements that apply directly to Member States and relevant businesses. This will help ensure that the requirements are implemented in a timely and harmonised way, leading to greater legal certainty.

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

- **Stakeholder consultations**

The Commission consulted stakeholders, in particular through the Baltic Sea Advisory Council, on the basis of its Communication *Sustainable fishing in the EU: state of play and orientations for 2024* (COM(2023) 303 final). The International Council for the Exploration of the Sea (ICES) provided the scientific basis for the proposal. The preliminary views expressed by consulted stakeholders on all fish stocks concerned were taken into account as much as possible without contradicting current policies or causing any deterioration in the state of vulnerable resources.

Scientific advice on catch limitations and on the status of stocks was also discussed with Member States at the BALTFISH regional forum in June 2023.

- **Collection and use of expertise**

The Commission consulted ICES on the methodology to be used. ICES scientific advice is based on an advice framework developed by its expert groups and decision-making bodies and issued in line with its framework partnership agreement with the Commission.

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 significant stocks³.

³ <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 – sustainable long-term levels. Over time, this approach is expected to result in: (i) stable fishing pressure; (ii) higher quotas; and therefore (iii) improved incomes for fishers and their families. Increased landings are expected to benefit: the fishing industry; consumers; the processing and retail industry; and the rest of the industry linked to commercial and recreational fishing. In this context, the link between sustainable fisheries and a healthy marine environment in the Baltic Sea needs to be stressed, in line with the biodiversity strategy and other related initiatives, notably the EU action plan for marine ecosystems and fisheries⁴.

This proposal seeks to avoid short-term approaches in favour of long-term sustainability. It therefore takes account of initiatives by stakeholders and Advisory Councils if they have been positively reviewed by ICES and/or the Scientific, Technical and Economic Committee for Fisheries (STECF). The Commission’s CFP reform proposal was based on an impact assessment (SEC(2011) 891) that considered that while achieving the MSY objective was a necessary condition for environmental, economic and social sustainability, those three objectives cannot be achieved in isolation.

Until 2019, decisions on Baltic Sea fishing opportunities succeeded in bringing fishing mortality for all stocks with MSY advice in line with the MSY ranges at the moment of TAC setting, except for western Baltic herring. These decisions also seemed to succeed in rebuilding stocks and rebalancing fishing capacity and fishing opportunities. However, in 2019, it became apparent that eastern Baltic cod has been under severe pressure. Since then, ICES estimates have suggested that this stock will most probably remain depleted in the years to come. In 2021 it became apparent that the western Baltic cod stock has also been below safe biological limits (i.e. below the so-called B_{lim} reference point) for many years, and ICES underlined that several salmon populations are also very weak. While until 2020, ICES estimated that the biomass of central Baltic herring was below healthy levels (i.e. below the so-called $B_{trigger}$ reference point), ICES now estimates that the biomass has actually been around B_{lim} since the mid-1990s and below B_{lim} for several years. Finally, while until 2022, ICES estimated that Bothnian herring had come very close to the $B_{trigger}$ limit, ICES now estimates that the stock has been below that limit since 2021. Therefore, further progress is still needed to reach and maintain MSY for all Baltic Sea stocks.

ICES published its pieces of scientific advice for the various Baltic stocks on 31 May 2023. ICES estimates that the biomass of western Baltic herring and of eastern and western Baltic cod is still below B_{lim} . The biomass of central Baltic herring is now also below B_{lim} , and Bothnian herring below $B_{trigger}$. Eastern and western Baltic cod and salmon in the Gulf of Finland receive precautionary advice. The remaining seven stocks have received the following MSY advice:

- sprat, herring in the Gulf of Riga, and plaice are above $B_{trigger}$;
- herring in the Gulf of Bothnia has fallen below $B_{trigger}$;
- western and central Baltic herring are below B_{lim} ;

⁴ COM(2023)102 final of 21 February 2023.

- the various salmon populations in the main basin remain in highly varied conditions (between below R_{lim} and above R_{MSY}).

Taking the above into account, it is proposed to maintain the approach taken for salmon in the main basin while decreasing the TAC by 15% compared to 2023. The proposal would increase the fishing opportunities for salmon in the Gulf of Finland by 7% compared to 2023. The proposal would decrease the fishing opportunities for herring in the Gulf of Riga by 20% compared to 2023. For the other stocks, the Commission has asked ICES to provide further information about inter-species relations and unavoidable by-catches. The Commission will update its proposal once it has received the information from ICES.

Therefore, the economic impact of the proposal for 2024 cannot be estimated at this stage, although there will be a reduction in fishing opportunities for all Member States.

- **Regulatory fitness and simplification**

The proposal remains flexible in the application of quota-exchange mechanisms already laid down by regulations on fishing opportunities in the Baltic Sea in previous years. There are no new rules or new administrative procedures proposed for (Union or national) public authorities that could increase administrative burden.

The proposal concerns an annual regulation that applies to 2024 and therefore does not include a revision clause.

4. BUDGETARY IMPLICATIONS

The proposal has no implications for the Union budget.

5. OTHER ELEMENTS

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

Monitoring of the use of fishing opportunities in the form of TACs and quotas was put in place by Council Regulation (EC) No 1224/2009⁵.

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

The proposal fixes fishing opportunities for certain stocks or groups of stocks for fishing in the Baltic Sea for 2024.

⁵ Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 (OJ L 343, 22.12.2009, p. 1).

To set Union quotas for stocks shared with the Russian Federation, the respective quantities of these stocks were deducted from the catches advised by ICES. The TACs and quotas allocated to Member States are set out in the Annex to the proposal.

For eastern Baltic cod, ICES remains unable to determine the values of the F_{MSY} ranges. Therefore, it again issued precautionary advice for 2024. For the fifth year in a row, ICES advises to allow zero catches of eastern Baltic cod. ICES estimates that the stock size is only 71% of B_{lim} in 2023 and that it will remain below this level in the medium term, even with no fishing at all. Moreover, ICES estimates that recruitment continues to be low. Given the depleted stock situation, severe measures have been adopted since 2019. The targeted fishery for 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. Further remedial measures functionally linked to the fishing opportunities have been adopted since 2019 in the form of a spawning closure covering the peak spawning period and the potential areas of spawning and spawning migration. Exceptions to the spawning closure were adopted for purely scientific fisheries, certain small-scale coastal fisheries using passive gears, and certain herring fisheries for human consumption. Moreover, recreational fishing has been banned in the main distribution area since 2020, because 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, the Commission proposes, in accordance with Article 16(4) of the CFP Basic Regulation, to maintain them while to discontinue the exception for certain herring fisheries from the spawning closure period because the targeted central herring fishery will be closed. Regarding the TAC level, the Commission is awaiting information from ICES about the level of unavoidable by-catches of eastern Baltic cod in other fisheries. That information is necessary because the currently available information is from 2020 and the circumstance of the fisheries have changed since then, notably the extraordinarily high recruitment of plaice in recent years.

The ICES advice for western Baltic cod has contained significant uncertainties for several years. In its advice for 2021, ICES indicated that the stock had been below B_{lim} for most of the previous 10 years. As a result, since 2021, the Council has decided to close the targeted fishery except for purely scientific fisheries, and to limit the TAC to unavoidable by-catches to avoid choking other fisheries. The Council also maintained or strengthened other pre-existing remedial measures functionally linked to the fishing opportunities. In particular, the Council maintained the spawning closure covering the peak spawning period and the potential spawning areas, with exceptions for: (i) purely scientific fisheries; (ii) certain small-scale coastal fisheries using passive gears; (iii) certain herring fisheries for human consumption; and (iv) fishing for bivalve molluscs in certain shallow waters. Moreover, the Council has extended the spawning closure period to cover recreational angling. Outside of the spawning closure period, the Council reduced the bag limit for recreational angling to one fish per angler per day. Because the uncertainties persist, ICES decided to downgrade its advice for 2024 to category 3 precautionary advice and to reduce the level of advised total catches of western Baltic cod by -97%. ICES has stated that the stock biomass has been below B_{lim} for most of the last 15 years and was at a historic low in 2022. Although it has increased slightly since 2022, it remains far below B_{lim} . Given the low catch advice, the Commission proposes, in accordance with Article 16(4) of the CFP Basic Regulation, to discontinue recreational angling, to keep the targeted fisheries closed, to maintain the spawning closures and to discontinue the exception for certain herring fisheries because the targeted western and central herring fisheries will be closed. Regarding the TAC level, the Commission is awaiting information from ICES about the level of unavoidable by-catches of western Baltic cod in other fisheries, notably the flatfish fisheries.

Since at least the 1990s, ICES has stated that the status of salmon river stocks in the Baltic Sea area is heterogeneous, with some salmon river stocks healthy but others very weak. Following a benchmarking study, ICES stated in its advice for 2022 for the first time that all commercial and recreational salmon catches in the main basin, which are inherently mixed fisheries catching salmon from both healthy and weak river stocks, should be stopped to protect the weak river stocks. However, ICES at the same time also considered that continuing the existing targeted fishery in the coastal areas of the Gulf of Bothnia and the Åland Sea (ICES subdivisions 29N, 30 and 31) during the salmon summer migration would still be possible. Therefore, since 2021, the Council decided to close the targeted salmon fishery in the main basin and to set a by-catch TAC for unavoidable by-catches, with an exemption for purely scientific fisheries, while keeping the targeted salmon fishery open during the summer period in those northern coastal areas. Since 2021, the Council has also adopted further remedial measures functionally linked to the fishing opportunities and has prohibited fishing with longlines beyond four nautical miles measured from the baselines. Moreover, since 2021, the Council has decided that, in recreational fisheries, a daily bag limit of one fin-clipped salmon per angler applies where and when the targeted commercial fishery is closed, and catch-and-release techniques are prohibited. In its advice for 2024, ICES reiterates that all commercial and recreational salmon catches in the main basin should be stopped to protect the weak river stock while some targeted salmon fisheries could continue under certain conditions. However, because one salmon river stock in the Bothnian Sea (ICES subdivision 30) is below the relevant reference point, ICES considers that the targeted fishery in coastal areas during the summer migration months is only possible in the Bothnia Bay (ICES subdivision 31) and that the level of total catches should be decreased accordingly. On this basis, and in accordance with Article 16(4) of the CFP Basic Regulation, the Commission proposes to: (i) limit the targeted fisheries to the Bothnian Bay; (ii) adjust the TAC to the level advised by ICES; and (iii) maintain the current remedial measures.

ICES issued precautionary advice for 2024 for salmon in the Gulf of Finland. On that basis, the Commission proposes a TAC in accordance with Article 16(4) of the CFP Basic Regulation. The Commission also proposes to maintain: (i) the limited inter-area flexibility between the two salmon TACs; (ii) the prohibition to fish for sea trout beyond four nautical miles; and (iii) the prohibition to use longlines to fish for sea trout or salmon beyond four nautical miles.

The assessment of herring in the Gulf of Bothnia has been uncertain in recent years. In its advice for 2023, ICES downsized its estimate of the stock's biomass and estimated that it had fallen to a level just above B_{trigger} . ICES indicated that this development was likely due to the shrinking size of herring, a phenomenon already observed for some time by certain coastal fishers. In its advice for 2024, ICES downsized the stock's biomass further and it is now below B_{trigger} . Furthermore, even with no catches at all the probability of the stock falling below B_{lim} in 2025 is 9%. On this basis, the Commission proposes to close the targeted fishery in accordance with Article 4(6) of the Baltic MAP. Regarding the TAC level, the Commission is awaiting information from ICES about the level of unavoidable by-catches of Bothnian herring in other fisheries, notably the sprat fishery.

For western Baltic herring, the stock size estimated by ICES in its advice for 2024 is only 71% of B_{lim} in 2023. ICES also estimates that the biomass will remain below B_{lim} at least until 2025 even with no fishing at all. Recruitment has been historically low for many years. As none of the catch scenarios would bring the biomass of western Baltic herring above B_{lim} in the near future, ICES reiterates, for the sixth year in a row, its advice to allow zero catches. Since 2021, the Council has decided to close the targeted fishery except for purely scientific

fisheries and small-scale coastal fisheries, and to set a TAC for unavoidable by-catches to avoid choking other fisheries. Given that these remedial measures have not yet had time to result in an improved stock status, the Commission proposes, in accordance with Article 4(6) of the Baltic MAP, to keep the targeted fishery closed and discontinue the exemption for small-scale coastal fisheries. Regarding the TAC level, the Commission is awaiting further information from ICES about the level of unavoidable by-catches of western Baltic herring in other fisheries. That information is necessary because the small-scale fisheries have to be closed and the currently available information seems insufficient to propose an appropriate TAC.

The status of the biomass of central Baltic herring has been uncertain in recent years. ICES therefore undertook a benchmarking study in 2023. ICES now estimates that the has been below B_{lim} for most of the past 30 years, including in recent years. Even with no catches at all the probability of the stock staying below B_{lim} in 2025 is 22%. Therefore, the Commission proposes to close the targeted fishery in accordance with Article 4(6) of the Baltic MAP. Regarding the TAC level, the Commission is awaiting information from ICES about the level of unavoidable by-catches of central Baltic herring in other fisheries, notably the sprat fishery.

Like in previous years, the ICES advice for 2024 for herring in the Gulf of Riga indicates that some central Baltic herring migrates from the main basin into the Gulf of Riga and that some Gulf of Riga herring migrates out of the Gulf of Riga into the main basin. Moreover, like in previous years, ICES suggests to add/deduct these migrating herring to/from the TAC for herring in the Gulf of Riga. For 2024, however, the Commission considers that, given that the central Baltic herring stock is below B_{lim} and that catches of central Baltic herring should therefore be reduced as much as possible, it would not be appropriate to add catches of central Baltic herring to the TAC for herring in the Gulf of Riga. By contrast, the Commission considers that it is appropriate to continue to deduct the amount of Gulf of Riga herring migrating out of the Gulf of Riga since that herring is no longer present in the Gulf of Riga. The resulting F_{MSY} point value for the TAC for herring in the Gulf of Riga represents a decrease of -23%. On that basis, and since the stock is above $B_{trigger}$, the Commission proposes to set the TAC in the upper range in accordance with Article 4(5)(c) of the Baltic MAP so as to limit the TAC decrease to -20%.

The TAC for plaice is a combination of: (i) the MSY advice for the stock in subdivisions 21, 22 and 23; and (ii) the MSY advice for the stock in subdivisions 24 to 32, which ICES upgraded to ICES data category 2 MSY advice in 2022. According to the ICES advice for 2024, both stocks experienced extraordinary recruitment in 2019-2021. Moreover, total landings have substantially decreased and discards have increased. Furthermore, multispecies interactions should be taken into account, given that cod is an unavoidable by-catch in plaice fisheries, and by-catch levels can be significant, particularly as long as more selective fishing gears are not used. Regarding the TAC level, the Commission is awaiting information from ICES about the level of unavoidable by-catches of cod in the plaice fisheries.

According to the ICES advice for 2024, the biomass of sprat is above $B_{trigger}$, although previous fishing pressure has been above F_{MSY} and recruitment has been historically low in 2021 and 2022. Regarding the TAC level, the Commission is awaiting information from ICES about the level of unavoidable by-catches of the different herring stocks in the sprat fisheries.

Council Regulation (EC) No 847/96 lays down further conditions for year-to-year management of TACs including, under its Articles 3 and 4, flexibility provisions for stocks subject to precautionary and analytical TACs, respectively. Its Article 2 stipulates that when

fixing the TACs, the Council must decide to which stocks Articles 3 and 4 should not apply, in particular based on the biological status of the stocks. Article 15(9) of the CFP Basic Regulation also lays down a year-to-year flexibility mechanism 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 and make it difficult to achieve the CFP objectives, it should be clarified that Articles 3 and 4 of Regulation (EC) No 847/96 only apply where Member States do not use the year-to-year flexibility provided for in Article 15(9) of the CFP Basic Regulation.

The Commission also proposes to amend Council Regulation (EU) 2023/194 to set a TAC for Norway pout, for which the fishing year starts on 1 November 2023. The TAC level is marked as '*pm*' (*pro memoria*) pending the publication of the ICES advice expected on 9 October 2023 and the consultations with the United Kingdom.

Proposal for a

COUNCIL REGULATION

fixing the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea for 2024 and amending Regulation (EU) 2023/194 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) Regulation (EU) No 1380/2013 of the European Parliament and of the Council¹ requires the adoption of conservation measures taking into account available scientific, technical and economic advice, including, where relevant, reports drawn up by the Scientific, Technical and Economic Committee for Fisheries (STECF) and other advisory bodies, and any advice received from advisory councils.
- (2) The Council is to adopt measures on the fixing and allocation of fishing opportunities, including certain conditions functionally linked to these fishing opportunities, as appropriate. Under Article 16(4) of Regulation (EU) No 1380/2013, fishing opportunities are to be fixed in accordance with the objectives of the common fisheries policy (CFP) as set out in Article 2(2) of that Regulation. Under Article 16(1) of Regulation (EU) No 1380/2013, fishing opportunities are to be allocated among 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) 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 socioeconomic implications while ensuring fair treatment between fishing sectors and taking into account the opinions expressed during consultations 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).

- (4) 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 and for the fisheries exploiting those stocks. That plan aims to ensure that exploitation of living marine biological resources restores and maintains populations of harvested species above levels that can produce the maximum sustainable yield (MSY). Regulation (EU) No 1380/2013 provides that, for stocks subject to specific multiannual plans, the fishing opportunities are to be fixed in accordance with the rules laid down in those multiannual plans.
- (5) In accordance with Article 4(1) of Regulation (EU) 2016/1139, the fishing opportunities for stocks listed in Article 1 of that Regulation are to be fixed to achieve fishing mortality at MSY, expressed in ranges, as soon as possible and, on a progressive, incremental basis, at the latest by 2020. The catch limits applicable in 2024 to the relevant stocks in the Baltic Sea should therefore be established in line with the rules and objectives of the multiannual plan established by that Regulation.
- (6) The International Council for the Exploration of the Sea ('ICES') published its annual stock advice for Baltic stocks on 31 May 2023³.
- (7) There are certain stocks for which ICES advises zero catches. However, if TACs for those stocks are established at the advised level, the obligation to land all catches, including by-catches from those stocks in mixed fisheries, would give rise to the phenomenon of 'choke species'. In order to strike a balance between maintaining fisheries, in view of the potentially severe socioeconomic implications of failing to do so, and the need to achieve a good biological status for those stocks, taking account of the difficulty of fishing all stocks in a mixed fishery at MSY, it is appropriate to establish specific TACs for by-catches for those stocks. Those TACs should be set at levels that ensure that the mortality for those stocks is decreased and that provide incentives to improve selectivity and to avoid by-catches of those stocks. In order to reduce catches of the stocks for which by-catch TACs are set, fishing opportunities for the fisheries in which fish from those stocks are caught should be set at levels that help the biomass of vulnerable stocks to recover to sustainable levels. Technical and control measures that are intrinsically linked to fishing opportunities should also be established to prevent illegal discarding.
- (8) As regards the eastern Baltic cod stock, ICES estimates that the biomass of the eastern Baltic cod stock continues to be below the limit reference point for the spawning stock biomass below which it is possible that reproductive capacity might be reduced (B_{lim}) and has hardly increased compared to 2022. ICES therefore advises for the fifth consecutive year not to catch any eastern Baltic cod⁴. In these circumstances, it is appropriate, pursuant to Article 16(4) of Regulation (EU) 1380/2013, to maintain the targeted fisheries closed and the functionally linked remedial measures while discontinuing the exception for sorted herring fisheries for human consumption from the spawning closure period, given that the targeted fishery for central herring will be

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).

³ <https://doi.org/10.17895/ices.pub.c.6398177>

⁴ <https://doi.org/10.17895/ices.advice.21820497>

closed. The fishing opportunities for unavoidable by-catches should be set at a low level while avoiding the phenomenon of ‘choke species’.

- (9) As regards the western Baltic cod stock, due to continued uncertainties in the advice, ICES has downgraded its advice⁵ to precautionary advice. It appears now that the stock has been below B_{lim} for most of the past 15 years and was at a historic low in 2022. The precautionary catch advice is extremely low. In these circumstances, it is appropriate, in accordance with Article 16(4) of Regulation (EU) 1380/2013, to maintain the targeted fisheries closed and the functionally linked remedial measures while discontinuing the exception for sorted herring fisheries for human consumption given that the targeted fishery for central herring will be closed. Furthermore, it is appropriate to discontinue any recreational fishery. The fishing opportunities for unavoidable by-catches should be set at a low level while avoiding the phenomenon of ‘choke species’.
- (10) As regards salmon in ICES subdivisions 22 to 31, ICES maintained its zero-catch advice, limited the possibility of continued targeted coastal summer fisheries to ICES subdivision 31 and reduced its catch advice accordingly⁶. In these circumstances, it is appropriate, pursuant to Article 16(4) of Regulation (EU) 1380/2013, to adjust the fishing area and the level of fishing opportunities in line with the ICES advice, and to maintain their functionally linked remedial measures.
- (11) In order to ensure the full use of coastal fishing opportunities in ICES subdivision 32, a limited interarea flexibility for salmon between ICES subdivisions 22 to 31 and ICES subdivision 32 was introduced in 2019⁷. Given the changes of the fishing opportunities for those two stocks, it is appropriate to maintain that flexibility.
- (12) Prohibiting fishing for sea trout beyond four nautical miles measured from the baselines and limiting bycatches of sea trout to 3 % of the combined catch of sea trout and salmon has contributed to substantially reducing previously significant misreporting of catches in the salmon fishery, in particular as sea trout catches. It is therefore appropriate to maintain the existing restrictions to maintain a low level of misreporting.
- (13) Measures on recreational fisheries of cod and salmon and measures for the conservation of sea trout and salmon stocks should be without prejudice to more stringent national measures under Articles 19 and 20 of Regulation (EU) 1380/2013.
- (14) As regards herring in the Gulf of Bothnia, ICES downsized the stock’s biomass which is now below the reference point below which specific and appropriate management action is to be taken ($B_{trigger}$)⁸. Furthermore, ICES states that, even with no catches, the probability for the stock to fall below B_{lim} in 2025 is 9 %. In those circumstances, it is appropriate to close the targeted fisheries pursuant to Article 4(6) of Regulation (EU) 2016/1139 and to set the fishing opportunities for unavoidable by-catches at a low level while avoiding the phenomenon of ‘choke species’.

⁵ <https://doi.org/10.17895/ices.advice.21820494>

⁶ <https://doi.org/10.17895/ices.advice.21820596>

⁷ <https://doi.org/10.17895/ices.advice.21820602>

⁸ <https://doi.org/10.17895/ices.advice.21820521>

- (15) As regards western Baltic herring, ICES estimates that while the biomass of the stock has increased, it is only 71 % of B_{lim} .⁹ Furthermore, recruitment remains at historically low levels and the biomass is not expected to recover above B_{lim} in 2025. ICES therefore advises for the sixth consecutive year not to catch any western Baltic herring. In those circumstances, it is appropriate, pursuant to Article 4(6) of Regulation (EU) 2016/1139, to maintain the targeted fisheries closed and to discontinue the exception for small-scale fishers. The fishing opportunities for unavoidable by-catches should be set at a low level while avoiding the phenomenon of ‘choke species’.
- (16) As regards central Baltic herring, ICES now estimates that the stock has been below B_{lim} most of the last 30 years, including in recent years¹⁰. Furthermore, even with no catches, the probability for the stock to stay below B_{lim} in 2025 is 22 %. In those circumstances, it is appropriate to close the targeted fisheries pursuant to Article 4(6) of Regulation (EU) 2016/1139 and to set the fishing opportunities for unavoidable by-catches at a low level while avoiding the phenomenon of ‘choke species’.
- (17) As regards herring in the Gulf of Riga, ICES estimates that the biomass is above $B_{trigger}$ and the fishing pressure at F_{MSY} ¹¹. ICES also estimates that this stock mixes with central Baltic herring. Based on ICES’ estimates, this mixing was previously taken into account when setting the respective fishing opportunities. However, given the status of the central Baltic herring stock, the amount of central Baltic herring migrating into the Gulf of Riga should not be added to the TAC for herring in the Gulf of Riga for 2024. In those circumstances, it is appropriate to set the fishing opportunities in the upper range so as to limit the year-to-year variations to no more than 20 % pursuant to Article 4(5), point (c), of Regulation (EU) 2016/1139.
- (18) As regards plaice, according to ICES, cod is bycaught in the plaice fisheries¹². Moreover, the discard rate of plaice has increased substantially. It is therefore appropriate to take these factors into account and fix the fishing opportunities for plaice accordingly.
- (19) As regards sprat, ICES estimates that while the biomass is above $B_{trigger}$, there has been no strong recruitment since 2014. Moreover, ICES estimates that recruitment in 2021 and 2022 was even historically low¹³. Furthermore, the sprat fisheries are often mixed fisheries together with herring. It is therefore appropriate to take these factors into account and fix the fishing opportunities for sprat accordingly.
- (20) The use of the fishing opportunities set out in this Regulation is subject to Council Regulation (EC) No 1224/2009¹⁴ and in particular Article 33 thereof on the recording of catches and fishing effort and Article 34 thereof on the transmission of data on the

⁹ <https://doi.org/10.17895/ices.advice.21907944>

¹⁰ <https://doi.org/10.17895/ices.advice.23310368>

¹¹ <https://doi.org/10.17895/ices.advice.21820512>

¹² <https://doi.org/10.17895/ices.advice.21820533> and <https://doi.org/10.17895/ices.advice.21820539>

¹³ <https://doi.org/10.17895/ices.advice.21820581>

¹⁴ 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).

exhaustion of fishing opportunities to the Commission. This Regulation should therefore specify the codes relating to landings of stocks subject to this Regulation that Member States are to use when sending data to the Commission.

- (21) Council Regulation (EC) No 847/96¹⁵ lays down additional conditions for the year-to-year management of TACs, including, under its Articles 3 and 4, flexibility provisions for stocks subject to precautionary and analytical TACs. Under Article 2 of that Regulation, when fixing the TACs, the Council is to decide to which stocks Articles 3 and 4 are not to apply, in particular on the basis of the biological status of the stocks. Article 15(9) of Regulation (EU) No 1380/2013 also lays down a year-to-year flexibility mechanism 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 the achievement of the objectives of the Common Fisheries Policy and cause the biological status of stocks to deteriorate, it should be made explicit that Articles 3(2), 3(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.
- (22) The biomass of the eastern Baltic cod, western Baltic cod, western Baltic herring and central Baltic herring stocks is below B_{lim} . The biomass of the stock of Bothnian herring is below $B_{trigger}$ and expected to come very close to B_{lim} in 2024. For all these stocks only by-catch and scientific fisheries are permitted in 2024. Therefore, and given the relatively low resilience of the Baltic Sea ecosystem, the Member States having a quota share of the relevant TACs have undertaken not to apply the year-to-year flexibility provided for in Article 15(9) of Regulation (EU) No 1380/2013 to those stocks in 2024 so that catches in 2024 do not exceed the relevant TACs. Furthermore, in ICES subdivisions 22-30, the biomass of almost all salmon river stocks is below the limit reference point for smolt production (R_{lim}) and only by-catch and scientific fisheries are permitted in 2024. The relevant Member States have therefore undertaken a similar commitment regarding year-to-year flexibility in relation to main-basin salmon catches in 2024.
- (23) [*placeholder for “Norway pout”* - Council Regulation (EU) 2023/194¹⁶ fixes fishing opportunities for Norway pout until 31 October 2023 in ICES division 3a, United Kingdom and Union waters of subarea 4, and United Kingdom waters of 2a. The fishing period for Norway pout is from 1 November to 31 October. To enable the start of the fishery on 1 November 2023, and based on new scientific advice and following consultations with the United Kingdom, it is necessary to fix a provisional TAC for Norway pout in ICES division 3a, United Kingdom and Union waters of subarea 4, and United Kingdom waters of ICES division 2a from 1 November 2023 to 31 December 2023. This provisional TAC should be fixed in line with ICES advice published on 9 October 2023¹⁷.]

¹⁵ 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).

¹⁶ Council Regulation (EU) 2023/194 of 30 January 2023 fixing for 2023 the fishing opportunities for certain fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters, as well as fixing for 2023 and 2024 such fishing opportunities for certain deep-sea fish stocks (OJ L 28, 31.1.2023, p. 1).

¹⁷ [*Placeholder for ICES advice due to be published on 9 October 2023*].

- (24) [placeholder for other modifications].
- (25) Regulation (EU) 2023/194 should therefore be amended accordingly.
- (26) To avoid the interruption of fishing activities, the provisions of this Regulation relating to the Baltic Sea should apply from 1 January 2024. However, this Regulation should apply to Norway pout in ICES division 3a, United Kingdom and Union waters of ICES subarea 4 and United Kingdom waters of ICES division 2a from 1 November 2023 until 31 October 2024 as that is the fishing season of Norway pout. For reasons of urgency, this Regulation should enter into force immediately after its 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 2024 and amends certain fishing opportunities in other waters fixed by Regulation (EU) 2023/194.

Article 2

Scope

1. This Regulation applies to Union fishing vessels operating in the Baltic Sea.
2. It also applies 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:

- (1) ‘subdivision’ means an International Council for the Exploration of the Sea (ICES) subdivision of the Baltic Sea as defined in Annex III to Regulation (EC) No 218/2009 of the European Parliament and of the Council¹⁸;
- (2) ‘total allowable catch (TAC)’ means:
 - (a) in fisheries subject to the exemption from the landing obligation referred to in Article 15(4) to (7) of Regulation (EU) No 1380/2013, the quantity of fish that may be landed from each stock each year;
 - (b) in all other fisheries, the quantity of fish that may be caught from each stock each 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;
- (5) ‘analytical assessment’ means a quantitative evaluation of trends in a given stock, based on data about the stock’s biology and exploitation, including based on proxies, which scientific review has indicated to be of sufficient quality to provide scientific advice;
- (6) ‘analytical TAC’ means a TAC for which an analytical assessment is available.

CHAPTER II

FISHING OPPORTUNITIES

Article 4

TACs and allocations

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

Article 5

Special provisions on allocation of fishing opportunities

1. The allocation of fishing opportunities among Member States set out in this Regulation shall be without prejudice to:
 - (a) exchanges made pursuant to Article 16(8) of Regulation (EU) No 1380/2013;

¹⁸ 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 (OJ L 87, 31.3.2009, p. 70).

- (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 and under Article 15(9) of Regulation (EU) No 1380/2013;
 - (d) quantities withheld in accordance with Article 4 of Regulation (EC) No 847/96 and transferred under Article 15(9) of Regulation (EU) No 1380/2013;
 - (e) deductions made pursuant to Articles 105, 106 and 107 of Regulation (EC) No 1224/2009.
2. Stocks subject to precautionary or analytical TACs for the purposes of the year-to-year management of TACs and quotas provided for in Regulation (EC) No 847/96 are identified in the Annex to this Regulation.
 3. Except where otherwise specified in the Annex to this Regulation, Article 3 of Regulation (EC) No 847/96 shall apply to stocks subject to a precautionary TAC, and Article 3(2) and (3) and Article 4 of that Regulation shall apply to stocks subject to an analytical TAC.
 4. Articles 3 and 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 6

Conditions for landing of catches and by-catches

For the purposes of the derogation from the obligation to count catches against the relevant quotas, as provided for in Article 15(8) of Regulation (EU) No 1380/2013, the stocks of non-target species within safe biological limits referred to in that Article are identified in the Annex to this Regulation.

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. The prohibition laid down in paragraph 1 shall not apply in the following cases:
 - (a) fishing operations conducted for the exclusive purpose of scientific investigations, provided that those investigations are carried out in accordance 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.

3. It shall be prohibited to fish with any type of fishing gear in subdivisions 22 and 23 from 15 January to 31 March and in subdivision 24 from 15 May to 15 August.
4. The prohibition laid down in paragraph 3 shall not apply in the following cases:
 - (a) fishing operations conducted for the exclusive purpose of scientific investigations, provided that those investigations are carried out in accordance 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 that fish with dredges for bivalve molluscs in subdivision 22, 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.
5. Masters of Union fishing vessels referred to in paragraph 2, point (b), and paragraph 4, points (b) and (c) shall ensure that their fishing activity can be monitored at any time by the control authorities of the competent Member State.

Article 8

Measures on recreational fisheries of cod in subdivisions 22 to 26

Recreational fisheries of cod shall be prohibited in subdivisions 22 to 26.

Article 9

Measures on recreational fisheries of salmon in subdivisions 22 to 31

1. Recreational fisheries of salmon shall be prohibited in subdivisions 22 to 31. Any specimen of salmon accidentally caught shall be immediately released back into the sea.
2. By way of derogation from paragraph 1, recreational fisheries of salmon shall be allowed under the following cumulative conditions:
 - (a) no more than one specimen of adipose fin-clipped salmon may be caught and retained per recreational fisher per day;
 - (b) after catching the first adipose fin-clipped salmon, the recreational fisher shall stop the fishing of salmon for the remainder of the day;
 - (c) all specimens of any fish species retained shall be landed whole.
3. By way of further derogation from paragraph 1, recreational fisheries of salmon shall be allowed in subdivision 31 from 1 May to 31 August in areas within four nautical miles measured from the baselines.

4. This Article is without prejudice to more stringent national measures under Articles 19 and 20 of Regulation (EU) No 1380/2013.

Article 10

Measures for the conservation of the sea trout and salmon stocks in subdivisions 22 to 32

1. Union fishing vessels shall not fish for sea trout beyond four nautical miles measured from the baselines in subdivisions 22 to 32. When fishing for salmon beyond four nautical miles measured from the baselines in subdivision 32, by-catches of sea trout shall not exceed 3 % of the total catch of salmon and sea trout on board at any moment or landed after each fishing trip.
2. Fishing with longlines for sea trout or salmon beyond four nautical miles measured from the baselines in subdivisions 22 to 31 shall be prohibited.
3. This Article is without prejudice to more stringent national measures under Articles 19 and 20 of Regulation (EU) No 1380/2013.

Article 11

Data transmission

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

CHAPTER III

FINAL PROVISIONS

Article 12

Amendment to Regulation (EU) 2023/194

Regulation (EU) 2023/194 is amended as follows:

- (1) In Annex IA, Part B, the fishing opportunities table for Norway pout (*Trisopterus esmarkii*) in ICES division 3a, United Kingdom and Union waters of ICES subarea 4 and United Kingdom waters of ICES division 2a is replaced by the following:

Species:	Norway pout and associated by-catches <i>Trisopterus esmarkii</i>	Zone:	3a; United Kingdom and Union waters of 4; United Kingdom waters of 2a (NOP/2A3A4.)
Year	2023		2024
Denmark	46 929 (1)(3)	<i>pro memoria (pm)</i>	(1)(6)
			Analytical TAC Article 3(2) and (3) of Regulation (EC) No 847/96

Germany	9	(¹)(²)(³)	pm	(¹)(²)(⁶)	does not apply
Netherlands	35	(¹)(²)(³)	pm	(¹)(²)(⁶)	Article 4 of Regulation (EC) No 847/96 does not apply
Union	46 973	(¹)(³)	pm	(¹)(⁶)	
United Kingdom	11 439	(²)(³)	pm	(²)(⁶)	
Norway	0	(⁴)	pm	(⁴)	
Faroe Islands	0	(⁵)	pm	(⁵)	
TAC	58 412				

-
- (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 only be fished in United Kingdom and Union waters of 2a, 3a and 4.
- (3) May only be fished from 1 November 2022 to 31 October 2023.
- (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) May be fished from 1 November 2023 to 31 October 2024.
-

’;
;

(2) [placeholder].

Article 13

Entry into force and application

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 to 31 December 2024.

By way of derogation from the second paragraph:

- (a) Article 12, point (1), shall apply from 1 November 2023 until 31 October 2024;
- (b) [placeholder].

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

Done at Brussels,

For the Council
The President