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NOTE

From:	General Secretariat of the Council
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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 (COM (2023) 492) - Commission services non-paper

Delegations will find attached the above-mentioned document, as received from the European Commission services.

COMMISSION SERVICES NON PAPER

19 SEPTEMBER 2023

*This document serves as a basis for discussion at the Working Party on Fisheries Policy.
It cannot in any circumstances be regarded as the official position of the Commission.
It is intended solely for those to whom it is addressed.*

Updates to Commission 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 (COM (2023) 492)

1. AMENDMENTS IN RELATION TO BOTHNIAN HERRING, WESTERN BALTIC HERRING, CENTRAL BALTIC HERRING, WESTERN BALTIC COD, EASTERN BALTIC COD, PLAICE AND SPRAT

EXPLANATORY NOTE

The Commission's proposal does not provide figures for 7 out of 10 total allowable catches (TACs), pending additional information requested from the International Council for the Exploration of the Sea (ICES) about the level of unavoidable by-catches of herring (*Clupea harengus*) and of cod (*Gadus morhua*) in other fisheries in the Baltic Sea.

On 8 September 2023 ICES replied that it was not in a position to provide such additional information in 2023 either because further work is necessary to develop mixed fisheries scenarios for the Baltic Sea or because a dedicated workshop is needed to produce relevant results to inform ICES advice.

In the absence of such additional information, and in order to avoid the phenomenon of “choke species”, it is therefore proposed to set the TAC levels based on estimations by the Commission services in light of existing information.

As regards herring in Union waters of subdivisions 30-31 (Bothnian herring), it is estimated that the total quantity of Bothnian herring that is expected to be by-caught in other fisheries is low for two reasons. First, there are no targeted sprat fisheries in ICES subdivision 31 and in ICES subdivision 30 an average of less than 1% (1-2 tonnes) of total catches of sprat were taken between 2019 and 2022. While most of these catches of sprat are by-catches in the targeted Bothnian herring fisheries, there might also be some limited targeted sprat fisheries with Bothnian herring by-catches. These Bothnian herring by-catches should however be very low given the overall catches of sprat in ICES subdivision 30. Second, there are unavoidable by-catches of Bothnian herring in fisheries for non-quota species in ICES subdivisions 30-31, notably in the fisheries for vendace (*Coregonus albula*). It is therefore proposed to set the by-catch TAC at 1 000 tonnes (-99% compared to 2023).

As regards herring in Union waters of subdivisions 22-24 (western Baltic herring), ICES estimated in June 2023 that “most of the catches of western Baltic herring are taken in the [remaining] targeted fisheries for western Baltic herring with only a few as a by-catch in the targeted sprat fisheries”¹. Moreover, it is estimated that these sprat fisheries have represented less than 1% (2-3 tonnes) of the total sprat catches between 2019 and 2022. It is therefore proposed to set the by-catch TAC for western Baltic herring at 394 tonnes (-50% compared to 2023).

As regards herring in Union waters of subdivisions 25-27, 28.2, 29 and 32 (central Baltic herring) and sprat (*Sprattus sprattus*) in Union waters of subdivisions 22-32, the central part of the Baltic Sea is the main fishing area for sprat whose targeted fishery is expected to have unavoidable by-catches of central Baltic herring. In order to strike a balance between allowing these targeted sprat fisheries to continue operating while minimising the associated by-catches of central Baltic herring, it is proposed to set the TAC for sprat at 171 815 tonnes, the lowest point of the F_{MSY} range (-23% compared to 2023) and to set the by-catch TAC for central Baltic herring at 28 550 tonnes, the value corresponding to the lowest point of the F_{MSY} range minus a 20% precautionary buffer (-60% compared to 2023).

¹ ICES advice – sr.2023.9a (<https://doi.org/10.17895/ices.advice.23500722>).

As regards cod in Union waters of subdivisions 25-32 (eastern Baltic cod), in the absence of additional information, it is proposed to roll-over the by-catch TAC of 595 tonnes for 2023.

As regards cod in Union waters of subdivisions 22-24 (western Baltic cod) and plaice in Union waters of subdivisions 22-32 (*Pleuronectes platessa*), cod is by-caught in demersal flatfish fisheries and a TAC for unavoidable by-catches in those fisheries is therefore needed to avoid chocking them. In the absence of additional information and in order to strike a balance between allowing these targeted flatfish fisheries to continue operating while minimising the associated by-catches of western Baltic cod, it is proposed to roll-over the TAC of 11 313 tonnes for plaice for 2023 and to set the by-catch TAC for western Baltic cod at 136 tonnes, the level of the reported landings in the western Baltic cod management area in 2022 (-72% compared to 2023).

AMENDMENTS TO THE RECITALS

Recital (7) is replaced by the following:

“(7) There are certain stocks covered by Regulation (EU) 2016/1139 for which ICES either advises for zero catches or estimates that achieving a probability of the biomass falling below B_{lim} of less than 5% would not even be achieved with zero catches. However, if TACs were established at the advised levels, the obligation to land all catches, including by-catches from those stocks in mixed fisheries, would give rise to the phenomenon of ‘choke species’. ‘Choke species’ is a species with a lack of quota that can cause one or more fishing vessels to stop fishing even if they still have quota for other species. It is therefore appropriate to establish specific TACs for by-catches for those stocks in order to strike a balance between maintaining fisheries, in view of the potentially severe socio-economic 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. Those by-catch TACs should be set at levels that ensure that the mortality for those stocks is decreased, provide incentives to improve selectivity and 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.”

The following new recital (7a) is inserted:

“(7a) According to ICES, the vast majority of the fisheries in the Baltic Sea have at least some degree of mixing between species². This mixing concerns species managed by an EU TAC and species not managed by an EU-TAC alike. The most important degree of mixing occurs between pelagic species and demersal species. For 2024, ICES advises zero catches of western Baltic herring, eastern Baltic cod and main basin salmon. Moreover, ICES estimates that achieving a probability of the biomass falling below B_{lim} of less than 5% is not possible for Bothnian herring and central Baltic herring. Finally, the ICES precautionary advice for western Baltic cod is extremely low. Therefore, if the TACs for these stocks were established at the levels advised by ICES, this would result in vessels fishing notably for plaice and sprat to cease fishing in 2024. Based on EUMOFA data, the first-sale value of the plaice and sprat fisheries that is allowed to be caught within the limits of the proposed TACs is estimated at EUR 24.5 million and 38.4 million

² ICES Fisheries Overviews, Baltic Sea ecoregion <https://doi.org/10.17895/ices.advice.21646934>

respectively.³ Many fisheries, notably small-scale coastal fisheries, for species not managed by an EU TAC, notably other flatfish species, would also need to stop fishing in 2024. It is therefore appropriate to establish a TAC for by-catches of the “choke species” Bothnian herring, western Baltic herring, central Baltic herring, eastern Baltic cod, western Baltic cod, and main basin salmon under certain conditions.

Recital (18) is replaced by the following:

“(18) As regards plaice, ICES estimates that cod is bycaught in the plaice fisheries⁴. It is therefore appropriate to fix the fishing opportunities for plaice accordingly pursuant to Article 4(4) of Regulation (EU) 2016/1139.”

Recital (19) is replaced by the following:

“(19) As regards sprat, ICES estimates that while the biomass is above $B_{trigger}$, there has been no strong recruitment since 2014⁵. Moreover, ICES estimates that recruitment in 2021 and 2022 was historically low. Furthermore, the sprat fisheries are often mixed fisheries together with herring. It is therefore appropriate to fix the fishing opportunities for sprat accordingly pursuant to Article 4(3) of Regulation (EU) 2016/1139.”

AMENDMENTS TO THE ANNEX

In the Annex, tables 1, 2, 3, 5, 6, 7 and 10 are replaced by the following:

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Table 1

Species: Herring <i>Clupea harengus</i>	Zone: Subdivisions 30-31 (HER/30/31.)
Finland 820 ⁽¹⁾	Analytical TAC
Sweden 180 ⁽¹⁾	Article 3(2) and (3) of Regulation (EC) No 847/96 does not apply.

³ Based on European Market Observatory for Fisheries and Aquaculture Products (EUMOFA) data on first sale price and landings amount, averaged for the years 2019-2021 for specific Member States, then converted into a first sale price and finally multiplied by the quota allocated for 2024 to a Member State.
First sale price is the price of landed fish that is sold or registered at an auction centre to registered buyers or to producer organisations. Therefore, the estimated value based on first sale price indicates value only at the first step of the value chain.

⁴ <https://doi.org/10.17895/ices.advice.21820533> and <https://doi.org/10.17895/ices.advice.21820539>

⁵ <https://doi.org/10.17895/ices.advice.21820581>

Union	1 000 ⁽¹⁾	Article 4 of Regulation (EC) No 847/96 does not apply.
TAC	1 000 ⁽¹⁾	
⁽¹⁾ Exclusively for by-catches. No directed fisheries are permitted under this quota. By way of derogation from the first paragraph, fishing operations conducted for the exclusive purpose of scientific investigations may be directed to herring provided that those investigations are carried out in compliance with the conditions set out in Article 25 of Regulation (EU) 2019/1241.		

Table 2

Species: Herring <i>Clupea harengus</i>	Zone: Subdivisions 22-24 (HER/3BC+24)
Denmark	55 ⁽¹⁾ Analytical TAC
Germany	218 ⁽¹⁾ Article 3(2) and (3) of Regulation (EC) No 847/96 does not apply.
Finland	0 ⁽¹⁾ Article 4 of Regulation (EC) No 847/96 does not apply.
Poland	51 ⁽¹⁾
Sweden	70 ⁽¹⁾
Union	394 ⁽¹⁾
TAC	394 ⁽¹⁾
⁽¹⁾ Exclusively for by-catches. No directed fisheries are permitted under this quota. By way of derogation from the first paragraph, fishing operations conducted for the exclusive purpose of scientific investigations may be directed to herring provided that those investigations are carried out in compliance with the conditions set out in Article 25 of Regulation (EU) 2019/1241.	

Table 3

Species: Herring <i>Clupea harengus</i>	Zone: Union waters of subdivisions 25-27, 28.2, 29 and 32 (HER/3D-R30)
Denmark	628 ⁽¹⁾ Analytical TAC

Germany	167	⁽¹⁾	Article 3(2) and (3) of Regulation (EC) No 847/96 does not apply.
Estonia	3 208	⁽¹⁾	Article 4 of Regulation (EC) No 847/96 does not apply.
Finland	6 261	⁽¹⁾	
Latvia	792	⁽¹⁾	
Lithuania	833	⁽¹⁾	
Poland	7 113	⁽¹⁾	
Sweden	9 548	⁽¹⁾	
Union	28 550	⁽¹⁾	
TAC	Not relevant		

⁽¹⁾ Exclusively for by-catches. No directed fisheries are permitted under this quota.

By way of derogation from the first paragraph, fishing operations conducted for the exclusive purpose of scientific investigations may be directed to herring provided that those investigations are carried out in compliance with the conditions set out in Article 25 of Regulation (EU) 2019/1241.

Table 5

Species: Cod <i>Gadus morhua</i>		Zone:	Union waters of subdivisions 25-32 (COD/3DX32.)
Denmark	137	⁽¹⁾	Precautionary TAC
Germany	54	⁽¹⁾	Article 3 of Regulation (EC) No 847/96 does not apply.
Estonia	13	⁽¹⁾	
Finland	10	⁽¹⁾	
Latvia	51	⁽¹⁾	
Lithuania	33	⁽¹⁾	
Poland	159	⁽¹⁾	
Sweden	138	⁽¹⁾	

Union	595 ⁽¹⁾
TAC	Not relevant ⁽¹⁾

⁽¹⁾ Exclusively for by-catches. No directed fisheries are permitted under this quota.

By way of derogation from the first paragraph, fishing operations conducted for the exclusive purpose of scientific investigations may be directed to cod provided that those investigations are carried out in compliance with the conditions set out in Article 25 of Regulation (EU) 2019/1241.

Table 6

Species: Cod <i>Gadus morhua</i>	Zone: Subdivisions 22-24 (COD/3BC+24)
Denmark	60 ⁽¹⁾ Precautionary TAC
Germany	29 ⁽¹⁾ Article 3 of Regulation (EC) No 847/96 does not apply.
Estonia	1 ⁽¹⁾
Finland	1 ⁽¹⁾
Latvia	5 ⁽¹⁾
Lithuania	3 ⁽¹⁾
Poland	16 ⁽¹⁾
Sweden	21 ⁽¹⁾
Union	136 ⁽¹⁾
TAC	136 ⁽¹⁾

⁽¹⁾ Exclusively for by-catches. No directed fisheries are permitted under this quota.

By way of derogation from the first paragraph, fishing operations conducted for the exclusive purpose of scientific investigations may be directed to cod provided that those investigations are carried out in compliance with the conditions set out in Article 25 of Regulation (EU) 2019/1241.

Table 7

Species: Plaice <i>Pleuronectes platessa</i>	Zone: Union waters of subdivisions 22-32 (PLE/3BCD-C)
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Denmark	8 105	Analytical TAC
Germany	900	Article 6 of this Regulation applies.
Poland	1 697	
Sweden	611	
Union	11 313	
TAC	11 313	

Table 10

Species: Sprat <i>Sprattus sprattus</i>		Zone: Union waters of subdivisions 22-32 (SPR/3BCD-C)
Denmark	16 948	Analytical TAC
Germany	10 737	Article 6 of this Regulation applies.
Estonia	19 681	
Finland	8 872	
Latvia	23 770	
Lithuania	8 598	
Poland	50 445	
Sweden	32 764	
Union	171 815	
TAC	Not relevant	

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2. AMENDMENTS IN RELATION TO THE TERM ‘PRECAUTIONARY TAC’

EXPLANATORY NOTE

Given that the term “precautionary TAC” is used in the Commission’s proposal, it is proposed to clarify its meaning to allow readers to understand this term.

AMENDMENTS TO THE ARTICLE

Article 3 is amended as follows:

- (1) The point at the end is replaced by a semicolon.
- (2) The following point (7) is added:

“(7) ‘precautionary TAC’ means a TAC for which an analytical assessment is not available, and rather an assessment based on the precautionary approach is available or no assessment is available.”