Council of the
European Union

Brussels, 26 October 2018
(OR. en)

13230/18

Interinstitutional File:
2018/0320 (NLE)

PECHE 403

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	COUNCIL REGULATION fixing for 2019 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea and amending Regulation (EU) 2018/120 as regards certain fishing opportunities in other waters

COUNCIL REGULATION (EU) 2018/…

of …

fixing for 2019 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea and amending Regulation (EU) 2018/120 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 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 in the light of any 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) 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.

[1] Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354, 28.12.2013, p. 22).

(4) The 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 having regard to the opinions expressed during the consultation with stakeholders.

(5) Regulation (EU) 2016/1139 of the European Parliament and of the Council[1] 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. It is appropriate that the catch limits applicable in 2019 for the cod, herring and sprat stocks in the Baltic Sea are established in line with the objectives of the plan.

[1] Regulation (EU) 2016/1139 of the European Parliament and of the Council of 6 July 2016 establishing a multiannual plan for the stocks of cod, herring and sprat in the Baltic Sea and the fisheries exploiting those stocks, amending Council Regulation (EC) No 2187/2005 and repealing Council Regulation (EC) No 1098/2007 (OJ L 191, 15.7.2016, p. 1).

(6) The International Council for the Exploration of the Sea (ICES) has indicated the biomass of Western Baltic herring in ICES subdivisions 20-24 to be below the conservation reference points of the spawning stock biomass as set out in Annex II, column A, to Regulation (EU) 2016/1139. In accordance with Article 5(2) of that Regulation, all appropriate remedial measures should be adopted to ensure a rapid return of the stock concerned to a level capable of producing MSY. 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 adopted, 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(3) of Regulation (EU) 2016/1139, it is appropriate that fishing opportunities for Western Baltic herring are set below the fishing mortality range in Annex I, column A, of that Regulation, as such a level takes into account the decrease in the biomass.

(7) As regards the Western Baltic Sea cod stock, scientific advice indicates that recreational fisheries contribute significantly to the overall fishing mortality of that stock and should be limited. It is therefore appropriate to set a daily bag limit per fisherman. This is without prejudice to the principle of relative stability applicable to commercial fishing activities.

(8) As regards the Eastern Baltic cod stock, ICES has not yet been able to establish biological reference points, following changes in the biology of the stock. It is therefore appropriate, in order to contribute to the achievement of the objectives of the plan, to fix the TAC for Eastern Baltic cod in accordance with the precautionary approach as established in Regulation (EU) No 1380/2013 and to set a closure period.

(9) In order to guarantee full use of coastal fishing opportunities, it is appropriate to introduce a limited inter-area flexibility for salmon from ICES subdivisions 22-31 to ICES subdivision 32 for the Member State that has requested that flexibility.

(10) According to ICES advice, 29 % of catches in the salmon fishery is misreported, in particular as sea trout catches. As most of the sea trout in the Baltic Sea is exploited in coastal areas, it is appropriate to prohibit fishing for sea trout beyond four nautical miles and to limit by-catches of sea trout to 3 % of the combined catch of sea trout and salmon in order to contribute to preventing misreporting of salmon catches as sea trout catches.

(11) The use of the fishing opportunities set out in this Regulation is subject to Council Regulation (EC) No 1224/2009[1], 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.

[1] 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).

(12) Council Regulation (EC) No 847/96[1] 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 cause the biological status of the stocks to deteriorate, 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.

(13) 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 2018 to 31 October 2019.

[1] 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).

(14) In previous years the TACs for anchovy in ICES subareas 9 and 10 and Union waters of CECAF division 34.1.1 have been fixed for a calendar year. In July 2018 ICES issued its advice for the period from 1 July 2018 to 30 June 2019 for that stock. Those periods should be aligned in order to match the TAC period with the period covered by the ICES advice. Exceptionally and only due to the transition, the TAC for anchovy should be amended to cover the period of 18 months, ending on 30 June 2019.

(15) In order to avoid the interruption of fishing activities and to ensure the livelihoods of Union fishermen, this Regulation should apply from 1 January 2019. However, this Regulation should apply to anchovy in ICES subareas 9 and 10 and Union waters of CECAF division 34.1.1 from 1 January 2018. Such retroactive application is without prejudice to the principles of legal certainty and protection of legitimate expectations as the fishing opportunities for that longer period exceed those initially fixed under Council Regulation (EU) 2018/120[1]. Furthermore, 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 2018 until 31 October 2019. For reasons of urgency, this Regulation should enter into force immediately after its publication,

HAS ADOPTED THIS REGULATION:

[1] Council Regulation (EU) 2018/120 of 23 January 2018 fixing for 2018 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, and amending Regulation (EU) 2017/127 (OJ L 27, 31.1.2018, p. 1).

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 2019 and amends certain fishing opportunities in other waters fixed by Regulation (EU) 2018/120.

Article 2

Scope

1. This Regulation shall apply to Union fishing vessels operating in the Baltic Sea.

2. This Regulation shall also apply to recreational fisheries where they are expressly referred to in the relevant provisions.

Article 3

Definitions

For the purposes of this Regulation, the definitions referred to 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 I to Council Regulation (EC) No 2187/2005[1];

(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.

[1] Council Regulation (EC) No 2187/2005 of 21 December 2005 for the conservation of fishery resources through technical measures in the Baltic Sea, the Belts and the Sound, amending Regulation (EC) No 1434/98 and repealing Regulation (EC) No 88/98 (OJ L 349, 31.12.2005, p. 1).

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;

(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 22-24

1. In recreational fisheries, no more than seven specimens of cod may be retained per fisherman per day in subdivisions 22-24.

2. Paragraph 1 is without prejudice to more stringent national measures.

Article 8

Measures on sea trout 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 2019. When fishing for salmon in those waters by-catches of sea trout may 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

Amendments to Regulation (EU) 2018/120

Annex IA to Regulation (EU) 2018/120 is amended as follows:

(1) the fishing opportunities table for anchovy in ICES subareas 9 and 10 and Union waters of CECAF division 34.1.1 is replaced by the following:

Species:	Anchovy *Engraulis encrasicolus*		Zone:	9 and 10; Union waters of CECAF 34.1.1 (ANE/9/3411)
Spain	10 802	(1)		
Portugal	11 784	(1)		
Union	22 586	(1)		
TAC	22 586	(1)	Precautionary TAC	
(1)	The quota may only be fished from 1 January 2018 to 30 June 2019.			

(2) 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 *Trisopterus esmarkii*				Zone: 3a; Union waters of 2a and 4 (NOP/2A3A4.)
Year	2018		2019		
Denmark	85 186	(1)(3)	49 953	(1)(6)	
Germany	16	(1)(2)(3)	10	(1)(2)(6)	
The Netherlands	63	(1)(2)(3)	37	(1)(2)(6)	
Union	85 265	(1)(3)	50 000	(1)(6)	
Norway	15 000	(4)	0		
Faroe Islands	6 000	(5)	0		
TAC	not relevant		not relevant		Analytical TAC Article 3 of Regulation (EC) No 847/96 shall not apply Article 4 of Regulation (EC) No 847/96 shall not apply

(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 2017 to 31 October 2018.

(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 2018 to 31 October 2019.

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 2019, with the exception of point 2 of Article 11 which shall apply from 1 November 2018 until 31 October 2019 and with the exception of point 1 of Article 11 which shall apply from 1 January 2018.

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

Done at Brussels,

For the Council
The President

ANNEX

TACs APPLICABLE TO UNION FISHING VESSELS
IN AREAS WHERE TACs EXIST BY SPECIES AND BY AREA

The following tables set out the TACs and quotas (in tonnes live weight, except where otherwise specified) by stock, and conditions functionally linked thereto.

The references to fishing zones are references to ICES zones, unless otherwise specified.

The fish stocks are referred to using the alphabetical order of the Latin names of the species.

For the purposes of this Regulation, the following comparative table of Latin names and common names is provided:

Scientific name	Alpha-3 code	Common name
Clupea harengus	HER	Herring
Gadus morhua	COD	Cod
Pleuronectes platessa	PLE	Plaice
Salmo salar	SAL	Atlantic salmon
Sprattus sprattus	SPR	Sprat

Species:	Herring *Clupea harengus*	Zone: Subdivisions 30-31 (HER/30/31.)
Finland	72 724	
Sweden	15 979	
Union	88 703	
TAC	88 703	Analytical TAC

Species:	Herring *Clupea harengus*	Zone: Subdivisions 22-24 (HER/3BC+24)
Denmark	1 262	
Germany	4 966	
Finland	1	
Poland	1 171	
Sweden	1 601	
Union	9001	
TAC	9 001	Analytical TAC Article 3(2) and (3) of Regulation (EC) No 847/96 shall not apply. Article 4 of Regulation (EC) No 847/96 shall not apply.

Species:	Herring *Clupea harengus*	Zone: Union waters of subdivisions 25-27, 28.2, 29 and 32 (HER/3D-R30)
Denmark	3 748	
Germany	994	
Estonia	19 139	
Finland	37 360	
Latvia	4 723	
Lithuania	4 973	
Poland	42 444	
Sweden	56 979	
Union	170 360	
TAC	Not relevant	Analytical TAC Article 6 of this Regulation shall apply.

Species:	Herring *Clupea harengus*	Zone: Subdivision 28.1 (HER/03D.RG)
Estonia	14 336	
Latvia	16 708	
Union	31 044	
TAC	31 044	Analytical TAC Article 6 of this Regulation shall apply.

Species:	Cod *Gadus morhua*	Zone: Union waters of subdivisions 25-32 (COD/3DX32.)
Denmark	5 539 **(1)**	
Germany	2 203 **(1)**	
Estonia	540 **(1)**	
Finland	424 **(1)**	
Latvia	2 060 **(1)**	
Lithuania	1 357 **(1)**	
Poland	6 377 **(1)**	
Sweden	5 612 **(1)**	
Union	24 112 **(1)**	
TAC	Not relevant	Precautionary TAC Article 3(2) and (3) of Regulation (EC) No 847/96 shall not apply. Article 4 of Regulation (EC) No 847/96 shall not apply.

(1) In subdivisions 25 and 26, it shall be prohibited to fish this quota from 1 July to 31 July for:

a) fishing vessels of 12 meters length overall and more fishing with trawls, Danish seines or similar gear of a mesh size equal to or larger than 90 mm; and

b) fishing vessels of 12 meters length overall and more, fishing with gillnets, entangling nets or trammel nets of a mesh size equal to or larger than 90 mm, or with bottom set lines, longlines except drifting lines, handlines and jigging equipment.

Species:	Cod *Gadus morhua*	Zone:	Subdivisions 22-24 (COD/3BC+24)
Denmark	4 152		
Germany	2 031		
Estonia	92		
Finland	82		
Latvia	344		
Lithuania	223		
Poland	1 111		
Sweden	1 480		
Union	9 515		
TAC	9 515	Analytical TAC Article 3(2) and (3) of Regulation (EC) No 847/96 shall not apply. Article 4 of Regulation (EC) No 847/96 shall not apply.	

Species:	Plaice *Pleuronectes platessa*	Zone:	Union waters of subdivisions 22-32 (PLE/3BCD-C)
Denmark	7 251		
Germany	806		
Poland	1 518		
Sweden	547		
Union	10 122		
TAC	10 122	Analytical TAC Article 6 of this Regulation shall apply.	

Species:	Atlantic salmon *Salmo salar*	Zone:	Union waters of subdivisions 22-31 (SAL/3BCD-F)
Denmark	18 885 (1)		
Germany	2 101 (1)		
Estonia	1 919 (1) (2)		
Finland	23 548 (1)		
Latvia	12 012 (1)		
Lithuania	1 412 (1)		
Poland	5 729 (1)		
Sweden	25 526 (1)		
Union	91 132 (1)		
TAC	Not relevant	Analytical TAC Article 3(2) and (3) of Regulation (EC) No 847/96 shall not apply. Article 4 of Regulation (EC) No 847/96 shall not apply.	

(1) Expressed by number of individual fish.

(2) Special condition: up to 20% and no more than 400 specimens of this quota may be fished in Union waters of subdivision 32 (SAL/*3D32)

Species:	Atlantic salmon *Salmo salar*	Zone:	Union waters of subdivision 32 (SAL/3D32.)
Estonia	995 **(1)**		
Finland	8 708 **(1)**		
Union	9 703 **(1)**		
TAC	Not relevant	Precautionary TAC	

(1) Expressed by number of individual fish.

Species:	Sprat *Sprattus sprattus*	Zone:	Union waters of subdivisions 22-32 (SPR/3BCD-C)
Denmark	26 710		
Germany	16 921		
Estonia	31 016		
Finland	13 982		
Latvia	37 460		
Lithuania	13 551		
Poland	79 497		
Sweden	51 635		
Union	270 772		
TAC	Not relevant	Analytical TAC Article 6 of this Regulation shall apply.	