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NOTE

From:	General Secretariat of the Council
To:	Delegations
No. Cion doc.:	11735/18 PECHE 320 + ADD 1 - COM(2018) 608 final
Subject:	Proposal for a Council Regulation fixing for 2019 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea

Following discussions in the meetings of the Working Party on Internal and External Fisheries Policy on 4, 6, 13 and 20 September 2018, delegations will find attached a summary of the comments of delegations (*marked in bold and italics*).

This document also takes into account delegations' written comments received to date. For the detailed positions of delegations, and for comments regarding specific language versions, please refer to the documents themselves¹.

For ease of reference, this document also includes the TACs for 2018 (*in bold and italics*).

This document is without prejudice to future positions expressed by delegations.

¹ Docs. 12170/18 + ADD 1-7

GENERAL COMMENTS:

- ***On the guiding principles underlying the setting of TACs:*** several delegations (DE, DK, EE, SE, LT and LV) indicated the need to respect the MSY approach, the provisions of the Baltic multi-annual plan and the principle of relative stability. EE reiterated the importance of limiting annual fluctuations and ES and LT called for the consideration of socio-economic aspects. ES says that Baltic TACs should be set together with the main TACs.
- ***On BALTFISH:*** concerned delegations expressed their commitment to work towards a common position in BALTFISH. SE, as current chair of BALTFISH, is committed to facilitate the work of the Council through informal discussions in the context of BALTFISH.
- ***On recreational fisheries:*** SE reiterated that recreational fisheries should be regulated by Member States and a restriction should only be introduced in this Regulation in specific cases if it has an added value.
- FI notes that the cross-reference to "Article 6(2)" in some tables of the Annex is not accurate and should be replaced by "Article 6".
- All delegations have general scrutiny reservations on the proposal.
- DK and UK maintain their parliamentary scrutiny reservations.

Delegations recalled that their comments are preliminary and that their positions on the stocks depend on the final package.

Proposal for a

COUNCIL REGULATION

fixing for 2019 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea

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 Council² 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) 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.

² 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 in having regard to the opinions expressed during the consultation with stakeholders.
- (5) Regulation (EU) 2016/1139 of the European Parliament and of the Council³ 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 maximum sustainable yield. 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.
- (6) The International Council for the Exploration of the Sea (ICES) has indicated the biomass of Western Baltic herring in subdivision 20 to 24 to be below the conservation reference points of the spawning stock biomass as set out in Annex II, column A to Regulation 2016/1139. In accordance with Article 5(2) of that Regulation all appropriate remedial measures shall 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 taken, whilst at the same time adhering with 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. Taking into account the current status of that stock, it is appropriate to maintain 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, the 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 Article 9(2) of Regulation 1380/2013.

³ 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

- (9) The use of the fishing opportunities set out in this Regulation is subject to Council Regulation (EC) No 1224/2009⁴, 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.
- (10) Council Regulation (EC) No 847/96⁵ 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 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.
- (11) In order to avoid interruption of fishing activities and to ensure the livelihoods of Union fishermen, this Regulation should apply from 1 January 2019. For reasons of urgency, this Regulation should enter into force immediately after its publication.

HAS ADOPTED THIS REGULATION:

⁴ 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](#)).

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)

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.

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 2187/2005⁶;
- (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.

⁶ 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 ([OJ L 349, 31.12.2005, p. 1](#)).

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;
- (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.

Article 7

Measures on recreational fisheries for cod in subdivisions 22-24⁷

1. In recreational fisheries, no more than five specimens of cod may be retained per fisherman per day in subdivisions 22-24.
2. Paragraphs 1 is without prejudice to more stringent national measures.

CHAPTER III

FINAL PROVISIONS

Article 8

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.

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.

⁷ ***DE: catch limits for recreational fisheries should be adapted proportionately to TAC. DK: the scope of the restriction must be seen in relation to the TAC. SE: supports regulating recreational fisheries at EU level in this specific case as it has an added value given the low biomass level and the impact of recreational fisheries on fishing mortality. Supports a bag limit at the level proposed by COM.***

Article 10

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.

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

Done at Brussels,

For the Council
The President

**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
<i>Clupea harengus</i>	HER	Herring
<i>Gadus morhua</i>	COD	Cod
<i>Pleuronectes platessa</i>	PLE	Plaice
<i>Salmo salar</i>	SAL	Atlantic salmon
<i>Sprattus sprattus</i>	SPR	Sprat

Species:	Herring <i>Clupea harengus</i>	Zone:	Subdivisions 30-31 (HER/30/31.)
Finland	72724	78351	<i>FI: supports COM proposal, as it is in line with the BMAP and Fmsy point value of 0.21.</i>
Sweden	15979	17215	
Union	88703	95566	<i>SE: supports COM proposal.</i>
TAC	88703	95566	Analytical TAC

Species:	Herring <i>Clupea harengus</i>	Zone:	Subdivisions 22-24 (HER/3BC+24)
Denmark	898	2426	<i>DE:</i> considers a reduction of 40-45% sufficient to allow the stock to recover and respect provisions of BMAP, need to consider socio-economic impact.
Germany	3533	9551	
Finland	0	1	
Poland	833	2252	<i>DK:</i> asks for a higher TAC. BMAP ranges and trigger values should be used, instead of the new ICES point references. Need to consider socio-economic impact.
Sweden	1139	3079	
Union	6404	17309	<i>SE:</i> can accept COM proposal. <i>EE:</i> the TAC should lead to an SSB increase.
TAC	6404	17309	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 <i>Clupea harengus</i>	Zone:	Union waters of Subdivisions 25-27, 28.2, 29 and 32 (HER/3D-R30)
Denmark	3748	5045	<i>DK:</i> asks for a higher TAC to maintain a balanced fishery between sprat and herring.
Germany	994	1338	
Estonia	19139	25767	<i>DE, FI, SE:</i> support COM proposal ($F_{msy}=0.28$), in line with BMAP.
Finland	37360	50297	
Latvia	4723	6359	<i>EE, LT, LV:</i> suggests -20% to avoid high TAC fluctuations (Art. 4(4)(c) of the BMAP should be applied).
Lithuania	4973	6696	
Poland	42444	57142	
Sweden	56979	76711	
Union	170360	229355	
TAC	Not relevant		Analytical TAC Article 6(2) of this Regulation shall apply.

Species:	Herring <i>Clupea harengus</i>	Zone:	Subdivision 28.1 (HER/03D.RG)
Estonia	14336	13392	<i>LY: does not support lower fishing opportunities than proposed by</i>
Latvia	16708	15607	<i>COM.</i> <i>EE: supports COM proposal.</i>
Union	31044	28999	
TAC	31044	28999	Analytical TAC Article 6(2) of this Regulation shall apply.

Species:	Cod <i>Gadus morhua</i>	Zone:	Union waters of Subdivisions 25-32 (COD/3DX32.)
Denmark	5539 (1)	6521	<p><u>DE:</u> higher TAC reduction would be appropriate (ICES recommends -50%), as the stock is in a bad state and biomass is decreasing.</p> <p><u>DK:</u> asks for the basis of COM proposal. COM has suggested a relatively higher TAC to avoid the mixing issue. Agrees to leave the mixing out of the discussion but this should not prevent a higher TAC for Western cod.</p> <p><u>EE:</u> a TAC decrease is necessary. Flexible on -15% COM proposal.</p> <p><u>FI:</u> suggests a TAC decrease according to the precautionary approach and the scientific advice.</p> <p><u>LT:</u> supports a moderate TAC reduction, as proposed by COM, since drastic reductions are not leading to positive results.</p> <p><u>LV:</u> does not support lower fishing opportunities than proposed by COM. Overall, there has been -63% over the last 5 years. Against any discussion on mixing.</p> <p><u>SE:</u> asks for a bigger TAC decrease, in line with ICES and precautionary approach.</p> <p><u>FI (on behalf of Åland Islands):</u> support -15% COM proposal.</p> <p>▪ <u>ON FOOTNOTE (1):</u></p> <p><u>DK</u> prefers deleting the closure period, but supports the derogation for vessels below 12m included, if closure is maintained.</p> <p><u>LT:</u> not in favour of a closure period until the publication of the latest scientific advice on the effects and timing of closure.</p> <p><u>PL:</u> supports the closure period and the extension of protection areas, subject to further analysis on the basis of the upcoming ICES report at the end of September 2018. Notes the importance of the eco-system approach.</p> <p><u>SE:</u> is examining COM proposal and will support a decision based on scientific advice.</p>
Germany	2203 (1)	2594	
Estonia	540 (1)	635	
Finland	424 (1)	499	
Latvia	2060 (1)	2425	
Lithuania	1357 (1)	1597	
Poland	6378 (1)	7510	
Sweden	5612 (1)	6607	
Union	24112 (1)	28388	
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, fishing vessels shall be prohibited from fishing with trawls, Danish seines or similar gear of a mesh size equal to or larger than 90 mm, with gillnets, entangling nets or trammel nets of a mesh size equal to or larger than 90 mm, with bottom set lines, longlines except drifting lines, handlines and jigging equipment to fish this quota from 1 July to 31 August.

By way of derogation from the first paragraph, that closure period shall not apply to fishing vessels of less than 12 metres in length overall that fish in areas where the water depth is less than 20 meters according to the coordinates on the official sea chart. Those vessels shall ensure that their fishing activity can be monitored at any time. For that purpose, they can for example be equipped with a vessel monitoring system (VMS), or equivalent electronic monitoring system certified by the control authority, or paper logbooks in combination with established inspection and surveillance procedures in line with Council Regulation (EC) No 1224/2009.

Species:	Cod <i>Gadus morhua</i>	Zone:	Subdivisions 22-24 (COD/3BC+24)
Denmark	3204	2444	<u>DE</u> : 31% increase is not enough for fishermen, stock is in a good state, still sustainable with 100% increase.
Germany	1566	1194	
Estonia	71	54	<u>DK</u> : asks for a substantially higher TAC, as justified by ICES, as 2019 SSB would still remain above trigger levels. Supports the removal of the closure period.
Finland	63	48	
Latvia	265	202	<u>PL</u> : calls for a cautious approach. Could support a TAC increase if the 2018 closure period is maintained.
Lithuania	172	131	
Poland	857	654	<u>SE</u> : supports COM proposal and a cautious decision. Scrutiny reservation as regards the removal of the closure period and its conformity with the BMAP.
Sweden	1141	870	
Union	7340	5597	<u>EE</u> : favours a precautionary approach, but can be flexible. <u>LT, FI</u> : set TAC in line with ICES advice and BMAP, using thus the lower part of Fmsy range (SSB is still below trigger reference points).
TAC	7340	5597	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 <i>Pleuronectes platessa</i>	Zone:	Union waters of Subdivisions 22-32 (PLE/3BCD-C)
Denmark	7251	5070	<i>DE: important stock to guarantee income for fishermen given the decrease of Western cod and herring. Should increase 100%. DK: scrutiny reservation with regard to the split between the Western Baltic Sea and the Kattegat. SE: supports COM proposal.</i>
Germany	806	563	
Poland	1518	1061	
Sweden	547	382	
Union	10122	7076	
TAC	10122	7076	Analytical TAC Article 6(2) of this Regulation shall apply.

Species:	Atlantic salmon <i>Salmo salar</i>	Zone:	Union waters of Subdivisions 22-31 (SAL/3BCD-F)
Denmark	21758 (1) 18885	<i>DE, DK: support COM proposal.</i>	
Germany	2421 (1) 2101	<i>EE, FI: are concerned about misreporting of catches, more efforts</i>	
Estonia	2211 (1) 1919	<i>on better reporting and fight against IUU fishing are needed.</i>	
Finland	27130 (1) 23548	<i>FI: does not support COM proposal and asks for a substantial</i>	
Latvia	13839 (1) 12012	<i>reduction and to set TAC in line with ICES advice, including</i>	
Lithuania	1627 (1) 1412	<i>estimates of unwanted, unreported and misreported catches and</i>	
Poland	6600 (1) 5729	<i>Russian share. Also, cautious approach needed given the increase</i>	
Sweden	29410 (1) 25526	<i>of the M74 syndrome and effects of warmer climate.</i>	
Union	104996 (1) 91132	<i>SE: does not support a TAC increase and calls for a cautious</i>	
		<i>approach given the mixed fisheries, weak salmon rivers, M74</i>	
		<i>disease and risk of fungus due to warm summer.</i>	
		<i>FI (on behalf of Åland Islands): support COM proposal to increase</i>	
		<i>TAC.</i>	
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.

Species:	Atlantic salmon <i>Salmo salar</i>	Zone:	Union waters of Subdivision 32 (SAL/3D32.)
Estonia	1013 (1)	1026	<i>EE: asks for a 15% inter-area flexibility from main basin to Gulf of Finland given the mismatch between the TAC area and distribution of fish, and to avoid choke species situation. This flexibility should apply to MS with quota of salmon in both areas.</i>
Finland	8866 (1)	8977	
Union	9879 (1)	10003	
TAC	Not relevant		Precautionary TAC

(1) Expressed by number of individual fish.

Species:	Sprat <i>Sprattus sprattus</i>	Zone:	Union waters of Subdivisions 22-32 (SPR/3BCD-C)
Denmark	26710	25875	<p><i>DE, EE, FI, SE: support COM proposal, in line with the BMAP and Fmsy point value of 0.26. FI does not support the use of Fmsy upper value (0.27) in order to keep the stock eligible for the inter-species flexibility mechanism in art. 15(8) of the Basic Regulation.</i></p> <p><i>DK: asks for the re-introduction of the footnote dealing with associated bycatches of herring, with similar formulation as in the main Regulation, as it ensures that relative stability is maintained by counting mixed bycatches against the quotas of the target species in unsorted landings.</i></p> <p><i>LT: suggests a 6,7% TAC increase and to apply Art. 4(4)(c) of the BMAP to take into account mixed fisheries with herring.</i></p> <p><i>LV: does not support lower fishing opportunities than proposed by COM.</i></p>
Germany	16921	16393	
Estonia	31016	30047	
Finland	13982	13545	
Latvia	37460	36289	
Lithuania	13551	13127	
Poland	79497	77012	
Sweden	51635	50022	
Union	270772	262310	
TAC	Not relevant		<p>Analytical TAC</p> <p>Article 6(2) of this Regulation shall apply.</p>