



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 28 August 2012

13211/12

**Interinstitutional File:
2012/0223(NLE)**

PECHE 312

PROPOSAL

from:	European Commission
dated:	17 August 2012
No Cion doc.:	COM(2012) 458 final
Subject:	Proposal for a Council Regulation fixing for 2013 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea

Delegations will find attached a proposal from the Commission, submitted under a covering letter from Mr. Jordi AYET PUIGARNAU, Director, to Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union.

Encl.: COM(2012) 458 final



EUROPEAN COMMISSION

Brussels, 17.8.2012
COM(2012) 458 final

2012/0223 (NLE)

Proposal for a

COUNCIL REGULATION

**fixing for 2013 the fishing opportunities for certain fish stocks and groups of fish stocks
applicable in the Baltic Sea**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

In accordance with Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy, measures should be taken to ensure that living aquatic resources are exploited under sustainable economic, environmental and social conditions. One important tool in this respect is the annual fixing of fishing opportunities in the form of total allowable catches (TACs), quotas and fishing effort limits.

The objective of this proposal is to fix, for the commercially most important fish stocks in the Baltic Sea, the fishing opportunities for Member States for 2013. With a view to simplifying and clarifying the annual TAC and quota decisions, fishing opportunities in the Baltic Sea have been fixed by a separate Regulation since 2006.

- **General context**

The Communication from the Commission concerning a consultation on Fishing Opportunities for 2013 (COM(2012) 278 final) outlines the background to the proposal.

The scientific advice on stocks in the Baltic Sea for 2013 was delivered by the International Council for the Exploration of the Sea (ICES) in May 2012 and by the Scientific, Technical and Economic Committee for Fisheries (STECF) in June 2012.

The proposal contains two sections that are important for management of the Baltic fisheries in 2013 through fishing opportunities: one section fixing the TACs and quotas and a second limiting the fishing effort, by imposing limits on fishing vessels' activity (number of days at sea).

- **Existing provisions in the area of the proposal**

Fishing opportunities and the way they are allocated to Member States are regulated annually. The most recent instrument is Council Regulation (EU) No 1256/2011 of 30 November 2011 fixing for 2012 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea and amending Regulation (EU) No 1124/2010.

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, is also of relevance to fisheries management in the Baltic Sea.

Council Regulation (EC) No 1098/2007 of 18 September 2007 establishing a multiannual plan for the cod stocks in the Baltic Sea and the fisheries exploiting those stocks, amending Regulation (EEC) No 2847/93 and repealing Regulation (EC) No 779/97, outlines the control and monitoring measures necessary for rebuilding the cod stocks in question. It also lays down the rules for setting the TACs for the Western and Eastern cod stocks and the associated fishing effort limitations.

- **Consistency with other EU policies and objectives**

The proposed measures are in accordance with the objectives and rules of the Common Fisheries Policy and are consistent with the Union's policy on sustainable development.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

- **Collection and use of expertise**

Main organisations/experts consulted

The scientific organisations consulted were the International Council for the Exploration of the Sea (ICES) and the Scientific, Technical and Economic Committee for Fisheries (STECF).

The Union asks ICES and STECF each year for scientific advice on the state of important fish stocks. The advice received covers all Baltic stocks for which TACs are proposed.

- **Consultation of interested parties**

The Baltic Sea Regional Advisory Council (BSRAC) was consulted at its Joint Demersal/Pelagic Working Group meeting in June 2012 on the basis of the Communication from the Commission concerning Fishing Opportunities. The scientific basis for the proposal was provided by ICES and STECF. At this meeting the rules for setting TACs and quotas for 2013 on the basis of the Communication were presented. The preliminary views expressed on all the fish stocks concerned were considered and taken into account as far as possible in the proposal without contradicting existing policies or causing any deterioration in the state of vulnerable resources.

The BSRAC supports the Commission's attempts to set TACs that are more consistent with scientific advice, as well as the application of the multiannual plan for cod with regard to the setting of the TACs.

- **Impact assessment**

The TACs for Western and Eastern Baltic cod have been reduced on average by 6% in accordance with the multiannual plan. Under the proposal, three of the five pelagic TACs would increase, and the remaining two TACs would decrease. In general, the proposed measures would result in an overall slight increase by 2% in fishing opportunities in terms of catch volumes for Union vessels in the Baltic Sea for all species except salmon and plaice stocks.

The proposal reflects not only short-term concerns but is also part of a longer-term approach whereby the level of fishing is gradually reduced to long-term sustainable levels. The approach taken in line with the proposal will therefore, in the medium to long term, result in a stable fishing effort and higher quotas. The long-term effects of the approach are expected to be a reduced impact on the environment due to the smaller fishing effort, reductions in the catching sector in terms of number of vessels and/or in the average fishing effort per vessel, and unchanged or increased landings. The sustainability of fishing activities will increase in the long term.

3. LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

The proposal seeks to establish the catch and effort limitations applicable to EU fisheries, in order to achieve the objective of the Common Fisheries Policy of ensuring fisheries at levels that are biologically, economically and socially sustainable.

- **Legal basis**

Article 43(3) of the Treaty on the Functioning of the European Union (TFEU).

- **Subsidiarity principle**

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

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reasons.

The Common Fisheries Policy is a common policy. According to Article 43(3) TFEU it is incumbent upon the Council to adopt measures on the fixing and allocation of fishing opportunities.

The Council Regulation in question allocates fishing opportunities to Member States. Having regard to Article 20(3) of Regulation (EC) No 2371/2002, Member States are free to allocate such opportunities among regions or operators as they see fit. Therefore, Member States have ample room for manoeuvre on decisions related to the social/economic model of their choice to exploit their allocated fishing opportunities.

The proposal has no new financial implications for Member States. This particular Regulation is adopted by the Council every year, and the public and private means to implement it are already in place.

- **Choice of instrument**

Proposed instrument: Regulation.

This is a proposal for fisheries management on the basis of Article 43(3) TFEU and in accordance with Article 20 of Council Regulation (EC) No 2371/2002.

4. BUDGETARY IMPLICATIONS

The proposal has no implications for the EU budget.

5. ADDITIONAL INFORMATION

- **Simplification**

The proposal continues to provide for simplification of administrative procedures for public authorities (EU or national), as it contains provisions similar to those of the 2012 Regulation on the fishing opportunities in the Baltic Sea.

- **Review/revision/sunset clause**

The proposal concerns an annual Regulation for the year 2013 and therefore does not include a revision clause.

- **Detailed explanation**

The proposal fixes for 2013 the fishing opportunities for certain stocks or groups of stocks for Member States fishing in the Baltic Sea.

The proposed figures reflect current scientific advice, consultation with the BSRAC and the framework for setting the TACs and quotas outlined in the Communication from the Commission concerning a consultation on Fishing Opportunities. Where relevant, the theoretical quantities of stocks shared with the Russian Federation were deducted from the proposed TACs.

Given the Commission's intention of ensuring the sustainable use of fishery resources in line with the Union's policy and international commitments while maintaining stable fishing opportunities, annual variations in TACs are limited as far as practicable taking account of the status of a given stock.

The TACs and quotas allocated to Member States are shown in Annex I and the fishing effort limits are laid down in Annex II to the Regulation.

For cod stocks, the proposed TACs and effort limitations are in line with the requirements of the multiannual plan for cod stocks in the Baltic Sea and the fisheries exploiting those stocks. The central element of the plan is a gradual reduction in fishing mortality to long-term sustainable levels in order to ensure recovery of the stocks and provide high and stable yields. As the fishing mortality of the cod stocks has already decreased to the levels indicated in the multiannual plan, there is no further need to reduce fishing effort, i.e. days at sea, nor to increase it.

All pelagic stocks in the Baltic Sea, namely Western, Central, Gulf of Riga, Gulf of Bothnia herring stocks and sprat stock are to be fished at MSY level in 2013, therefore the TACs proposed correspond to the MSY fishing mortality.

With regard to salmon and plaice stocks the scientific advice still needs to be delivered according to the terms of reference in order to propose a TAC. Pending the outcome of further contacts with ICES, the quantities are not provided in the proposal, but they will be included at a later stage.

Proposal for a

COUNCIL REGULATION

fixing for 2013 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 43(3) of the Treaty provides that the Council, on a proposal from the Commission, is to adopt measures on the fixing and allocation of fishing opportunities.
- (2) Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy ⁽¹⁾ requires that measures governing access to waters and resources and the sustainable pursuit of fishing activities be established taking into account available scientific, technical and economic advice and, in particular, the report drawn up by the Scientific, Technical and Economic Committee for Fisheries (STECF) as well as in the light of any advice received from Regional Advisory Councils.
- (3) It is incumbent upon the Council to adopt measures on the fixing and allocation of fishing opportunities by fishery or group of fisheries, including certain conditions functionally linked thereto, as appropriate. Fishing opportunities should be distributed among Member States in such a way as to assure each Member State relative stability of fishing activities for each stock or fishery with due regard to the objectives of the Common Fisheries Policy established in Regulation (EC) No 2371/2002.
- (4) The total allowable catches (TACs) should be established on the basis of the available scientific advice, taking into account biological and socioeconomic aspects whilst ensuring fair treatment between fishing sectors, as well as in the light of opinions expressed during the consultation of stakeholders, in particular at meetings with the Advisory Committee on Fisheries and Aquaculture and the Regional Advisory Councils concerned.
- (5) For stocks subject to specific multiannual plans, the fishing opportunities should be established in accordance with the rules laid down in those plans. Consequently, catch

¹ OJ L 358, 31.12.2002, p. 59.

limits and fishing effort limits for the cod stocks in the Baltic Sea should be established in accordance with the rules laid down in Council Regulation (EC) No 1098/2007 of 18 September 2007 establishing a multiannual plan for the cod stocks in the Baltic Sea and the fisheries exploiting those stocks ⁽²⁾ ('the Baltic Sea Cod Plan').

- (6) In the light of the most recent scientific advice, flexibility in the management of the fishing effort for cod stocks in the Baltic Sea can be introduced without jeopardising the objectives of the Baltic Sea Cod Plan and without resulting in an increase in fishing mortality. Such flexibility would allow for more efficient management of the fishing effort where quotas are not allocated equally among the fleet of a Member State and would facilitate swift reactions to quota exchanges. A Member State should, therefore, be allowed to allocate to vessels flying its flag additional days absent from port where an equal amount of days absent from port is withdrawn from other vessels flying the flag of that Member State.
- (7) The use of fishing opportunities as set out in this Regulation should be subject to 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 ⁽³⁾, and in particular Articles 33 and 34 thereof, concerning respectively the recording of catches and fishing effort and the information on data on the exhaustion of fishing opportunities. It is therefore necessary to specify the codes relating to landings of stocks subject to this Regulation which are to be used by the Member States when sending data to the Commission.
- (8) In accordance with Article 2 of Council Regulation (EC) No 847/96 of 6 May 1996 introducing additional conditions for year-to-year management of TACs and quotas ⁽⁴⁾, the stocks that are subject to the various measures referred to therein must be identified.
- (9) In order to avoid interruption of fishing activities and to ensure the livelihoods of Union fishermen, it is important to open the fisheries in question on 1 January 2013. 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 2013.

² OJ L 248, 22.9.2007, p. 1.

³ OJ L 343, 22.12.2009, p. 1.

⁴ OJ L 115, 9.5.1996, p. 3.

Article 2

Scope

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

Article 3

Definitions

For the purposes of this Regulation the following definitions shall apply:

- (a) the International Council for the Exploration of the Sea (ICES) zones are the geographical areas specified in Annex I to 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 (⁵);
- (b) 'Baltic Sea' means ICES Subdivisions 22-32;
- (c) 'Union vessel' means a fishing vessel flying the flag of a Member State and registered in the Union;
- (d) 'total allowable catch' (TAC) means the quantity that can be taken from each stock each year;
- (e) 'quota' means a proportion of the TAC allocated to the Union, a Member State or a third country;
- (f) 'day absent from port' means any continuous period of 24 hours or part thereof during which a vessel is absent from port.

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 Annex I.

Article 5

Special provisions on allocations

1. 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 20(5) of Regulation (EC) No 2371/2002;

⁵ OJ L 349, 31.12.2005, p. 1.

- (b) 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;
 - (d) quantities withheld in accordance with Article 4 of Regulation (EC) No 847/96;
 - (e) deductions made pursuant to Articles 37, 105, 106 and 107 of Regulation (EC) No 1224/2009.
2. Except where otherwise specified in Annex I 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 to stocks subject to an analytical TAC.

Article 6

Conditions for landing catches and by-catches

Fish from stocks for which catch limits are established shall be retained on board or landed only if the catches have been taken by vessels of a Member State having a quota and that quota is not exhausted.

Article 7

Fishing effort limits

1. Fishing effort limits are set out in Annex II.
2. The limits referred to in paragraph 1 shall also apply to ICES Subdivisions 27 and 28.2, unless the Commission has taken a decision in accordance with Article 29(2) of Regulation (EC) No 1098/2007 to exclude those Subdivisions from the restrictions provided for in Article 8(1)(b), (3), (4) and (5) and Article 13 of that Regulation.
3. The limits referred to in paragraph 1 shall not apply to ICES Subdivision 28.1, unless the Commission has taken a decision in accordance with Article 29(4) of Regulation (EC) No 1098/2007 that the restrictions provided for in Article 8(1)(b), (3), (4) and (5) of Regulation (EC) No 1098/2007 shall apply to that Subdivision.

Chapter III Final Provisions

Article 8

Data transmission

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

Article 9
Entry into force

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2013.

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

Done at Brussels,

For the Council
The President

ANNEX I

TACs APPLICABLE TO UNION 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, where appropriate.

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

Within each area, fish stocks are referred to following 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/3D30.; HER/3D31.
Finland	81 248		
Sweden	17 852		
Union	99 100		
TAC	99 100	Analytical TAC Article 3 of Regulation (EC) No 847/96 does not apply. Article 4 of Regulation (EC) No 847/96 does not apply.	

Species:	Herring <i>Clupea harengus</i>	Zone:	Subdivisions 22-24 HER/3B23.; HER/3C22.; HER/3D24.
Denmark	3 617		
Germany	14 234		
Finland	2		
Poland	3 357		
Sweden	4 590		
Union	25 800		

TAC 25 800 Analytical TAC
Article 3 of Regulation (EC) No 847/96 does not apply.
Article 4 of Regulation (EC) No 847/96 does not apply.

Species:	Herring <i>Clupea harengus</i>	Zone:	Union waters of Subdivisions 25-27, 28.2, 29 and 32 HER/3D25.; HER/3D26.; HER/3D27.; HER/3D28.2; HER/3D29.; HER/3D32.
Denmark	1 873		
Germany	497		
Estonia	9 567		
Finland	18 674		
Latvia	2 361		
Lithuania	2 486		
Poland	21 216		
Sweden	28 481		

Union 85 155

TAC Not relevant Analytical TAC

Species:	Herring <i>Clupea harengus</i>	Zone:	Subdivision 28.1 HER/03D.RG
Estonia	12 764		
Latvia	14 876		
Union	27 640		

TAC 27 640 Analytical TAC

Species	Cod <i>Gadus morhua</i>	Zone:	Union waters of Subdivisions 25-32 COD/3D25.; COD/3D26.; COD/3D27.; COD/3D28.; COD/3D29.; COD/3D30.; COD/3D31.; COD/3D32.
Denmark	14 143		
Germany	5 626		
Estonia	1 378		
Finland	1 082		
Latvia	5 259		

Lithuania	3 464
Poland	16 285
Sweden	14 328

Union 61 565

TAC Not relevant Analytical TAC

Species:	Cod <i>Gadus morhua</i>	Zone:	Subdivisions 22-24 COD/3B23.; COD/3C22.; COD/3D24.
----------	----------------------------	-------	---

Denmark	9 080
Germany	4 439
Estonia	201
Finland	178
Latvia	751
Lithuania	487
Poland	2 429
Sweden	3 235

Union 20 800

TAC 20 800 Analytical TAC
Article 3 of Regulation (EC) No 847/96 does not apply.
Article 4 of Regulation (EC) No 847/96 does not apply.

Species:	Plaice <i>Pleuronectes platessa</i>	Zone:	Union waters of Subdivisions 22-32 PLE/3B23.; PLE/3C22.; PLE/3D24.; PLE/3D25.; PLE/3D26.; PLE/3D27.; PLE/3D28.; PLE/3D29.; PLE/3D30.; PLE/3D31.; PLE/3D32.
----------	--	-------	---

Denmark	2 443
Germany	271
Poland	511
Sweden	184

Union 3 409

TAC 3 409 Precautionary TAC

Species:	Atlantic salmon <i>Salmo salar</i>	Zone:	Union waters of Subdivisions 22-31 SAL/3B23.; SAL/3C22.; SAL/3D24.; SAL/3D25.;
----------	---------------------------------------	-------	---

SAL/3D26.; SAL/3D27.; SAL/3D28.; SAL/3D29.;
SAL/3D30.; SAL/3D31.

Denmark	22 538 (1)
Germany	2 508 (1)
Estonia	2 291 (1)
Finland	28 103 (1)
Latvia	14 335 (1)
Lithuania	1 685 (1)
Poland	6 837 (1)
Sweden	30 465 (1)
Union	108 762 (1)

TAC Not relevant Analytical TAC
Article 3 of Regulation (EC) No 847/96 does not apply.
Article 4 of Regulation (EC) No 847/96 does 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	1 581 (1)		
Finland	13 838 (1)		
Union	15 419 (1)		

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/3B23.; SPR/3C22.; SPR/3D24.; SPR/3D25.; SPR/3D26.; SPR/3D27.; SPR/3D28.; SPR/3D29.; SPR/3D30.; SPR/3D31.; SPR/3D32.
Denmark	24 659 (1)		
Germany	15 622 (1)		
Estonia	28 634 (1)		
Finland	12 908 (1)		
Latvia	34 583 (1)		
Lithuania	12 510 (1)		
Poland	73 392 (1)		
Sweden	47 670 (1)		
Union	249 978		

TAC

Not relevant

Analytical TAC

(1) At least 92% of landings counted against the quota must be of sprat. By-catches of herring are to be counted against the remaining 8% of the quota (HER/*3BCDC).

ANNEX II

FISHING EFFORT LIMITS

1. Member States shall allocate the right to vessels flying their flag and 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 be up to:
 - (a) 163 days absent from port in ICES Subdivisions 22-24, with the exception of the period from 1 to 30 April when Article 8(1)(a) of Regulation (EC) No 1098/2007 applies; and
 - (b) 160 days absent from port in ICES Subdivisions 25-28, with the exception of the period from 1 July to 31 August when Article 8(1)(b) of Regulation (EC) No 1098/2007 applies.
2. The maximum number of days absent from port per year for which a vessel may be present within the two areas referred to in point 1(a) and (b) fishing with the gear specified in point 1 may not exceed the maximum number of days absent from port allocated for one of these two areas.
3. By way of derogation from points 1 and 2, and where efficient management of fishing opportunities so requires, a Member State may allocate to vessels flying its flag the right to additional days absent from port where an equal amount of days absent from port is withdrawn from other vessels flying its flag that are subject to effort restriction in the same area and where the capacity, in terms of kW, of each of the donor vessels is equal to, or larger than, that of the receiving vessels. The number of receiving vessels may not exceed 10% of the total number of vessels of the Member State concerned, as indicated in point 1.