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PECHE 1

PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	10 January 2017
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2017) 4 final
Subject:	Proposal for a COUNCIL REGULATION amending Regulation (EU) 2016/1903 fixing for 2017 fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea

Delegations will find attached document **COM(2017) 4 final**.

Encl.: **COM(2017) 4 final**



EUROPEAN
COMMISSION

Brussels, 10.1.2017
COM(2017) 4 final

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Proposal for a

COUNCIL REGULATION

amending Regulation (EU) 2016/1903 fixing for 2017 fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

At its meeting on 10-11 October 2016, the Council, by Council Regulation (EU) no 2016/1903, fixed fishing opportunities for Western Baltic cod (subdivisions 22-24) in 2017 based on and in line with the Baltic Sea Multi-annual Management Plan (Regulation (EU) 2016/1139) and in order to ensure a rapid return of that stock to levels above the level capable of producing maximum sustainable yield (MSY). In line with Article 5 (2) of that Regulation, the Council set total allowable catches (quota) at a level consistent with a fishing mortality below the MSY point value. In line with Article 5 (2) and (3) of that Regulation, the Council decided further measures to ensure a rapid return of the stock to the said level.

In particular, the Council allowed the said quota to be fished only from 1 to 31 January and from 1 April to 31 December 2017. Not allowing the use of the quota for two months during the spawning season of the Western Baltic cod stock will facilitate the recovery of the stock above and beyond the quantitative reduction of catches, by improving recruitment conditions due to less disrupted spawning and favourable changes in its age structure.

By incorporating the objectives of the Common fisheries policy, the Baltic Sea Multi-annual Management Plan (Article 3 (1) of Regulation (EU) 2016/1139) obliges the Council to ensure that fishing activities are environmentally sustainable in the long term and at the same time consistent with the objective of achieving economic, social and employment benefits (article 2(1) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013). The principle of proportionality requires that the seasonal prohibition to fish is applied only where it is necessary to achieve its purpose, by protecting the spawning stock.

Science indicates that spawning of Western Baltic cod takes place in sea areas deeper than 20 metres¹ whereas small coastal vessels that depend particularly on catches of cod do fish also in areas shallower than 20 metres. Analysis by the Scientific, Technical and Economic Committee for Fisheries (STECF) indicates that restricting fishing to areas shallower than 20 metres, and only to vessels below a length of 15 metres, does not significantly impact the simulated outcome for the stock status.

It is to be noted as well that during the year 2015, while vessels under 12 meters were excluded from the derogation albeit subject to different conditions, the pressure on the stock was significantly reduced and the closure period served its objective.

Furthermore, a total prohibition for fishing, could have an undesirable effect on another Baltic cod stock, i.e. an increased fishing pressure on the Eastern cod stock.

Moreover, allowing fishing for vessels of less than 15 metres and in sea areas shallower than 20 metres will provide a possibility for a limited number of small-scale fishermen to continue their fishing operations and to obtain a more stable income that would be the case if fishing were to discontinue altogether.

These vessels also fish for other species, therefore discontinuing cod fishery for these vessels would effectively limit fishery for other species as cod is usually caught as by-catch there.

¹ ICES WKBALTCOD Report 2015, p. 19

In order to ensure the compliance with the requirement not to fish in areas deeper than 20 metres, only be granted to vessels equipped with the vessel monitoring system (VMS) should be entitled to fish in the said area. In accordance with Article 9(2) of Regulation 1224/2009, Article 9(5) of the same Regulation should not be applicable.

In addition, in the light of the findings of STECF, namely that the most important remedial measure to ensure the recovery of the stock is the limitation of the catches in order to ensure that the principle of responsible exploitation of living marine biological resources, it is appropriate to limit the application of Article 15(9) of Regulation (EU) No 1380/2013 for the cod stock in Subdivisions 22-24 in order to respect Regulation (EU) 2016/1139.

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

The measure has been assessed by the STECF and, following this assessment, was raised and discussed by the Member States concerned during the AGRIFISH Council on 12 and 13 December 2016 as well as the Baltic Member States in December. The measure proposed can be effective in its entirety only if it enters into force before the date at which no fishing opportunity is available, i.e. 1 February 2017.

3. LEGAL ELEMENTS OF THE PROPOSAL

The proposed amendment seeks to modify Council Regulation (EU) No 2016/1903 as described below.

The footnote in the table pertaining to the cod in zone: Subdivisions 22-24 (COD/3BC+24) found in the annex to the Regulation (EU) No 2016/1903 will have to be modified reflecting the conditions under which the fishing opportunity may not be used.

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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) Council Regulation (EU) 2016/1903 establishes the fishing opportunities for cod in ICES Subdivisions 22-24 ('the Western Baltic cod stock') during the period from 1 January to 31 January and from 1 April to 31 December 2017.
- (2) In December 2016, the Scientific, Technical and Economic Committee for Fisheries (STECF) published its scientific assessment relating to the impact of the fisheries closure for the Western Baltic cod stock during the period from 1 February to 31 March 2017. It confirmed that the closure will be beneficial to that stock.
- (3) The closure provided for by Regulation (EU) 2016/1903 applies also to cod fisheries by fishing vessel of less than 15 metres' length in areas where the water depth is less than 20 metres. The assessment by the STECF however mentioned that limiting the cod fishery in areas where the water depth is less than 20 metres and for fishing vessels of less than 15 metres' length overall does not significantly contribute to the recovery of the stock concerned.
- (4) Furthermore, completely withholding fishing opportunities in the Western Baltic, could have an undesirable effect on other Baltic cod stocks, in particular Eastern stock, due to the possible displacement of fishing activities.
- (5) In addition, allowing fishing for vessels less than 15 metres and in sea areas shallower than 20 metres will provide a possibility for a limited number of fishermen to continue their fishing operations and target other species than cod.
- (6) Therefore it is proportionate to grant vessels of less than 15 metres' length overall the right to fish in shallow waters up to 20 metres depth.
- (7) No fishing opportunities should however be available to pair trawling vessels, irrespective of their length, because of the high fishing capacity of such vessels.

- (8) In order to ensure the effective control and monitoring of the fishing area up to 20 m depth, it is necessary to ensure that all vessels concerned are equipped with a vessels monitoring system in accordance with Article 9(2) of Regulation 1224/2009. Therefore, Article 9(5) of that Regulation, which allows Member States to exempt fishing vessels of less than 15 meters' length overall from the requirement to be fitted with a vessel monitoring system, should not apply in the Western Baltic cod stock fisheries.
- (9) In order to ensure the sustainable exploitation of the Western Baltic cod stock in line with Regulation (EU) 2016/1139, the year-to-year flexibility established by Article 15(9) of Regulation (EU) No 1380/2013 for the purposes of the landing obligation should not apply in respect of that stock.
- (10) Regulation (EU) 2016/1903 should therefore be amended accordingly.
- (11) The prohibition to fish for cod in ICES Subdivisions 22-24 established by Regulation (EU) 2016/1903 will take effect on 1 February 2017. In order to be fully effective, this Regulation should therefore apply from the same date and enter into force on the day following that of its publication,

-HAS ADOPTED THIS REGULATION:

Article 1

In Annex to Regulation (EU) 2016/1903, the entry for cod in ICES Subdivisions 22-24 is replaced by the following:

"Species:	Cod <i>Gadus morhua</i>	Zone:	Subdivisions 22-24 (COD/3BC+24)
Denmark	2 444		
Germany	1 194		
Estonia	54		
Finland	48		
Latvia	202		
Lithuania	131		
Poland	654		
Sweden	870		
Union	5 597		
TAC	5 597 (1)	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. Article 15(9) of Regulation (EU) No 1380/2013 shall not apply

(1) This quota may be fished from 1 January to 31 January and from 1 April to 31 December 2017. However, fishing vessels of less than 15 metres' length overall (except pair trawling vessels), which are equipped with a vessel's monitoring system in

accordance with Article 9(2) of the Regulation 1224/2009, shall be allowed to fish this quota also from 1 February to 31 March 2017 in areas where the water depth is less than 20 meters. Article 9(5) of Regulation 1224/2009 shall not apply.

Article 2

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

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

Done at Brussels,

For the Council
The President