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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL REGULATION fixing for 2018 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea and amending Regulation (EU) 2017/127

COUNCIL REGULATION (EU) 2017/...

of ...

**fixing for 2018 the fishing opportunities
for certain fish stocks and groups of fish stocks
applicable in the Baltic Sea
and amending Regulation (EU) 2017/127**

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 Council¹ 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 fish stock or fishery and having due regard to the objectives of the Common Fisheries Policy (CFP) set out in Regulation (EU) No 1380/2013.

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).

- (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.
- (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 socioeconomic 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 Council¹ 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 2018 for the cod, herring and sprat stocks in the Baltic Sea are established with a view to achieving 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) According to the plan, when scientific advice indicates that the spawning stock biomass of any of the stocks concerned is below the reference points of spawning stock biomass set out in Annex II to Regulation (EU) 2016/1139, all appropriate remedial measures are to be adopted in order to ensure the rapid return of the stock concerned to levels above the level capable of producing the MSY. The International Council for the Exploration of the Sea (ICES) has indicated the biomass of Western Baltic cod (*Gadus morhua*) and of Western Baltic herring (*Clupea harengus*) to be below the conservation reference points set out in Annex II to that Regulation. Consequently, it is appropriate that fishing opportunities for Western Baltic cod and for Western Baltic herring are set below the fishing mortality range in Annex I, column B to Regulation (EU) 2016/1139, at such a level that takes into account the decrease in the biomass. To that end, it is necessary to take into account the timeline for the achievement of the objectives of the CFP and of the plan, particularly 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.

- (7) As regards the Western Baltic cod, further remedial measures should be taken. Maintaining the currently applicable eight-week closure period would continue to provide protection for spawning aggregations of cod. According to scientific advice, recreational fisheries for the Western Baltic cod contribute significantly to the overall fishing mortality of that stock. Taking into account the current status of that stock, it is appropriate to maintain certain currently applicable measures on recreational fisheries. A daily bag limit per fisherman should apply that should be more restrictive during the spawning period. That is without prejudice to the principle of relative stability applicable to commercial fishing activities.
- (8) As regards the Eastern Baltic cod (*Gadus morhua*), due to changes in its biology, the ICES has not been able to establish biological reference points. 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 (EU) No 1380/2013. Furthermore, an eight-week closure period should be introduced to provide protection for spawning aggregations of Eastern Baltic cod in subdivisions 25-26.
- (9) In addition, allowing vessels of less than 12 metres in length overall to fish in areas where the water depth is less than 20 metres would make it possible for a limited number of fishermen to continue their fishing operations and to target species other than cod. It is therefore proportionate to grant vessels of less than 12 metres in length overall the right to fish in areas where the water depth is less than 20 metres.

- (10) As regards the Gulf of Bothnia herring, the ICES conducted an evaluation of the stock using the latest data and the most up-to-date information and revised the fishing mortality ranges corresponding to MSY. While there is a discrepancy in fishing mortality ranges established in the scientific advice and in the plan, which was also based on the best scientific advice available at the time of its adoption, the plan is legally binding and in force and should therefore be followed for setting fishing opportunities for that stock. Given that the spawning stock biomass of that stock is above the biomass reference point set out in Annex II, column A to Regulation (EU) 2016/1139, it is appropriate to fix the TAC in accordance with the fishing mortality ranges set out in Annex I, column B to that Regulation in order to limit variations in fishing opportunities between consecutive years in accordance with point (c) of Article 4(4) of that Regulation. Furthermore, a TAC for that stock now covers subdivisions 30 and 31. As the plan does not define a range for subdivision 31, MSY approach is applied regarding that subdivision in accordance with scientific advice.

- (11) The use of the fishing opportunities set out in this Regulation is subject to Council Regulation (EC) No 1224/2009¹, 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 Union 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 847/96¹ 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 Article 3 or 4 is not to 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, Articles 3 and 4 of Regulation (EC) No 847/96 should 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.

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).

- (13) Based on new scientific advice, a preliminary TAC for Norway pout in ICES area 3a and Union waters of ICES area 2a and subarea 4 should be established for the period from 1 November 2017 to 31 October 2018. Regulation (EU) 2017/127¹ should therefore be amended accordingly.
- (14) In order to avoid the interruption of fishing activities and to ensure the livelihoods of Union fishermen, this Regulation should apply from 1 January 2018. However, this Regulation should apply to Norway pout from 1 November 2017. For reasons of urgency, this Regulation should enter into force immediately after its publication,

HAS ADOPTED THIS REGULATION:

¹ Council Regulation (EU) 2017/127 of 20 January 2017 fixing for 2017 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 (OJ L 24, 28.1.2017, 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 2018.

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 2187/2005¹;
- (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.

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).

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

1. Catches of species which are subject to catch limits and which have been caught in fisheries specified in Article 15(1) of Regulation (EU) No 1380/2013 are subject to the landing obligation, as established in that Article.
2. The stocks of non-target species within the safe biological limits referred to in Article 15(8) of Regulation (EU) No 1380/2013 are identified in the Annex to this Regulation for the purpose of the derogation from the obligation to count catches against the relevant quota provided for in that Article.

Article 7

Measures on recreational fisheries for cod in subdivisions 22-24

1. In recreational fisheries, no more than five specimens of cod may be retained per fisherman per day in subdivisions 22-24.
2. By way of derogation from paragraph 1, no more than three specimens of cod may be retained per fisherman per day in subdivisions 22-24 in the period from 1 February 2018 to 31 March 2018.
3. Paragraphs 1 and 2 are 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.

Article 10
Amendment to Regulation (EU) 2017/127

In Annex IA to Regulation (EU) 2017/127, the fishing opportunities table for Norway pout and associated by-catches in 3a, and Union waters of 2a and 4 is replaced by the following:

Species:	Norway pout and associated by-catches <i>Trisopterus esmarkii</i>		Zone:	3a; Union waters of 2a and 4 (NOP/2A3A4.)
Year	2017	2018		
Denmark	141 819 ⁽¹⁾⁽³⁾	54 949 ⁽¹⁾⁽⁶⁾		
Germany	27 ⁽¹⁾⁽²⁾⁽³⁾	11 ⁽¹⁾⁽²⁾⁽⁶⁾		
The Netherlands	104 ⁽¹⁾⁽²⁾⁽³⁾	40 ⁽¹⁾⁽²⁾⁽⁶⁾		
Union	141 950 ⁽¹⁾⁽³⁾	55 000 ⁽¹⁾⁽⁶⁾		
Norway	25 000 ⁽⁴⁾			
Faroe Islands	9 300 ⁽⁵⁾			
TAC	238 981	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 January to 31 October 2017.

⁽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 2017 to 31 October 2018.

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Article 11
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 2018, with the exception of Article 10 which shall apply from 1 November 2017.

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

Done at

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
<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	69 359		
Sweden	15 240		
Union	84 599		
TAC	84 599	Analytical TAC	

Species:	Herring <i>Clupea harengus</i>	Zone:	Subdivisions 22-24 (HER/3BC+24)
Denmark	2 426		
Germany	9 551		
Finland	1		
Poland	2 252		
Sweden	3 079		
Union	17 309		
TAC	17 309	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	5 045		
Germany	1 338		
Estonia	25 767		
Finland	50 297		
Latvia	6 359		
Lithuania	6 696		
Poland	57 142		
Sweden	76 711		
Union	229 355		
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	13 392		
Latvia	15 607		
Union	28 999		
TAC	28 999	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	6 521 (x)		
Germany	2 594 (x)		
Estonia	635 (x)		
Finland	499 (x)		
Latvia	2 425 (x)		
Lithuania	1 597 (x)		
Poland	7 510 (x)		
Sweden	6 607 (x)		
Union	28 388 (x)		
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.	

(x) 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. Member States shall send the catch data to the Commission on a weekly basis.

Species:	Cod <i>Gadus morhua</i>	Zone:	Subdivisions 22-24 (COD/3BC+24)
Denmark	2 444 (x)		
Germany	1 194 (x)		
Estonia	54 (x)		
Finland	48 (x)		
Latvia	202 (x)		
Lithuania	131 (x)		
Poland	654 (x)		
Sweden	870 (x)		
Union	5 597 (x)		
TAC	5 597 (x)	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.			

(x) 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 February to 31 March.

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. Member States shall send the catch data to the Commission on a weekly basis.

Species:	Plaice <i>Pleuronectes platessa</i>	Zone:	Union waters of Subdivisions 22-32 (PLE/3BCD-C)
Denmark	5 070		
Germany	563		
Poland	1 061		
Sweden	382		
Union	7 076		
TAC	7 076	Analytical TAC	

Species:	Atlantic salmon <i>Salmo salar</i>	Zone:	Union waters of Subdivisions 22-31 (SAL/3BCD-F)
Denmark	18 885 ⁽¹⁾		
Germany	2 101 ⁽¹⁾		
Estonia	1 919 ⁽¹⁾		
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.

Species:	Atlantic salmon <i>Salmo salar</i>	Zone:	Union waters of Subdivision 32 (SAL/3D32.)
Estonia	1 026 ⁽¹⁾		
Finland	8 977 ⁽¹⁾		
Union	10 003 ⁽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/3BCD-C)
Denmark	25 875		
Germany	16 393		
Estonia	30 047		
Finland	13 545		
Latvia	36 289		
Lithuania	13 127		
Poland	77 012		
Sweden	50 022		
Union	262 310		
TAC	Not relevant		Analytical TAC Article 6(2) of this Regulation shall apply.