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PROPOSAL

From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 3 September 2014

To: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European
Union

No. Cion doc.: COM(2014) 552 final

Subject: Proposal for a COUNCIL REGULATION fixing for 2015 the fishing
opportunities for certain fish stocks and groups of fish stocks applicable in
the Baltic Sea

Delegations will find attached document COM(2014) 552 final.

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EUROPEAN
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2014/0254 (NLE)

Proposal for a

COUNCIL REGULATION

**fixing for 2015 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 Regulation (EU) No 1380/2013 of 11 December 2013 on the Common Fisheries Policy, the exploitation of living marine biological resources shall restore and maintain populations of harvested species above levels which can produce the maximum sustainable yield. 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 2015. 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 scientific advice on stocks in the Baltic Sea for 2015 was delivered by the International Council for the Exploration of the Sea (ICES) in May 2014 and by the Scientific, Technical and Economic Committee for Fisheries (STECF) in June 2014.

The proposal contains two sections that are important for management of the Baltic fisheries in 2015 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 1180/2013 of 19 November 2013 fixing for 2014 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea.

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 Advisory Council (BSAC) was consulted at its Joint Demersal/Pelagic Working Group meeting in June 2014 on the basis of the assessment of the fish stocks conducted by ICES. The scientific basis for the proposal was provided by ICES and STECF. 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 scientific advice on catch limitations was also discussed within BALTFISH forum.

- **Impact assessment**

The total amount of the Baltic fishing opportunities expressed in tonnes proposed for 2015 will increase by 12% when compared to 2014 and will be set at the level of approximately 629 thousand tonnes¹. When calculated on the stock basis, an increase is observed in TACs of four herring stocks – on average by 31%, while decreases are observed for western cod stock – by 48%, sprat – by 17%, and two salmon stocks – by 15% in number of pieces.

Based on average landed fish prices observed in 2012 among eight Baltic Sea countries², the value of fishing opportunities for herring stocks in 2015 will increase by almost 80 million euros to a total value of 164 million euros. The biggest decrease is observed in western cod TAC, i.e. from 32 million euros in 2014 to 14 million euros in 2015. However taking into account the fact that the cod quota in 2013 was utilised at 60% and presuming that the same catch rate remains in 2014 and 2015, the reduction in quota value will be less significant.

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 and maintained at 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 more sustainable fishing activities and increased landings

¹ Excluding eastern cod stock and including the converted weight of salmon stocks (1 piece is on average 4.5 kg)

² EUMOFA, yearly data, retrieved from <http://ec.europa.eu/fisheries/market-observatory/home> on 22/05/2014

3. LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

The proposal seeks to establish the catch limitations applicable to EU fisheries, in order to achieve the objective of the Common Fisheries Policy which is 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.

- **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 16(6) and (7) and Article 17 of Regulation (EU) No 1380/2013, Member States are free to allocate such opportunities among regions or operators according to the criterias set in the mentioned Articles. 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.

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 2014 Regulation on the fishing opportunities in the Baltic Sea.

- **Review/revision/sunset clause**

The proposal concerns an annual Regulation for the year 2015 and therefore does not include a revision clause.

- **Detailed explanation**

The proposal fixes for 2015 the fishing opportunities for certain stocks or groups of stocks for Member States fishing in the Baltic Sea.

The landing obligation for stocks caught in certain fisheries starts to become applicable from 1 January 2015. In the Baltic Sea these fisheries cover stocks under TACs and quotas in this Regulation, namely: small pelagic fisheries (herring and sprat stocks), salmon fisheries (salmon stocks), as well as, cod fisheries (cod stocks), where the species define the fishery. Catches of species that do not define the fisheries but are covered by TACs, i.e. plaice will be covered by the landing obligation in the Baltic from 1 January 2017. With introduction of the landing obligation, in accordance with Article 16(2) of Regulation (EU) No 1380/2013, the fishing opportunities proposed shall reflect the change from amount landed to amount caught. This is done on the basis of the received scientific advice for the fish stocks in fisheries as referred to in Article 15(1) of Regulation (EU) No 1380/2013.

The fishing opportunities should also be fixed in accordance with Articles 16(1) (referring to the principle of relative stability) and 16(4) (referring to the objectives of the Common Fisheries Policy and the rules provided for in multiannual plans).

The proposed figures reflect current scientific advice and consultation with the BSAC. Where relevant, in order to set the EU quotas for stocks shared with the Russian Federation, the respective quantities of these stocks were deducted from the TACs advised by ICES.

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 to the Regulation.

All five pelagic stocks (four stocks of herring and one sprat stock) and western cod stock in the Baltic Sea are to be fished at MSY levels in 2015, therefore the TACs proposed correspond to the MSY fishing mortality. The TACs for Gulf of Finland salmon and plaice correspond to the approach developed by ICES which is applied to data limited stocks. The TAC for salmon in the main basin corresponds to the harvest control rule set out in the Baltic multi-annual plan for the salmon stock (COM(2011) 470 final). The advice and the TAC for eastern cod stock still to be clarified by ICES³.

³ STECF, Review of scientific advice for 2015 – part1. Advice on stocks in the Baltic Sea (STECF-14-10), page 12

The retrospective analysis of western cod stock shows that the actual fishing mortality has been higher than the target indicated in the multi-annual plan for the Baltic cod stocks and it should be reduced by 10% in accordance with Article 6 of the multiannual plan. However, ICES does not consider such reduction precautionary and thus provides its advice reflecting bigger reduction which is based on MSY approach. In accordance with Article 7 of the multi-annual plan, the Council may adopt the TAC which is lower than the TAC resulting from applying Article 6. No such derogation is possible as regards the fishing effort and therefore, according to Article 8(4), the number of days at sea has to be reduced by 10%.

Due to changes in biology of the eastern cod stock, ICES did not provide biological reference points for this stock, i.e. actual fishing mortality. The plan has been developed under the assumption that the cod growth remains stable which is no longer the case. In recent years, as recognized by ICES, the growth of the eastern cod stock has been reduced dramatically and the biological reference points can no longer be established. Therefore according to ICES, the multi-annual plan for Baltic cod stocks cannot be used as a basis for an advice for eastern cod stock and instead ICES advised the TAC based on the data limited approach. This renders Articles 6, 7 and 8 of the multiannual plan impossible to apply for eastern cod stock in 2015, as the rules for setting TACs and effort contained in the plan are based on these reference points. Therefore, pending a proposal for a new multi-annual plan for the Baltic and in order to prevent that the eastern cod stock is over-exploited due to lack of established TACs, it is appropriate to fix the fishing opportunities based on the approach developed by ICES, in accordance with Article 5(1) of the plan and 43(3) of the Treaty.

Council Regulation (EC) No 847/96 introduced additional conditions for year-to-year management of TACs, including flexibility provisions under Articles 3 and 4 for precautionary and analytical stocks respectively. Under its Article 2, when fixing the TACs, the Council shall decide to which stocks Articles 3 and 4 shall not apply, in particular on the basis of the biological status of the stocks. More recently, the flexibility mechanism was introduced for all stocks covered by the landing obligation by Article 15(9) of Regulation (EU) No 1380/2013. Therefore, in order to avoid excessive flexibility that would undermine the principle of rational and responsible exploitation of living marine biological resources and hinder the achievement of the objectives of the Common Fisheries Policy, it should be clarified that Article 3 and 4 of Regulation (EC) No 847/96 apply only where Member States do not use the year-to-year flexibility provided for in Article 15(9) of Regulation 1380/2013.

Proposal for a

COUNCIL REGULATION

fixing for 2015 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) Regulation (EU) No 1380/2013 of the European Parliament and of the Council⁴ 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 Advisory Councils established for the relevant geographical areas or fields of competence.
- (2) It is incumbent upon the Council to adopt measures on the fixing and allocation of fishing opportunities by fishery or group of fisheries, including , as appropriate, certain conditions functionally linked thereto. In accordance with Article 16(1) and (4) of Regulation (EU) No 1380/2013 fishing opportunities should be distributed among Member States in such a way as to ensure relative stability of each Member State's fishing activities for each stock or fishery and in accordance the objectives of the Common Fisheries Policy established in Article 2(2) of that.
- (3) The total allowable catches (TACs) should therefore be established, in line with Regulation (EU) No 1380/2013 and taking into account the principles mentioned in recital 1.
- (4) For small pelagic (herring and sprat), cod and salmon fisheries in the Baltic Sea the landing obligation referred to in Article 15(1) of Regulation (EU) No 1380/2013 applies from 1 January 2015. Article 16(2) of that Regulation provides that, when the landing obligation is introduced in respect of a fish stock, fishing opportunities are to

⁴ 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. 22–61)

be fixed taking into account the change from fixing fishing opportunities that reflect landings to fixing fishing opportunities that reflect catches.

- (5) In addition, for stocks subject to specific multiannual plans, in accordance with Article 16(4) of Regulation (EU) No 1380/2013, the fishing opportunities should be established in accordance with the rules laid down in those plans. Consequently, catch limits and fishing effort limits for cod stock in subdivisions 22-24 should be established in accordance with the Baltic Sea Cod Plan established by Council Regulation (EC) No 1098/2007⁵.
- (6) Recent scientific advice shows that the International Council for the Exploration of the Sea (ICES) could not establish the biological reference points for cod stock in subdivisions 25-32 and instead it advised that the TAC for this cod stock be based on the data limited approach. The absence of biological reference points makes it impossible to follow the rules for setting the fishing opportunities and effort levels for cod stock in subdivision 25-32. As not fixing fishing opportunities could constitute a serious threat to the sustainability of that stock, it is appropriate to fix the TACs for this cod stock at a level corresponding to the approach developed and advised by ICES.
- (7) In the light of the scientific advice, flexibility in the management of the fishing effort for cod stock in subdivisions 22-24 in the Baltic Sea can be introduced without jeopardising the objectives of the Baltic Sea Cod Plan and without causing 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 its flag.
- (8) The use of fishing opportunities as set out in this Regulation is subject to Council Regulation (EC) No 1224/2009⁶, and in particular Articles 33 and 34 thereof, concerning 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.
- (9) Council Regulation (EC) No 847/96 introduced additional conditions for year-to-year management of TACs, including flexibility provisions under Articles 3 and 4 for precautionary and analytical stocks respectively. Under its Article 2, when fixing the TACs, the Council shall decide to which stocks Articles 3 and 4 shall not apply, in particular on the basis of the biological status of the stocks. More recently, the flexibility mechanism was introduced for all stocks covered by the landing obligation by Article 15(9) of Regulation (EU) No 1380/2013. Therefore, in order to avoid

⁵ 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 (OJ L 248, 22/09/2007, p. 1–10)

⁶ 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 (OJ L 343, 22.12.2009, p. 1.)

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 Common Fisheries Policy and deteriorate the biological status of the stocks, it should be established that Articles 3 and 4 of Regulation (EC) No 847/96 shall apply to analytical TACs only where Member States do not use the year-to-year flexibility provided for in Article 15(9) of Regulation 1380/2013.

- (10) In order to avoid interruption of fishing activities and to ensure the livelihoods of Union fishermen, it is important to open the fisheries covered by this Regulation as from 1 January 2015. 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 2015.

Article 2

Scope

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

Article 3

Definitions

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

- (1) 'ICES' means International Council for the Exploration of the Sea;
- (2) 'Baltic Sea' means ICES zones IIIb, IIIc and IIId;
- (3) 'subdivision' means an ICES subdivision of the Baltic sea as defined in Annex I to Council Regulation (EC) No 2187/2005⁷;
- (4) 'fishing vessel' means any vessel equipped for commercial exploitation of marine biological resources;
- (5) 'Union fishing vessel' means a fishing vessel flying the flag of a Member State and registered in the Union;

⁷ 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.)

- (6) 'fishing effort' means the product of the capacity and the activity of a fishing vessel; for a group of fishing vessels it is the sum of the fishing effort of all vessels in the group;
- (7) 'stock' means a marine biological resource that occurs in a given management area;
- (8) 'total allowable catch' (TAC) means the quantity of each stock that can be:
- (i) caught over the period of a year, in the case of fisheries subject to a landing obligation pursuant to Article 15 of Regulation (EU) No 1380/2013; or
 - (ii) landed over the period of a year, in the case of fisheries not subject to a landing obligation pursuant to Article 15 of Regulation (EU) No 1380/2013.
- (9) 'quota' means a proportion of the TAC allocated to the Union, a Member State or a third country.

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

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 1380/2013;
- (d) quantities withheld in accordance with Article 4 of Regulation (EC) No 847/96 or transferred under Article 15(9) of Regulation 1380/2013;
- (e) deductions made pursuant to Articles 105, 106 and 107 of Regulation (EC) No 1224/2009.

Article 6

Conditions for landing catches and by-catches not subject to the landing obligation

Catches and by-catches of plaice shall be retained on board or landed only if they have been taken by Union fishing vessels flying the flag of a Member State having a quota and that quota is not exhausted.

Article 7

Fishing effort limits

Fishing effort limits are set out in Annex II.

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 quantities of stocks caught or landed, they shall use the stock codes set out in Annex I to this Regulation.

Article 9

Flexibility

1. Except where otherwise specified in Annex I to this Regulation, Article 3 of Regulation (EC) No 847/96 shall apply to stocks subject to precautionary TAC and Article 3(2) and (3) and Article 4 of that Regulation shall apply to stocks subject to analytical TAC.
2. However, those Articles shall not apply where the Member State uses the year-to-year flexibility provided for in Article 15(9) of Regulation 1380/2013.

Article 10

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 2015.

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

Done at Brussels,

*For the Council
The President*