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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL REGULATION fixing for 2015 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea and amending Regulations (EU) No 43/2014 and (EU) No 1180/2013

COUNCIL REGULATION (EU) No .../2014

of

**fixing for 2015 the fishing opportunities
for certain fish stocks and groups of fish stocks
applicable in the Baltic Sea and amending
Regulations (EU) No 43/2014 and (EU) No 1180/2013**

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 is to adopt measures on the fixing and allocation of fishing opportunities, on a proposal from the Commission.
- (2) Regulation (EU) No 1380/2013 of the European Parliament and of the Council¹ requires that conservation measures are 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 (STECF) and other advisory bodies, as well as in the light of any advice received from Advisory Councils.
- (3) 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 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) established in Regulation (EU) No 1380/2013.
- (4) 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 2.

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).

- (5) For small pelagic (herring and sprat), cod and salmon fisheries in the Baltic Sea the landing obligation provided for 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 be fixed taking into account the change from fixing fishing opportunities that reflect landings to fixing fishing opportunities that reflect catches.
- (6) For stocks subject to specific multiannual plans, the fishing opportunities should be established in accordance with the rules laid down in those plans. Consequently, the catch limits should be established in accordance with the rules laid down in Council Regulation (EC) No 1098/2007¹ (the "Baltic Sea Cod Plan").
- (7) The scientific advice provided in respect of fishing effort for Baltic cod by the International Council for the Exploration of the Sea (ICES) indicated that where a landing obligation applies to a specific stock, fixing of lower effort limitations would not contribute to the achievement of the objectives of the reformed CFP. It is, therefore, appropriate to fix the effort limits for cod stocks in ICES subdivisions 22-24 at the level of 2014. Fixing the fishing effort limits at the level of 2014 will facilitate the introduction of the landing obligation and will contribute to the achievement of the objectives of the CFP as defined in Regulation (EU) No 1380/2013.

¹ 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, 22.9.2007, p. 1).

- (8) In the light of the scientific advice provided, flexibility in the management of the fishing effort for cod stock in ICES 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 a 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 additional days absent from port to fishing vessels flying its flag where an equal amount of days absent from port is withdrawn from other fishing vessels flying its flag.
- (9) Recent scientific advice shows that ICES could not establish the biological reference points for cod stocks in ICES subdivisions 25-32 and instead it advised that the TAC for that 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 for cod stocks in ICES subdivisions 25-32. As not fixing fishing opportunities could constitute a serious threat to the sustainability of that stock, it is appropriate to fix the TAC for those cod stocks at a level corresponding to the approach developed and advised by ICES and to fix fishing effort limits at the level of 2014. Fixing the fishing effort limits at the level of 2014 will facilitate the introduction of the landing obligation, will provide for more selective fishing and will contribute to the achievement of the objectives of the CFP as defined in Regulation (EU) No 1380/2013.

- (10) The use of fishing opportunities set out in this Regulation is subject to Council Regulation (EC) No 1224/2009¹, and in particular Articles 33 and 34 of that Regulation, concerning the recording of catches and fishing effort and the information on data on the exhaustion of fishing opportunities respectively. 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.
- (11) Council Regulation (EC) No 847/96² introduced additional conditions for year-to-year management of TACs, including flexibility provisions under Articles 3 and 4 for precautionary and analytical TACs respectively. 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 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.

¹ 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).

² 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).

- (12) The scientific advice on sprat in the North Sea covers the period from July to June the following year, even though the TAC is set for the period from January to December. The latest scientific advice for the period from July 2014 to June 2015 indicates that the TAC can be significantly increased. There is therefore a greater availability of sprat in the second half of 2014 than was foreseen. Since that stock is subject to an analytical assessment and is within safe biological limits, the conditions for the application of Articles 3 and 4 of Regulation (EC) No 847/96 allowing inter-annual quota flexibility are fulfilled, and should be permitted in order to allow the fisheries to utilise the increased availability of sprat in the most efficient way. Regulation (EU) No 43/2014 should therefore be amended accordingly.

(13) Regulation (EU) No 43/2014 currently allows that a Member State use any unused quantities in 2015, up to 10 % of the quota available to it in 2014, in respect of certain stocks. On 6 August 2014, the Russian Federation imposed an embargo on the importation of certain agricultural and fisheries products from the Union. As a consequence, some of the exports that producers had envisaged to make to Russia in the autumn of 2014 have become impossible and in some cases alternative markets cannot be found at short notice. In view of those exceptional circumstances and the urgency of the matter, it is necessary to allow certain adjustments for the 2014 fishing season. In view of positive scientific advice as well as a positive approach of the relevant coastal states, it is appropriate to allow, exceptionally and only in respect of the stocks that are the most severely or directly affected by the Russian embargo, an increase in the percentage of the quantities unused in 2014 that can be carried over to 2015. That exceptional measure is limited to the 2014 fishing season. It is expected that this measure would allow new markets to be found or catches to be adapted should the embargo continue to apply in 2015. For the same reasons, a corresponding possibility to transfer unused fishing opportunities should be introduced in Council Regulation (EU) No 1180/2013¹. Regulations (EU) No 43/2014 and (EU) No 1180/2013 should therefore be amended accordingly.

¹ 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 (OJ L 313, 22.11.2013, p. 4).

- (14) In order to avoid interruption of fishing activities and to ensure the livelihoods of Union fishermen, this Regulation should apply from 1 January 2015. For reasons of urgency, this Regulation should enter into force immediately after its publication. For reasons set out in recital 13, the provisions concerning the possibility to transfer fishing opportunities unused in 2014 should apply with effect from 1 January 2014,

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 2187/2005¹;
- (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;
- (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 fishing 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 fisheries that are subject to the landing obligation pursuant to Article 15 of Regulation (EU) No 1380/2013; or
 - (ii) landed over the period of a year, in the fisheries that are not subject to the landing obligation pursuant to Article 15 of Regulation (EU) No 1380/2013;

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).

- (9) 'quota' means a proportion of the TAC allocated to the Union, a Member State or a third country;
- (10) 'days absent from port' means any continuous period of 24 hours or part thereof during which a fishing vessel is not present in a 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 of fishing opportunities

The allocation of fishing opportunities to 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, 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

Flexibility in the fixing of fishing opportunities of certain stocks

Article 8

Amendments to Regulation (EU) No 43/2014

Regulation (EU) No 43/2014 is amended as follows:

(1) Article 18a is amended as follows:

(a) In paragraph 1, the following subparagraphs are inserted:

"(m) herring in zones VIIa, VIIg, VIIh, VIIj and VIIk;

(n) horse mackerel in Union waters of IIa, IVa, VI, VIIa-c, VIIe-k, VIIIa, VIIIb, VIIIId and VIIIe; in Union and international waters of Vb; in international waters of XII and XIV.";

(b) The following paragraph is inserted:

"7. By way of derogation from paragraph 4, the percentage of 10 % shall be increased by an additional 15 % in respect of stocks referred to in paragraph 1(c), (d), (f), (g), (j), (k), (m) and (n).";

(2) In Annex IA, the entry for sprat and associated by-catches in Union waters of IIa and IV shall be replaced by the following:

"Species:	Sprat and associated by-catches <i>Sprattus sprattus</i>	Zone:	Union waters of IIa and IV (SPR/2AC4-C)
Belgium	1 546 ⁽²⁾	Analytical TAC	
Denmark	122 383 ⁽²⁾		
Germany	1 546 ⁽²⁾		
France	1 546 ⁽²⁾		
The Netherlands	1 546 ⁽²⁾		
Sweden	1 330 ^{(1) (2)}		
United Kingdom	5 103 ⁽²⁾		
Union	135 000		
Norway	9 000		
TAC	144 000		
⁽¹⁾	Including sandeel.		
⁽²⁾	At least 98 % of landings counted against this quota shall be of sprat. By-catches of dab and whiting to be counted against the remaining 2 % of the quota (OTH/*2AC4C).		

"

Article 9
Amendments to Regulation (EU) No 1180/2013

Regulation (EU) No 1180/2013 is amended as follows:

(1) The following Article is inserted:

"Article 5a

Flexibility in the fixing of fishing opportunities of certain stocks

1. This Article shall apply to the following stocks:
 - (a) herring in ICES subdivisions 30-31;
 - (b) herring in Union waters of ICES subdivisions 25-27, 28.2, 29 and 32;
 - (c) herring in ICES subdivision 28.1;
 - (d) sprat in Union waters of ICES subdivisions 22-32.

2. Any quantities up to 25 % of a Member State's quota of the stocks identified in paragraph 1 that have not been used in 2014 shall be added for the purpose of calculating the quota of the Member State concerned for the relevant stock for 2015. Any quantities transferred to other Member States pursuant to Article 16(8) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council* as well as any quantities deducted pursuant to Articles 37, 105 and 107 of Regulation (EC) No 1224/2009 shall be taken into account for the purpose of establishing quantities used and quantities not used under this paragraph.
3. Article 4 of Regulation (EC) No 847/96 shall not apply to stocks identified in paragraph 1 of this Article in respect of the Member States concerned.

* 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).";

- (2) In Annex I, the following footnote shall be included in respect of entries concerning the following stocks: herring in subdivisions 30-31; herring in Union waters of subdivisions 25-27, 28.2, 29 and 32; herring in subdivision 28.1; sprat in Union waters of subdivisions 22-32:

"Article 3 of Regulation (EC) No 847/96 shall not apply.

Article 4 of Regulation (EC) No 847/96 shall not apply."

Chapter IV

Final provisions

Article 10

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 11

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. 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 12
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.

However, Articles 8 and 9 shall apply with effect from 1 January 2014.

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

Done at ...

For the Council
The President

ANNEX I

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/3D30.; HER/3D31.
Finland	129 923		
Sweden	28 547		
Union	158 470		
TAC	158 470	Analytical TAC	

Species:	Herring <i>Clupea harengus</i>	Zone:	Subdivisions 22-24 HER/3B23.; HER/3C22.; HER/3D24.
Denmark	3 115		
Germany	12 259		
Finland	2		
Poland	2 891		
Sweden	3 953		
Union	22 220		
TAC	22 220	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/3D25.; HER/3D26.; HER/3D27.; HER/3D28.2; HER/3D29.; HER/3D32.
Denmark	3 596		
Germany	953		
Estonia	18 363		
Finland	35 845		
Latvia	4 532		
Lithuania	4 772		
Poland	40 723		
Sweden	54 667		
Union	163 451		
TAC	Not relevant		Analytical TAC

Species:	Herring <i>Clupea harengus</i>	Zone:	Subdivision 28.1 HER/03D.RG
Estonia	17 908		
Latvia	20 872		
Union	38 780		
TAC	38 780		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	11 814		
Germany	4 700		
Estonia	1 151		
Finland	904		
Latvia	4 393		
Lithuania	2 894		
Poland	13 603		
Sweden	11 969		
Union	51 429		
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.

Species:	Cod <i>Gadus morhua</i>	Zone:	Subdivisions 22-24 COD/3B23.; COD/3C22.; COD/3D24.
Denmark	6 941		
Germany	3 393		
Estonia	154		
Finland	136		
Latvia	574		
Lithuania	372		
Poland	1 857		
Sweden	2 473		
Union	15 900		
TAC	15 900	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/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	19 879 (1)		
Germany	2 212 (1)		
Estonia	2 020 (1)		
Finland	24 787 (1)		
Latvia	12 644 (1)		
Lithuania	1 486 (1)		
Poland	6 030 (1)		
Sweden	26 870 (1)		
Union	95 928 (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	1 344 (1)		
Finland	11 762 (1)		
Union	13 106 (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	21 068		
Germany	13 347		
Estonia	24 465		
Finland	11 029		
Latvia	29 548		
Lithuania	10 689		
Poland	62 706		
Sweden	40 729		
Union	213 581		
TAC	Not relevant	Analytical TAC	

ANNEX II

FISHING EFFORT LIMITS

1. Member States shall allocate the right to fishing 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) 147 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) 146 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 fishing 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 those 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 the right to additional days absent from port to fishing vessels flying its flag, where an equal amount of days absent from port is withdrawn from other fishing 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 fishing vessels is equal to, or larger than, that of the receiving fishing vessels. The number of receiving fishing vessels may not exceed 15 % of the total number of fishing vessels of the Member State concerned, as indicated in point 1.
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