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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	31 October 2019
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
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Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) 2016/1139 as regards the introduction of capacity limits for Eastern Baltic cod, data collection and control measures in the Baltic Sea, and Regulation (EU) No 508/2014 as regards permanent cessation for fleets fishing for Eastern Baltic cod

Delegations will find attached document COM(2019) 564 final.

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Brussels, 31.10.2019
COM(2019) 564 final

2019/0246 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EU) 2016/1139 as regards the introduction of capacity limits for Eastern Baltic cod, data collection and control measures in the Baltic Sea, and Regulation (EU) No 508/2014 as regards permanent cessation for fleets fishing for Eastern Baltic cod

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The ecosystem in the Baltic Sea has been in a fragile state for decades. However, it was only in 2019 that scientists warned that the environmental conditions have a much more important impact on Eastern Baltic Cod than previously estimated. This situation is now causing a steep decline of Eastern Baltic cod. The situation is moreover unprecedented as the Eastern Baltic cod stock is the only stock in European waters for which ICES assesses natural mortality from environmental pressures to be about three times higher than fishing mortality. No other fish stock in European waters is in such a situation. The Eastern Baltic cod stock is not expected to recover before 2024, even with no fishing at all.

Therefore given the above situation, this year, acting upon the best available scientific advice and in accordance with the rules of the Common Fisheries Policy and the Multiannual Plan for the Baltic Sea (hereafter “Baltic MAP”), the Commission adopted first emergency measures in July 2019 prohibiting the fishing of Eastern Baltic cod until year-end; and secondly, the Council decided in October 2019 on necessary and unprecedented fishing restrictions for 2020. However, a recovery can nevertheless not be expected for several years. These exceptional measures will therefore lead to redundant fleet capacities and to severe adverse socio-economic consequences for the related coastal communities and fishing businesses. The fisheries sector is a key component of the economic life of many coastal regions in the Baltic Sea. However, the quota uptake for Eastern Baltic cod has been relatively low (below 60%) for many years; in 2018 the uptake was only 40% and even lower in 2019 up until mid-July when the Commission’s emergency measures kicked in (19%). The relatively low quota uptake already in 2018 may well have been a first sign of the bad environmental situation and the high impact it has on Eastern Baltic cod.

Commission analysis shows that the fleet segments with the highest dependency on Eastern Baltic cod encompass more than 300 vessels, mainly trawlers and netters in Lithuania, Latvia and Poland, and to a lesser extent Denmark. Of these, only a minority seem resilient enough to survive a short-term – but not a medium or long-term – closure. The rest either suffer already from a poor situation that will be worsened by the closure or will see their profitability completely erode. These fleet segments are of significant socioeconomic importance, representing between roughly 20% and 50% of the respective national fleet in Lithuania, Latvia and Poland, expressed in full-time equivalents. Given the total closure of any directed fishery for Eastern Baltic cod and the strong reductions agreed for other Baltic stocks by the Council on 14-15 October 2019, the vessels and fleet segments most heavily impacted by the closure of the targeted Eastern Baltic cod fishery will not all be able to redirect their fishing activities to other species. The closure will have a substantial impact for the Eastern Baltic cod fleets, with a strong negative impact in certain regions and coastal communities. Based on this and taking into account on-going contacts with the Member States on the significant negative impact of this situation on the fisheries sector and the fact that stakeholders cannot themselves mitigate the adverse consequences, the Commission concluded that contingency measures are necessary for the fisheries sector. The contingency measures consist in introducing a capacity ceiling for the Member States in the Baltic Sea whose fleets are affected by the adverse situation for Eastern Baltic cod and a capacity exit regime for fleets formerly fishing on Eastern Baltic cod.

The European Maritime and Fisheries Fund (hereafter “EMFF”) established by Regulation (EU) No 508/2014 of the European Parliament and of the Council is the fund for the EU’s maritime and fisheries policies for 2014-2020. It is one of the five European Structural and Investment (ESI) Funds, which complement each other and seek to promote a growth and job based recovery in Europe. The fund helps fishermen in the transition to sustainable fishing; support coastal communities in diversifying their economies and finances projects that create new jobs and improve quality of life along European coasts.

This fund should hence provide the possibility to the Member States affected by the exceptional situation of Eastern Baltic cod to grant financial support for achieving and maintaining a balance between the fleet capacity and the fishing opportunities by making financial support for permanent cessation of fishing activities through scrapping eligible under the EMFF 2014-2020. This support was granted until end of 2017 (and has been recently introduced for the multiannual plan in the western Mediterranean Sea). Introducing decommissioning in the form of scrapping again is an unforeseen measure in response to an exceptional situation of Eastern Baltic cod. The fund should therefore provide for additional flexibility in this exceptional situation by allowing the same Member States to redirect available appropriations for storage aid and Integrated Maritime Policy inside the financial envelope of each Member State to the permanent cessation of fishing activities with a view to reinforce the need to scrap vessels, while at the same time not negatively impacting the achievements of other CFP objectives and the implementation of the EMFF. This proposal hence aims at the sustainable management of Baltic Sea fish stocks by reducing redundant fleet capacities in the Eastern Baltic cod fishery.

Moreover, the Member States and the Commission share the view that urgent action is needed to tackle the root causes of that critical environmental and social situation. This implies addressing with an increased determination the key environmental pressures in the Baltic Sea area that are preventing a recovery of Eastern Baltic cod, and to reduce the structural imbalance in the fleet capacity of fleets formerly targeting Eastern Baltic cod. This proposal therefore introduces the possibility to provide public support for the permanent cessation of fishing activities through scrapping for fishermen and operators that have significant dependence on Eastern Baltic cod and who are affected by the closure of the Eastern Baltic cod fishery.

In order to ensure the consistency of fleet structural adaptation in the Baltic Sea with the conservation objectives laid down in the Multiannual Management Plan, support for the permanent cessation of fishing activities through the scrapping of fishing vessels that have significant dependence on Eastern Baltic cod should be strictly conditional and linked to the achievement of the adjustment targets and tools defined in the action plans for imbalanced segments.

Finally, additional control measures should be introduced and the collection of relevant data improved.

- **Consistency with existing policy provisions in the policy area**

The proposal is consistent with the Commission proposal for the next EMFF and with the latest multiannual plan.

- **Consistency with other Union policies**

The support for scrapping of vessels in the Baltic Sea is currently not eligible for co-financing under the current EMFF regulation, however, it is required for the efficient implementation of the latest multiannual plan.

Moreover, support for permanent cessation of activities for scrapping of vessels was granted until end of 2017 under the EMFF. Support has been introduced recently for the Western Mediterranean Sea (Regulation 2019/1022). In addition to this, the Commission proposal for the next EMFF for the period 2021-2027 includes again the permanent cessation support for scrapping.

Finally, support for temporary cessation of fishing activities in the Baltic Sea has already been granted under the current regulation by EMFF operational programmes ((COM C(2019)6496).

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

Article 43(2) of the Treaty on the Functioning of the European Union (TFEU).

- **Subsidiarity (for non-exclusive competence)**

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**

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

The Common Fisheries Policy is a common policy. One of its objectives is to ensure that fishing activities are environmentally sustainable in the long-term, but also to achieve economic, social and employment benefits. Based on the best available scientific advice the Union decided on necessary but unprecedented fishing restrictions. These will lead to redundant fleet capacities and result in severe adverse socio-economic consequences for the coastal communities and fishing businesses concerned. Opening the possibility to apply for financial support for permanent cessation through scrapping will contribute to alleviate these adverse socio-economic consequences while at the same time reduce the fleet capacity and the related fishing pressure on the Eastern Baltic cod stock.

- **Choice of the instrument**

Proposed instrument: amendmend of a Regulation.

This is a proposal for fisheries management on the basis of Article 43(2) TFEU.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

This is not applicable due to the exceptional nature of the event necessitating this proposal.

- **Stakeholder consultations**

The Member States and the relevant stakeholders, notably the Baltic Sea Advisory Council, were consulted on the fishing opportunities for the Baltic Sea for 2020 in the context of the

preparation and the negotiation of the relevant regulation. The challenges arising from the redundant fleet capacities and severe adverse socio-economic consequences for the related coastal communities and fishing businesses have been raised by various fisheries stakeholders and Member States. All operators, stakeholders and concerned Member States have emphasized the need to tackle the situation of redundant fleets in a structural manner by granting financial support for achieving and maintaining a balance between the fleet capacity and the fishing opportunities. To this end they have asked for making European Union financial support for permanent cessation through scrapping eligible under the EMFF 2014-2020.

- **Collection and use of expertise**

The Union annually seeks scientific advice on the state of important fish stocks in the Baltic Sea from the International Council for the Exploration of the Sea (ICES). From the ICES advice it is apparent that the steep decline of Eastern Baltic cod is likely to remain a problem for the years to come.

- **Impact assessment**

An impact assessment was carried out for the Commission's proposal on the European Maritime and Fisheries Fund for the period 2021 to 2027. This impact assessment identified and explained the main challenges and problems to be addressed by the future programme based on findings and evaluations of previous programming periods, new political priorities and emerging problems needing Union intervention. It concluded that the policy must be more targeted and more focussed in order to better address the issue of overcapacity and overfishing in those segments of the EU fishing fleets, which continue to fish stocks at unsustainable levels. Support for the permanent cessation of fishing activities is therefore proposed by the Commission for the next programming period of the EMFF, under tight conditions to ensure that such support is targeted to the achievement of a balance between fishing capacity and available fishing opportunities. This proposal is currently being discussed between the co-legislators. Given the exceptional nature of the situation surrounding Eastern Baltic cod and the fisheries dependant on this fish stock the policy option of permanent cessation of fishing activities through the scrapping of fishing vessels is hence the best option to choose. No materially and legally different policy options are available other than the one proposed.

- **Regulatory fitness and simplification**

Not applicable.

- **Fundamental rights**

This proposal has no consequences for the protection of fundamental rights.

4. BUDGETARY IMPLICATIONS

The proposal makes the support of permanent cessation of fishing activities through the scrapping of fishing vessels eligible again under the current EMFF. The related EU funding is to be granted in compliance with the 2014-2020 EMFF operational programmes and the related EMFF Member States financial allocations.

The proposed modification does not imply any changes in the multiannual financial framework, annual ceilings, or for commitments and payments as per Annex I of Regulation

(EU) No 1311/2013¹. The proposal may consist of the frontloading of payment appropriations and is budgetary-neutral over the programming period.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

Not applicable.

¹ Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020 (OJ L 347, 20.12.2013, p. 884).

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

After consulting the European Economic and Social Committee²,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Article 3(3) of Regulation (EU) No 2016/1139 of the European Parliament and of the Council³ commits to implement the ecosystem-based approach to fisheries management in order to ensure that negative impacts of fishing activities on the marine ecosystem are minimised. The plan is to be coherent with Union environmental legislation, in particular with the objective of achieving good environmental status by 2020 as set out in Article 1(1) of Directive 2008/56/EC of the European Parliament and of the Council⁴.
- (2) According to scientific assessment by the International Council for the Exploration of the Sea (ICES), many species and habitats of the Baltic Sea are not in good condition. Annual nutrient inputs still exceed regionally agreed goals in the central Baltic Sea, the Archipelago Sea, and the Gulf of Finland. Nutrient concentrations remain relatively high, as does the extent of deep-water areas with poor or no oxygen. Contaminant levels remain elevated compared with most European seas. This overall environmental situation affects food web functionality, reduces the resilience and resistance against further environmental changes, and diminishes prospects for socioeconomic benefits, including fishing opportunities.

² OJ C [...], [...], p. [...].

³ 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).

⁴ Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive) (OJ L 164, 25.6.2008, p. 19)

- (3) The declining condition of Eastern Baltic cod (*Gadus morhua*) has been linked to that situation. According to ICES, the stock suffers from an unsustainably low biomass due to a combination of declining recruitment, environmental factors and changes in the ecosystem leading to a high natural mortality (about three times the fishing mortality), and an excessive fishing mortality given the status of the stock. The biomass of commercial sized cod is presently at the lowest level observed since the 1950s. Moreover, ICES estimates that the spawning stock biomass will remain below the sustainability reference point in the medium-term (2024) even with no fishing at all. In its stock advice for 2020 ICES therefore advises zero catches.
- (4) The Baltic multiannual plan sets out that, when scientific advice indicates that a stock is under threat, safeguard measures are to be taken, including the reduction of fishing opportunities and specific conservation measures, and that those measures should be supplemented by all other appropriate measures. Remedial measures may include suspending the targeted fishery for the stock and the adequate reduction of fishing opportunities. According to Article 5(4) of Regulation (EU) 2016/1139, the choice of measures is to be made in accordance with the nature, seriousness, duration and repetition of the situation.
- (5) Based on the stock assessment for Eastern Baltic cod, the Commission adopted Commission Implementing Regulation (EU) 2019/1248⁵, prohibiting until 31 December 2019 to fish for cod in ICES subdivisions 24 to 26.
- (6) On 15 October 2019, the Council adopted a political agreement on fishing opportunities for 2020 in the Baltic Sea. That agreement entails a necessary and unprecedented reduction of 92% of fishing opportunities for 2020 compared to 2019 for Eastern Baltic cod, and limits the use of this TAC to by-catches only. No targeted fishery for this stock is therefore to be allowed. Since in ICES subdivision 24 mostly Eastern Baltic cod is present, the use of the Western Baltic cod TAC in subdivision 24 is also limited to by-catches of Eastern Baltic cod.
- (7) The fishing fleets so far dependent on Eastern Baltic cod do not have the possibility to fish for other stocks as an alternative. It is estimated that offsetting the economic losses caused by the Eastern Baltic cod closure would require additional catches of around 20,000 tonnes in alternative species. However, the Council also agreed severe reductions for other stocks, and notably a reduction of 65% for Western Baltic herring, 60% for Western Baltic cod, 32% for plaice, 27% for herring in the Gulf of Bothnia and 22% for sprat.
- (8) Commission analysis shows that the fleet segments with the highest dependency on Eastern Baltic cod encompass more than 300 vessels, mainly trawlers and netters in Lithuania, Latvia and Poland, and to a lesser extent, Denmark. These fleet segments are of significant socioeconomic importance, representing between roughly 20% and 50% of the respective national fleet in Lithuania, Latvia and Poland, expressed in full-time equivalents. Only a minority seem resilient enough to survive a short-term – but not a medium or long-term – closure. The rest either suffer already from a poor situation that will be worsened by the closure or will see their profitability completely erode. Indeed, the quota uptake for Eastern Baltic cod has been below 60% for many years already, dropping further to 40% in 2018 and even lower in 2019 until the start

⁵ Commission Implementing Regulation (EU) 2019/1248 of 22 July 2019 establishing measures to alleviate a serious threat to the conservation of the Eastern Baltic cod (*Gadus morhua*) stock (OJ L 195, 23.7.2019, p. 2)

of the Commission emergency measures in mid-July (19%), reflecting the biological problem with this fishery. Given that Eastern Baltic cod is not expected to recover to healthy levels even in the medium term, there will be a persistent structural imbalance for these fleet segments, thus justifying the restructuring of the fleet.

- (9) Restructuring of the fleet is to be carried out in line with Article 22 of Regulation (EU) No 1380/2013 of the European Parliament and of the Council⁶, which requires Member States to put in place measures to adjust the fishing capacity of their fleet to their fishing opportunities over time, taking into account trends and based on best scientific advice, with the objective of achieving a stable and enduring balance between them. In order to achieve this objective, Member States are to send to the Commission, by 31 May each year, a report on the balance between the fishing capacity of their fleets and their fishing opportunities. If the assessment clearly demonstrates that the fishing capacity is not effectively balanced with fishing opportunities, the Member State is to prepare and include in its report an action plan for the fleet segments with identified structural overcapacity. As the ICES advice on the deterioration of Eastern Baltic cod was published on 29 May 2019, the existing reports on the balance between fishing capacity and fishing opportunity could not yet take into account this new information on the severe state of Eastern Baltic cod and the resulting overcapacity in fleets formerly targeting this stock. Member States should address this overcapacity in the next reports on the balance between fleets and fishing opportunities as soon as possible and latest by 31 May 2020.
- (10) In their political declaration of 15 October 2019, the Member States concerned declare that, if they need to reduce fleet capacity to manage the adverse socio-economic consequences of the decline of the fisheries, they will present to the Commission an action plan in accordance with Article 22 of Regulation (EU) No 1380/2013. Member States also recognise that in view of the need to reduce fleet capacity, it is important to avoid public aid for investments in additional fishing capacity.
- (11) According to ICES advice published on 29 May 2019, approximately 70% of the cod landings in subdivisions 24-28 were taken by trawlers with a BACOMA with a 120 mm escape window or T90, and 15% of the cod landings were taken by gillnetters with mesh sizes between 110 mm and 156 mm. These métiers are generally considered to target cod and the minimum mesh sizes for them are set out in Regulation (EU) 2019/1241 of the European Parliament and of the Council.⁷ The other métiers in the top 15 in terms of the amount of cod landings each contributed less than 5% to the total cod landings. It is important to ensure that the capacity levels of fleets fishing for Eastern Baltic cod do not increase and permanent cessation with public funds delivers an effective reduction of fleet capacity. The Member State capacity level of these two fleet segments should be capped at levels of active vessels in the most recent years

⁶ 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).

⁷ Regulation (EU) 2019/1241 of the European Parliament and of the Council of 20 June 2019 on the conservation of fisheries resources and the protection of marine ecosystems through technical measures, amending Council Regulations (EC) No 1967/2006, (EC) No 1224/2009 and Regulations (EU) No 1380/2013, (EU) 2016/1139, (EU) 2018/973, (EU) 2019/472 and (EU) 2019/1022 of the European Parliament and of the Council, and repealing Council Regulations (EC) No 894/97, (EC) No 850/98, (EC) No 2549/2000, (EC) No 254/2002, (EC) No 812/2004 and (EC) No 2187/2005 (OJ L 198, 25.7.2019, p. 105).

before the application of emergency measures, i.e. 2017 and 2018, and should be reduced when vessels are withdrawn with public aid, with the aim of rebuilding the stock of Eastern Baltic cod.

- (12) The capacity ceilings that are specific to the stock of Eastern Baltic cod should apply in addition to the measures set out in Article 22 of Regulation (EU) No 1380/2013. These ceilings should cap the capacity at the most recent level of active vessels, excluding those that have been withdrawn without public aid in the previous years. In addition, they should ensure that vessels from other fleet segments could not be transferred to the segment that fishes for Eastern Baltic cod. In order to guarantee that capacity ceilings are respected, Member States should inform the Commission about the initial ceiling and any changes to it.
- (13) Given the serious condition of the Eastern Baltic cod stock additional measures to control the fisheries catching Eastern Baltic cod should be introduced. The threshold quantity as of which a fishing vessel is required to land its catch in a specific place should be reduced to 250kg. Moreover, masters of fishing vessels having quotas for cod and fishing in areas where Eastern Baltic cod is present are to ensure that their fishing activity can be monitored at any time by the national competent authorities.
- (14) ICES issued an analytical assessment of Eastern Baltic cod but was not in a position to provide fishing mortality ranges and various reference points because of a lack of required data. Therefore, data collection is to be improved by ensuring that the observer coverage at sea of vessels catching Eastern Baltic cod is at least 20%.
- (15) The European Maritime and Fisheries Fund (“EMFF”) set out by Regulation (EU) No 508/2014 of the European Parliament and of the Council⁸ provided, until 31 December 2017, for permanent cessation as a tool to reduce identified structural overcapacity. Where Member States identified a structural imbalance, the resulting action plan under Article 22 of Regulation (EU) No 1380/2013 therefore allowed them to include permanent cessation as a way to meet the objectives of the action plan.
- (16) In order to mitigate the adverse economic effects caused by the exceptional and persistent environmental situation in the Baltic Sea and the resulting severe reductions in fishing opportunities and in view of the specific measures provided for in the Multiannual plan for the Baltic Sea, public support for the permanent cessation of fishing activities through the scrapping of fishing vessels should be available to allow Member States to meet the objectives of their action plans under Article 22 of Regulation (EU) No 1380/2013 and reduce any identified structural imbalance in the fishing segments covered by the Baltic multiannual plan. Regulation (EU) No 508/2014 should therefore be amended accordingly to reintroduce support for permanent cessation for the vessels that have significant dependence on Eastern Baltic cod.
- (17) In order to ensure the consistency of fleet structural adaptation in the Baltic Sea with the conservation objectives laid down in the Multiannual plan, support for the permanent cessation of fishing activities through the scrapping of fishing vessels that have significant dependence on Eastern Baltic cod should be strictly conditional and

⁸ Regulation (EU) 508/2014 of the European Parliament and of the Council of 15 May 2014 on the European Maritime and Fisheries Fund and repealing Council Regulations (EC) No 2328/2003, (EC) No 861/2006, (EC) No 1198/2006 and (EC) No 791/2007 and Regulation (EU) No 1255/2011 of the European Parliament and of the Council (OJ L 149, 20.5.2014, p. 1).

linked to the achievement of the adjustment targets and tools defined in the action plans for imbalanced segments.

- (18) Given the fragile ecosystem in the Baltic Sea, support for the permanent cessation of fishing activities should not be granted for the retrofitting of fishing vessels for other activities than commercial fishing, such as recreational fishing, which could have a detrimental impact on the ecosystem. Therefore, such support should only be granted for the scrapping of fishing vessels.
- (19) Introducing aid for scrapping is an unforeseen measure in response to an exceptional situation. The Commission cannot provide additional public funds for the permanent cessation of fishing activities that go beyond the EMFF envelope agreed for each Member State. However, additional flexibility within the EMFF envelope agreed for each Member State would allow Baltic Member States that have identified permanent cessation as a tool to reduce the structural overcapacity of their fleets fishing for Eastern Baltic cod to address the exceptional situation without jeopardising other, important priorities of the EMFF, in particular those related to the sustainable development of fisheries, aquaculture and fisheries areas mentioned under Article 13(2) of Regulation (EU) No 508/2014. Reprogramming from categories mentioned in Article 13(6) and (7) of Regulation (EU) No 508/2014 for permanent cessation is considered as an effective way of granting such flexibility.
- (20) Article 22(6) of Regulation (EU) No 1380/2013 states that the fishing capacity corresponding to the fishing vessels withdrawn with public aid is not to be replaced. Moreover, according to Article 23(1) of that Regulation, the entry into the fleet of new capacity without public aid is to be compensated for by the prior withdrawal of capacity without public aid of at least the same amount.
- (21) In view of the bad economic situation of Union fishing vessels with a significant dependence on Eastern Baltic cod and the need to ensure the availability of support under the EMFF for permanent cessation of fishing activities of those vessels, it was considered appropriate to provide for an exception to the eight-week period referred to in Article 4 of Protocol No 1 on the role of national Parliaments in the European Union, annexed to the TEU, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community,

HAVE ADOPTED THIS REGULATION:

Article 1
Amendment to Regulation (EU) 2016/1139

Regulation (EU) 2016/1139 is amended as follows:

1. The following Chapter VIA is inserted:

“CHAPTER VIA
CAPACITY CEILINGS

Article 8a
Capacity reduction for Eastern Baltic cod

1. The overall capacity of each Member State of vessels fishing in ICES subdivisions 24-32 equipped with the gear categories listed in paragraph 2 shall not

exceed the capacity levels of vessels in the Union fishing fleet register on [...] ⁹ that were active in those subdivisions in 2017 and 2018 for those Member States respectively. Member States shall communicate to the Commission the capacity levels and their calculations by [...] ¹⁰ at the latest.

2. Paragraph 1 shall apply to vessels equipped with the following gear categories:

- (a) towed gear with a mesh size of at least 120 mm constructed from T90 or at least 105 mm fitted with a Bacoma exit window of 120 mm;
- (b) static nets with a mesh size of at least 110 mm and not more than 156 mm.

3. The overall capacity of a Member State implementing permanent cessation measures in accordance with Article 34(4)(b) of Regulation No 508/2014 shall decrease by the capacity of the vessels that are withdrawn with public aid in accordance with the procedure set out in Article 22(4) of Regulation No 1380/2013.

4. Member States shall communicate to the Commission any decreases to the overall capacity in the reports to be submitted in accordance with Article 22 (4) of that Regulation .”

2. In Article 14, point (a) is replaced by the following:

“(a) 250 kilograms of cod;”.

3. The following Article 14a is added:

*“Article 14a
Control of cod catches*

Masters of fishing vessels with an allocation of fishing opportunities for cod in the Baltic Sea and fishing in ICES subdivision 24 in areas beyond six nautical miles from the baselines or in subdivisions 25-32 shall ensure that their fishing activity can be monitored at any time by the control authorities of the Member State. For that purpose, those fishing vessels shall be equipped with a vessel monitoring system (VMS) or other equivalent electronic monitoring system certified by the control authority.”

4. The following Chapter is inserted:

“CHAPTER VIIIA
DATA COLLECTION

*Article 14b
Observer coverage*

Union vessels with an allocation of fishing opportunities for cod in ICES subdivisions 24-32 shall be subject to at least 20 % observer coverage at sea.”.

*Article 2
Amendment to Regulation (EU) 508/2014*

Regulation (EU) 508/2014 is amended as follows:

⁹ Publications Office, please insert the date of the entry into force of this regulation

¹⁰ Publications Office, please insert the date one month after the entry into force of this regulation.

1. In Article 13, the following paragraph is added:

“10. Member States shall have the possibility to exceed the amount set out in paragraph 2 and to go below the amounts set out in paragraphs 6 and 7 to support the measures set out in Article 34(4)(b).”.
 2. Article 34(4) is replaced by the following:

“4. Support under this Article may be granted until 31 December 2017, unless permanent cessation measures are adopted in order to achieve the objectives of the following multiannual plans:

 - (a) the multi-annual plan for the conservation and sustainable exploitation of demersal stocks in the western Mediterranean Sea, established by Regulation (EU) 2019/1022 of the European Parliament and of the Council*;
 - (b) the multiannual plan for the stocks of cod, herring and sprat in the Baltic Sea and the fisheries exploiting those stocks, established by Regulation (EU) 2016/1139 of the European Parliament and of the Council*, with regard to the vessels under the overall capacity limit for Eastern Baltic cod as set out in paragraph 2 of Article 8a of Regulation (EU) No 2016/1139.”
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- * Regulation (EU) 2019/1022 of the European Parliament and of the Council of 20 June 2019 establishing a multiannual plan for the fisheries exploiting demersal stocks in the western Mediterranean Sea and amending Regulation (EU) No 508/2014 (OJ L 172, 26.6.2019, p. 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)
 3. Article 34(4a) is replaced by the following:

“4a. Expenditure related to the permanent cessation measures adopted in order to achieve the objectives of Regulation (EU) 2019/1022 shall be eligible from 16 July 2019.

Expenditure related to the permanent cessation measures adopted in order to achieve the objectives of Regulation (EU) 2016/1139, in particular its Article 8a, shall be eligible for support from the EMFF as from [...]”¹¹.”
 4. In Article 34, the following paragraphs are added:

“4b. No support shall be granted under paragraph 4(b) if the assessment of the balance between fishing capacity and fishing opportunities in the latest report referred to in Article 22(2) of Regulation (EU) No 1380/2013 for the fleet segment to which the vessels concerned belong has not been prepared on the basis of the

¹¹ Publication Office, please insert the date of effect of this Regulation.

biological, economic and vessel use indicators set out in the common guidelines referred to in that Regulation.

4c. Support under paragraph 4(b) shall be granted only if adjustment targets and tools have been set out pursuant to Article 22(4) of Regulation (EU) No 1380/2013 for the fleet segments covering the vessels referred to in paragraph 2 of Article 8a of Regulation (EU) No 2016/1139 and if such targets and tools relate to a permanent withdrawal of fishing capacity.”

5. The first subparagraph of Article 34(6) is replaced by the following:

“6. By way of derogation from paragraph 1, support may be granted for the permanent cessation of fishing activities without scrapping provided that the vessels retrofit for activities other than commercial fishing. This derogation shall not apply to support granted under paragraph 4(b).”.

Article 3
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*.

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

Done at Brussels,

For the European Parliament
The President

For the Council
The President