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Proposal for a

COUNCIL REGULATION

**fixing for 2012 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 Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy, the CFP seeks to ensure that living aquatic resources are exploited under sustainable economic, environmental and social conditions. One important tool in this respect is the annual fixing of fisheries 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 2012.

- **General context**

The Communication from the Commission on the Consultation on Fishing Opportunities (COM(2011)298 final), outlines the background to the proposal. 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.

The scientific advice for stocks in the Baltic Sea for 2012 was delivered by the International Council for the Exploration of the Sea (ICES) in May 2011 and by the Scientific, Technical and Economic Committee for Fisheries (STECF) in June 2011.

The proposal contains two sections of importance for the management of the Baltic fisheries in 2012 through fishing opportunities: one section fixing the TACs and quotas and a second limiting the fishing effort, through imposing limits on their 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 latest is Council Regulation (EU) No 1124/2010 of 29 November 2010 fixing for 2011 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea.

Of relevance to fisheries management in the Baltic Sea is also 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.

Council Regulation (EC) No 1098/2007 of 18 September 2007 establishing a multi-annual 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 for rebuilding the cod stocks in question. It also lays down the rules for setting the TACs for the Western and the Eastern cod stocks and the associated fishing effort limitations.

- **Consistency with other policies and objectives of the EU**

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 Seas (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 Regional Advisory Council (BSRAC) was consulted at its Joint Demersal/Pelagic/Salmon Working Group meeting in June 2011 on the basis of the Communication from the Commission on the Consultation on Fishing Opportunities. The scientific basis for the proposal was provided by ICES and STECF. In those meetings the rules for setting TACs and quotas for 2012 on the basis of the Communication were presented. The preliminary views expressed during these meetings on all fish stocks concerned were considered and taken into account as far as possible in the proposal without contradicting existing policies or incurring deterioration in the state of vulnerable resource.

The BSRAC supports the Commission's attempt to set the TAC that are more consistent with scientific advice, as well as, the application of the multi-annual plan for cod with regards to the setting of the TACs. In addition, it disagrees with the Commission's policy to reduce the TAC by 25% for stocks for which the data is not available and the analytical assessment of the stock could not be delivered by scientists.

- **Impact assessment**

The TACs for Western and Eastern Baltic cod have been increased on average by 14% in accordance with the multi-annual plan. Two of the five pelagic TACs would increase, and the remaining three TACs would decrease. In general, the proposed measures would result in an overall decrease in fishing opportunities in terms of catch volumes for Union vessels in the Baltic Sea of around 16% for all species except for salmon stocks.

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 long-term sustainable levels.

The approach taken in the proposal will therefore, in the medium to long term, result in reduced fishing effort but stable or increasing quotas. The long-term consequences of the approach are expected to be a reduced impact on the environment due to the decline in fishing effort, reductions in the catching sector in terms of number of vessels and/or in the average

fishing effort per vessel, and unchanged or increased landings. The sustainability of fishing activities will increase in the long-term.

3. LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

The proposal establishes the catch and effort limitations applicable to EU fisheries, in order to achieve the objective of the Common Fisheries Policy of ensuring fisheries at levels that are biologically, economically and socially sustainable.

- **Legal basis**

Article 43(3) of the Treaty on the Functioning of the European Union.

- **Subsidiarity principle**

The proposal falls under the Union exclusive competence as referred to in Article 3(1)(d) of the Treaty on the Functioning of the European Union. The subsidiarity principle therefore does not apply.

- **Proportionality principle**

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

The Common Fisheries Policy is a common policy. According to Article 43(3) TFEU it is incumbent upon the Council to adopt the measures on the fixing and allocation of fishing opportunities.

The Council Regulation in question allocates fishing opportunities to Member States. Having regard to Article 20(3) of Regulation 2371/2002 Member States are free to allocate such opportunities among regions or operators as they see fit. 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 Regulation is adopted by Council every year, and the public and private means to implement it are already in place.

- **Choice of instruments**

Proposed instruments: Regulation.

This is a proposal for fisheries management on the basis of Article 43(3) TFEU and in accordance with Article 20 of Council Regulation (EC) No 2371/2002.

4. BUDGETARY IMPLICATION

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 similar provisions from the 2011 regulation on the fishing opportunities in the Baltic Sea.

• Review/revision/sunset clause

The proposal concerns an annual Regulation for the year 2012 and therefore does not include a revision clause.

• Detailed Explanation

The proposal fixes for 2012 the fishing opportunities for certain stocks or groups of stocks for Member States fishing in the Baltic Sea.

The proposed figures reflect the scientific advice, consultation with the BSRAC and the framework for setting the TACs and quotas outlined in the Communication from the Commission Concerning a Consultation on Fishing Opportunities. Where relevant, the theoretical quantities of stocks shared with the Russian Federation were deducted from the proposed TACs.

Given the Commission's intention to ensure 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 given in Annex I and the fishing effort limits are laid down in Annex II to the Regulation.

For cod stocks the proposed TACs and effort limitations were in line with the requirements of the multi-annual plan for cod stocks in the Baltic Sea and the fisheries exploiting those stocks. The central element of the plan is a gradual reduction in fishing mortality to long-term sustainable levels that ensures recovery of the stocks and provide high and stable yields. As the fishing mortality of the cod stocks has been already decreased to the levels indicated in the multi-annual plan, there is no further need to reduce fishing effort i.e. days at sea and furthermore, the TAC can be increased.

For the two herring stocks (Western and Bothnian Sea/Bothnian Bay) the TAC proposed corresponds to the MSY fishing mortality. For the other pelagic stocks, the proposed TAC corresponds to a reduction in fishing mortality that is mid-way between the current level and the MSY fishing mortality, with the exception of the central herring stock. In that particular case, the mid-way fishing mortality would be outside precautionary levels, so instead the proposed TAC is mid-way between that corresponding to MSY fishing mortality and that corresponding to the precautionary fishing mortality.

In the case of plaice, which is a data-poor stock, the TAC corresponds to a 25% reduction in the TAC compared with 2011. The BSRAC's opinion on lower reduction could not be taken into account, as in line with the approach described in the Communication on Fishing

Opportunities a lack of data cannot be used to justify the continuation of current levels of catches and the precautionary principle must be applied.

With regard to salmon stocks, given uncertainties arising from the scientific advice issued by ICES in May, a meeting was organised with them in August by the Baltic Sea Regional Advisory Council. Following this meeting ICES re-confirmed the advice previously issued.

Proposal for a

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fixing for 2012 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) According to Article 43(3) of the Treaty, the Council, on a proposal from the Commission, should adopt measures on the fixing and allocation of fishing opportunities.
- (2) Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the common fisheries policy¹ requires that measures governing access to waters and resources and the sustainable pursuit of fishing activities be established taking into account available scientific advice and, in particular, the report drawn up by the Scientific, Technical and Economic Committee for Fisheries (STECF).
- (3) It is incumbent upon the Council to adopt measures on the fixing and allocation of fishing opportunities by fishery or group of fisheries, including certain conditions functionally linked thereto, as appropriate. Fishing opportunities should be distributed among Member States in such a way as to assure each Member State relative stability of fishing activities for each stock or fishery and having due regard to the objectives of the common fisheries policy established in Regulation (EC) No 2371/2002.
- (4) The total allowable catches (TACs) should be established on the basis of the available scientific advice, by taking into account the biological and socioeconomic aspects whilst ensuring fair treatment between fishing sectors, as well as in light of the opinions expressed during the consultation of stakeholders, in particular at the meetings with the Advisory Committee on Fisheries and Aquaculture and the concerned Regional Advisory Councils.
- (5) For stocks subject to specific multiannual plans, the fishing opportunities should be established in accordance with the rules laid down in these plans. Consequently, catch

¹ OJ L 358, 31.12.2002, p. 59.

limits and fishing effort limits for the cod stocks in the Baltic Sea should be established in accordance with the rules laid down in 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 stocks².

- (6) The use of fishing opportunities set out in this Regulation is subject to 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 policy³ and in particular to Articles 33 and 34 thereof concerning the recording of catches and fishing effort and the notification of data on the exhaustion of fishing opportunities respectively. It is therefore necessary to specify the codes to be used by the Member States when sending data to the Commission relating to landings of stocks subject to this Regulation.
- (7) In accordance with Article 2 of Council Regulation (EC) No 847/96 of 6 May 1996 introducing additional conditions for year-to-year management of TACs and quotas⁴, the stocks that are subject to the various measures referred to therein must be identified.
- (8) To ensure the livelihood of Union fishermen, it is important to open these fisheries on 1 January 2012,

HAS ADOPTED THIS REGULATION:

Chapter I

Scope and Definitions

Article 1

Subject matter

This Regulation fixes for 2012 the fishing opportunities for certain fish stocks and groups of fish stocks in the Baltic Sea.

Article 2

Scope

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

Article 3

Definitions

For the purposes of this Regulation, in addition to the definitions laid down in Article 3 of Regulation (EC) No 2371/2002, the following definitions shall apply:

² OJ L 248, 22.9.2007, p. 1.

³ OJ L 343, 22.12.2009, p. 1.

⁴ OJ L 115, 9.5.1996, p. 3.

- (a) the International Council for the Exploration of the Sea (ICES) zones are the geographical areas specified in Annex I to 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 Sound⁵;
- (b) "Baltic Sea" means ICES Subdivisions 22-32;
- (c) "Union vessel" means a fishing vessel flying the flag of a Member State and registered in the Union;
- (d) "total allowable catch" (TAC) means the quantity that can be taken from each stock each year;
- (e) "quota" means a proportion of the TAC allocated to the Union, a Member State or a third country;
- (f) "day absent from port" means any continuous period of 24 hours or part thereof during which the vessel is absent from port.

Chapter II

Fishing Opportunities

Article 4

TACs and allocations

The TACs, the allocation of such TACs among Member States, and the conditions functionally linked thereto, where appropriate, are set out in Annex I.

Article 5

Special provisions on allocations

1. 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 20(5) of Regulation (EC) No 2371/2002;
 - (b) 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;
 - (d) quantities withheld in accordance with Article 4 of Regulation (EC) No 847/96;
 - (e) deductions made pursuant to Articles 37, 105, 106 and 107 of Regulation (EC) No 1224/2009.

⁵ OJ L 349, 31.12.2005, p. 1.

2. 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 to stocks subject to analytical TAC.

Article 6

Conditions for landing catches and by-catches

1. Fish from stocks for which catch limits are established shall be retained on board or landed only if:
 - (a) the catches have been taken by vessels of a Member State having a quota and that quota is not exhausted; or
 - (b) the catches consist of a share in a Union quota which has not been allocated by quota among Member States, and that Union quota has not been exhausted.

Article 7

Fishing effort limits

1. Fishing effort limits are set out in Annex II.
2. The limits referred to in paragraph 1 shall also apply to ICES Subdivisions 27 and 28.2, unless the Commission has taken a decision in accordance with Article 29(2) of Regulation (EC) No 1098/2007 to exclude those Subdivisions from the restrictions provided for in Article 8(1)(b), (3), (4) and (5) and Article 13 of that Regulation.
3. The limits referred to in paragraph 1 shall not apply to ICES Subdivision 28.1, unless the Commission has taken a decision in accordance with Article 29(4) of Regulation (EC) No 1098/2007 that the restrictions provided for in Article 8(1)(b), (3), (4) and (5) of Regulation (EC) No 1098/2007 shall apply to that Subdivision.

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

Article 9

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 2012.

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

Done at Brussels,

For the Council
The President

ANNEX I

TACS APPLICABLE TO UNIONVESSELS 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, where appropriate.

The references to fishing zones are references to ICES zones, unless otherwise specified.

Within each area, fish stocks are referred to following the alphabetical order of the Latin names of the species. The following table of correspondences of Latin names and common names is given for the purposes of this Regulation:

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	86 905 (1)	Analytical TAC	
Sweden	19 095 (2)		
Union	106 000 (3)		
TAC	106 000 (3)		
(1)	Catches in SD 31 are limited to 1 640		
(2)	Catches in SD 31 are limited to 360		
(3)	Catches in SD 31 are limited to 2 000		

Species:	Herring <i>Clupea harengus</i>	Zone:	Subdivisions 22-24 HER/3B23.; HER/3C22.; HER/3D24.
Denmark	2 930	Analytical TAC	
Germany	11 532		
Finland	1	Article 3 of Regulation (EC) No 847/96 does not apply.	
Poland	2 719		
Sweden	3 718	Article 4 of Regulation (EC) No 847/96 does not apply.	
Union	20 900		

TAC 20 900

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.; HER/3D29.; HER/3D32.
Denmark	1 588	Analytical TAC
Germany	421	Article 3 of Regulation (EC) No 847/96 does not apply.
Estonia	8 109	Article 4 of Regulation (EC) No 847/96 does not apply.
Finland	15 829	
Latvia	2 001	
Lithuania	2 107	
Poland	17 983	
Sweden	24 140	
Union	72 178	
TAC	Not relevant	

Species:	Herring <i>Clupea harengus</i>	Zone: Subdivision 28.1 HER/03D.RG
Estonia	13 336	Analytical TAC
Latvia	15 542	
Union	28 878	
TAC	28 878	

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	15 587	Analytical TAC
Germany	6 200	
Estonia	1 519	
Finland	1 193	
Latvia	5 795	
Lithuania	3 818	
Poland	17 947	
Sweden	15 791	

Union	67 850
TAC	Not relevant

Species:	Cod <i>Gadus morhua</i>	Zone: Subdivisions 22-24 COD/3B23.; COD/3C22.; COD/3D24.
Denmark	9 298	Analytical TAC
Germany	4 546	Article 3 of Regulation (EC) No 847/96 does not apply.
Estonia	206	Article 4 of Regulation (EC) No 847/96 does not apply.
Finland	183	
Latvia	769	
Lithuania	499	
Poland	2 487	
Sweden	3 312	
Union	21 300	
TAC	21 300	

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	1 634	Precautionary TAC
Germany	182	Article 4 of Regulation (EC) No 847/96 does not apply.
Poland	342	
Sweden	123	
Union	2 281	
TAC	2 281	

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	10 977 (1)	Analytical TAC
Germany	1 221 (1)	Article 3 of Regulation (EC) No 847/96 does not apply.
Estonia	1 116 (1)	Article 4 of Regulation (EC) No 847/96 does not apply.

Finland	13 688 (1)
Latvia	6 982 (1)
Lithuania	821 (1)
Poland	3 330 (1)
Sweden	14 839 (1)

Union 52 974 (1)

TAC Not relevant

(1) Expressed by number of individual fish.

Species:	Atlantic salmon <i>Salmo salar</i>	Zone:	Union waters of Subdivision 32 SAL/3D32.
Estonia	1 116 (1)	Analytical TAC	
Finland	9 768 (1)	Article 3 of Regulation (EC) No 847/96 does not apply. Article 4 of Regulation (EC) No 847/96 does not apply.	
Union	10 884 (1)		
TAC	Not relevant		

(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	21 022	Analytical TAC	
Germany	13 318	Article 3 of Regulation (EC) No 847/96 does not apply.	
Estonia	24 411	Article 4 of Regulation (EC) No 847/96 does not apply.	
Finland	11 004		
Latvia	29 483		
Lithuania	10 665		
Poland	62 568		
Sweden	40 639		
Union	213 110		
TAC	Not relevant		

ANNEX II

FISHING EFFORT LIMITS

1. For vessels flying their flag, Member States shall ensure that, as regards their activity, 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 shall be permitted for a maximum number of:
 - (a) 163 days absent from port in 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) 160 days absent from port in 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 vessel may be present within the two areas defined in point 1(a) and (b) fishing with the gears referred to in point 1 may not exceed the maximum number of days allocated for one of the two areas.