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NOTE

From:	General Secretariat of the Council
To:	Delegations
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Subject:	Proposal for a COUNCIL REGULATION fixing for 2017 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea

Following discussions in the meeting of the Working Party on Internal Fisheries Policy on 6, 15 and 22 September 2016, delegations will find attached a revised "bible" (*comments of delegations are in bold and italics*).

This document provides an overview of delegations' written comments received to date. For the detailed positions of delegations, please refer to the documents themselves¹.

For ease of reference, this "bible" also includes the TACs for 2016 (*in bold and italics*).

¹ Docs. 12154/16 + ADD 1 to 5.

GENERAL COMMENTS:

All delegations are presently deemed to have general scrutiny reservations on the proposal, including on the non-paper set out in doc. 12227/16 which has been integrated into this document.

PL: while generally endorsing the Commission's proposal, it is deeply concerned about the state of both cod stocks and a responsible approach ought to be adopted in this regard taking account of ICES' scientific advice for both stocks. DK: notes with satisfaction the positive development of a number of stocks, in particular for the pelagic species in the Baltic Sea, as well as for plaice, and is equally concerned about the status of the two cod stocks. SE: notes the positive development, in particular for the pelagic stocks, but is deeply concerned about the state of both cod stocks and a responsible approach ought to be adopted based on ICES advice and in line with the CFP and the Baltic MAP.

All directly concerned delegations are committed to facilitate the work of the Council through informal discussions in the context of BALTFISH.

DK and UK: maintain their parliamentary scrutiny reservations.

Proposal for a

COUNCIL REGULATION

**fixing for 2017 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) 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) Article 6 of Regulation (EU) No 1380/2013 of the European Parliament and of the Council² requires that measures for the conservation and sustainable exploitation of marine biological resources be adopted taking into account available scientific, technical and economic advice including, where relevant, reports drawn up by the Scientific, Technical and Economic Committee for Fisheries ('STECF') and other advisory bodies, as well as any advice received from Advisory Councils established for the relevant geographical areas or fields of competence and including any joint recommendations made by Member States.

² Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354, 28.12.2013, p. 22).

- (3) It is incumbent upon the Council to adopt measures on the fixing and allocation of fishing opportunities, including certain conditions functionally linked thereto, as appropriate. Fishing opportunities should be allocated to Member States in such a way as to ensure the relative stability of fishing activities of each Member State for each stock or fishery and having due regard to the objectives of the Common Fisheries Policy (CFP) set out in Regulation (EU) No 1380/2013.
- (4) The total allowable catches (TACs) should therefore be established, in line with Regulation (EU) No 1380/2013, on the basis of the available scientific advice, taking into account biological and socioeconomic aspects whilst ensuring fair treatment between fishing sectors, as well as in the light of the opinions expressed during the consultation with stakeholders.
- (5) The fishing opportunities for stocks subject to specific multiannual plans should be established in accordance with the rules laid down in those plans. Consequently, catch limits for the cod, herring and sprat stocks in the Baltic Sea should be established in accordance with the rules laid down in Regulation (EU) No 2016/1139³.
- (6) Due to changes in the biology of the eastern cod stock, the International Council for the Exploration of the Sea ('ICES') has not been able to establish the biological reference points for cod stocks in ICES subdivisions 25-32, and has instead advised that the TAC for that cod stock be based on the data limited approach. The absence of biological reference points made it impossible to follow the rules for fixing and allocating the fishing opportunities for cod stock in those subdivisions set out in Regulation (EU) No 2016/1139, As failing to fix and allocate fishing opportunities could seriously threaten the sustainability of the cod stock, it is appropriate, therefore, in order to contribute to the achievement of the objectives of the CFP, to fix the TAC on the basis of the data limited approach, at a level corresponding to the approach developed and advised by ICES.

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. 1–15

"(6A) THE CONSERVATION REFERENCE POINT FOR THE WESTERN COD STOCK HAS BEEN ESTABLISHED BY REGULATION (EU) 2016/1139. IN 2016, ICES ESTIMATED THAT THE BIOMASS OF THE WESTERN COD STOCK IS BELOW THE SET CONSERVATION REFERENCE POINT. THEREFORE UNDER THE TERMS OF ARTICLE 5(3) OF THE SAME REGULATION REMEDIAL MEASURES SHALL BE TAKEN TO ENSURE THE RAPID RETURN OF THE STOCKS CONCERNED TO LEVELS ABOVE THE LEVEL CAPABLE OF PRODUCING MSY WHICH MAY INCLUDE SUSPENDING THE TARGETED FISHERY AND THE ADEQUATE REDUCTION OF FISHING MORTALITY.

(6B) UNDER THE TERMS OF ARTICLE 5(5) OF THE SAME REGULATION THE CHOICE OF REMEDIAL MEASURES SHALL BE MADE IN ACCORDANCE WITH THE NATURE, SERIOUSNESS, REPETITION OF THE SITUATION WHERE THE SPAWNING STOCK BIOMASS IS BELOW THE SET CONSERVATION REFERENCE POINTS. IN 2016, ICES ESTIMATED THAT THE BIOMASS OF THE WESTERN COD STOCK HAS BEEN BELOW THE CONSERVATION REFERENCE POINT SINCE 2008. THEREFORE IN ORDER TO ENSURE THE RAPID RETURN OF THE STOCK TO LEVELS CAPABLE OF PRODUCING MSY IT IS APPROPRIATE TO APPLY THE BOTH MEASURES MENTIONED IN RECITAL (6A)."

- (7) Regulation (EU) No 1380/2013 sets the objective of the CFP to achieve the maximum sustainable yield exploitation rate by 2015 where possible and, on a progressive, incremental basis at the latest by 2020 for all stocks.
- (8) The use of fishing opportunities set out in this Regulation is subject to Council Regulation (EC) No 1224/2009⁴, and in particular to Articles 33 and 34 thereof concerning the recording of catches and fishing effort, and to the transmission of data on the exhaustion of fishing opportunities to the Commission. This Regulation should therefore specify the codes relating to landings of stocks subject to this Regulation that are to be used by Member States when sending data to the Commission.

⁴ 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](#)).

- (9) Council Regulation (EC) No 847/96⁵ introduced additional conditions for year-to-year management of TACs including, under Articles 3 and 4, flexibility provisions for precautionary and analytical TACs. Under Article 2 of that Regulation, when fixing the TACs, the Council is to decide to which stocks 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 the 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.
- (10) In order to avoid interruption of fishing activities and to ensure the livelihoods of Union fishermen, this Regulation should apply from 1 January 2017. For reasons of urgency, this Regulation should enter into force immediately after its publication,

HAS ADOPTED THIS REGULATION:

⁵ 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](#)).

CHAPTER I

GENERAL PROVISIONS⁶

Article 1

Subject matter

This Regulation fixes the fishing opportunities for certain fish stocks and groups of fish stocks in the Baltic Sea for 2017.

Article 2

Scope

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

Article 3

Definitions⁷

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 2187/2005⁸;
- (4) 'fishing vessel' means any vessel equipped for commercial exploitation of marine biological resources;

⁶ *DE considers that the proposal is missing a substantive article making a measure such as temporary cessation eligible under the EMFF. COM: examines suggestion.*

⁷ *LT: a reference to relevant definitions in Basic Regulation suffice, no need to repeat also the text. COM: text can be simplified.*

⁸ 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](#)).

- (5) 'Union fishing vessel' means a fishing vessel flying the flag of a Member State and registered in the Union;
- (6) 'stock' means a marine biological resource that occurs in a given management area;
- (7) 'total allowable catch' (TAC) means the quantity of each stock that can be caught over the period of a year, for fisheries that are subject to a landing obligation pursuant to Article 15 of Regulation (EU) No 1380/2013;
- (8) '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 the Annex.

Article 5

Special provisions on allocations of fishing opportunities

The allocation of fishing opportunities among Member States, as set out in this Regulation, shall be without prejudice to:

- (a) exchanges made pursuant to Article 16(8) of Regulation (EU) No 1380/2013;
- (b) deductions and reallocations made pursuant to Article 37 of Regulation (EC) No 1224/2009;
- (c) additional landings allowed under Article 3 of Regulation (EC) No 847/96 or under Article 15(9) of Regulation (EU) No 1380/2013;
- (d) quantities withheld in accordance with Article 4 of Regulation (EC) No 847/96 or transferred under Article 15(9) of Regulation (EU) No 1380/2013;
- (e) deductions made pursuant to Articles 105 and 107 of Regulation (EC) No 1224/2009.

Article 6

Conditions for landing of catches and by-catches

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

CHAPTER III

FINAL PROVISIONS

Article 7

Data transmission

When, pursuant to Articles 33 and 34 of Regulation (EC) No 1224/2009, Member States send data relating to quantities of stocks caught or landed to the Commission, they shall use the stock codes set out in the Annex to this Regulation.

Article 8

Flexibility

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

Article 9

Entry into force

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2017.

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

Done at Brussels,

For the Council

The President

ANNEX

TACs APPLICABLE TO UNION FISHING VESSELS IN AREAS WHERE TACs EXIST BY SPECIES AND BY AREA

The following tables set out the TACs and quotas (in tonnes live weight, except where otherwise specified) by stock, and conditions functionally linked thereto.

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

The fish stocks are referred to using the alphabetical order of the Latin names of the species.

For the purposes of this Regulation, the following comparative table of Latin names and common names is provided:

Scientific name	Alpha-3 code	Common name
<i>Clupea harengus</i>	HER	Herring
<i>Gadus morhua</i>	COD	Cod
<i>Pleuronectes platessa</i>	PLE	Plaice
<i>Salmo salar</i>	SAL	Atlantic salmon
<i>Sprattus sprattus</i>	SPR	Sprat

Species:	Herring <i>Clupea harengus</i>	Zone:	Subdivisions 30-31 (HER/30/31.)
Finland	115 599 99 098	<i>FI and SE: support proposal.</i>	
Sweden	25 399 21 774		
Union	140 998 120 872		
TAC	140 998 120 872	Analytical TAC	

Species:	Herring <i>Clupea harengus</i>	Zone:	Subdivisions 22-24 (HER/3BC+24)
Denmark	3 981	3 683	Article 6(2) of this Regulation shall apply. <i>PL: favours increasing fish quota in line with ICES advice as proposed (8%). DK and SE: support proposal and appreciate 50/50 split between Baltic Sea and Kattegat/Skagerak.</i>
Germany		14 496	
	15 670		
Finland	2	2	
Poland	3 695	3 419	
Sweden	5 053	4 674	
Union	28 401	26 274	
TAC	28 401	26 274	Analytical TAC Article 3(2) and (3) of Regulation (EC) No 847/96 shall not apply. Article 4 of Regulation (EC) No 847/96 shall not apply.

Species:	Herring <i>Clupea harengus</i>	Zone:	Union waters of Subdivisions 25-27, 28.2, 29 and 32 (HER/3D-R30)
Denmark		3 905	Article 6(2) of this Regulation shall apply. <i>PL: favours maintaining quota at 2016 level (roll-over). DK, EE, FI, LT and SE: support proposal.</i>
	4 205		
Germany	1 115	1 035	
Estonia	21 473	19 942	
Finland	41 914	38 927	
Latvia	5 299	4 921	
Lithuania	5 580	5 182	
Poland	47 618	44 224	
Sweden	63 925	59 369	
Union	191 129	177 505	
TAC	Not relevant	Not relevant	Analytical TAC

Species:	Herring <i>Clupea harengus</i>	Zone:	Subdivision 28.1 (HER/03D.RG)
Estonia	16 124	Article 6(2) of this Regulation shall apply. <i>EE, FI, LT and LV favour to reduce TAC with 10.9% only to 31121t (fishing mortality MSY Fupper=0.38); 2015 year-class is rich and will ensure an increase of SSB in 2017; local fishing communities very dependent on this stock. COM: examining this position, maybe possible, but need scientific justification. EE, LV: TAC level justified by Article 4(4)b), will provide more information.</i>	
	12 667		
Latvia	14 762	18 791	
Union	27 429	34 915	
TAC	27 429	34 915	Analytical TAC

Species	Cod <i>Gadus morhua</i>	Zone:	Union waters of Subdivisions 25-32 (COD/3DX32.)
Denmark	9 451	<i>PL: favours reduction in line with science i.e. by 37%, scrutiny on non paper. LV: favours reduction of max. 20% to cushion socio-economic consequences; maintain closure periods. DK: considers a reduction between 8-20% as a maximum; not supportive of re-introducing closure periods. DE: scrutiny on non paper; believes a more moderate reduction for both stocks to be appropriate. SE level seems appropriate, positive scrutiny. EE, LT: a reduction of 20% would seem more appropriate, but must be seen in the context of Western cod.; can support a closure period in the summer. EE, LT and PL: also willing to consider additional correctional measures as foreseen in the MAP, such as a "summer closure" or "spawning protection". FI: favours a reduction in line with science.</i>	
	<i>p.m.5726.</i>		
Germany	<i>p.m.2278</i>	3 760	
Estonia	<i>p.m.558.</i>	921	
Finland	<i>p.m.438.</i>	723	
Latvia	<i>p.m.2129</i>	3 514	
Lithuania	<i>p.m.1403.</i>	2 315	
Poland	<i>p.m.6594.</i>	10 884	
Sweden	<i>p.m.5801.</i>	9 575	
Union	<i>p.m.24927</i>	41 143	
TAC	Not relevant	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/3BC+24)
Denmark	5 552	<p><i>PL: favours reduction in line with science i.e. more than 90%. FI, SE: support proposal. DK: strongly opposed to proposal; no account seems to be taken of serious socio-economic consequences for both fishers and local fishing dependent communities; reduction of 20% is appropriate and would give a rise of 11% in SSB in 2017; MSY-target must be for after 2017 while respecting the 2020 target date; greatly concerned to see closure periods reintroduced and extended by 14 days without derogations; a closure period of max. six weeks could be possible if TAC is substantially increased and derogation made for coastal and small fisheries (20 m depth restriction where fisheries are only allowed at depths below 20 m); closure should not apply to subdivision 24; if relevant, closure period must be implemented through a delegated act under Reg. 2016/1139; TACs for the two management areas must respect relative stability; while recalling the declaration in doc. 13404/15 add1 rev1 , prepared to consider measures reducing impact of recreational fisheries. SE: sensible level considering the critical stock situation; issue with transfer method from Eastern cod; notes many useful ideas in non-paper. DE: scrutiny reservation on non-paper; can EMFF be used and how about link to MAP?. LV: distribute commercial TAC without first deducting recreational fisheries; MS with considerable recreational fisheries should provide adequate control and regulate these fisheries whilst taking into account catch quota allocated to these countries. LT: both fisheries (commercial and recreational) should proportionally bear the cost of recovery of Western cod. EE, LV, LT and PL reservation including the E TAC component in the calculations in area 24. ES, FR: there should be no change to management areas expressed concerns regarding the non-paper's reference to the advice rule. COM: situation is very grave with very low biomass and practical no recruitment so radical measures needed: EMFF is looked at to provide some mitigation of socio-economic consequences.</i></p>	
	<i>p.m.694(1)</i>		
Germany	<i>p.m.339(1).</i>	2 715	
Estonia	<i>p.m.15(1).</i>	123	
Finland	<i>p.m.14(1)</i>	109	
Latvia	<i>p.m.57(1)</i>	459	
Lithuania	<i>p.m.37(1)</i>	298	
Poland	<i>p.m.185(1)</i>	1 486	
Sweden	<i>p.m.247(1)</i>	1 978	
Union	<i>p.m.1588(1).</i>	12 720	
TAC	<i>p.m.1588 (1)</i>	12 720	<p>Analytical TAC</p> <p>Article 3(2) and (3) of Regulation (EC) No 847/96 shall not apply.</p> <p>Article 4 of Regulation (EC) No 847/96 shall not apply.</p> <p>(1) This quota may be fished from 1.1-1.2 and from 1.4-31.12.2017.</p>

Species:	Plaice <i>Pleuronectes platessa</i>	Zone:	Union waters of Subdivisions 22-32 (PLE/3BCD-C)
Denmark	5 632	2 890	<i>PL: favours increasing the TAC as proposed. DK: worried about deductions in area 21 in sum of 22-23; scrutiny reservation.</i>
Germany	626	321	
Poland	1 179	605	
Sweden	425	218	
Union	7 862	4 034	
TAC	7 862	4 034	Analytical TAC
Species:	Atlantic salmon <i>Salmo salar</i>	Zone:	Union waters of Subdivisions 22-31 (SAL/3BCD-F)
Denmark	(1) 21 903	19 879	<i>PL: favours increasing the TAC. FI, SE: support roll-over (95928) (the Åland-province of Finland supports proposal). LT: supports roll-over.</i>
Germany	2 437 (1)	2 212	
Estonia	2 226 (1)	2 020	
Finland	27 311 (1)	24 787	
Latvia	13 931 (1)	12 644	
Lithuania	1 638 (1)	1 486	
Poland	6 644 (1)	6 030	
Sweden	29 606 (1)	26 870	
Union	105 696 (1)	95 928	
TAC	Not relevant	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) 1 344	<i>EE: roll-over; stocks are good and improving; severe consequences for coastal communities; huge effort to restore salmon populations undertaken at national level must be recognised (cf. very detailed comments in doc. 12154/16 Add 5). FI: follow ICES: 8883 for EU (32% reduction). LV: sympathy for EE concerns.</i>	
Finland	964 8 439 (1) 11 762		
Union	9 403 (1) 13 106		
TAC	Not relevant	Not relevant	Precautionary TAC

(1) Expressed by number of individual fish.

Species:	Sprat <i>Sprattus sprattus</i>	Zone:	Union waters of Subdivisions 22-32 (SPR/3BCD-C)
Denmark	19 958	Article 6(2) of this Regulation shall apply. <i>PL: favours maintaining quota on 2016 level. LT, LV: to have smaller annual fluctuations, supports a smaller increase, maybe by 29%. FI: also supports smaller increase(Åland province of Finland supports the proposed increase of 40%). EE: 20-29% would be more appropriate. SE: given the good status of the stock SE is ready to consider a higher increase than proposed and make use of column B in Annex 1 in the Baltic MAO. This to have a quota composition that mirrors the catch composition (herring and sprat) and to facilitate the landing obligation. DK: notes the improvement of the stock and supports the proposal. COM: a lower increase is a reasonable approach because increase is partly linked to change of calculation method, not to an improvement in the state of the stock.</i>	
	27 852		
Germany	17 645	12 644	
Estonia	32 342	23 175	
Finland	14 580	10 447	
Latvia	39 062	27 990	
Lithuania	14 130	10 125	
Poland	82 895	59 399	
Sweden	53 843	38 582	
Union	282 349	202 320	
TAC	Not relevant	<i>Not relevant</i>	Analytical TAC