



To the attention of:

Mr Karmenu Vella

European Commissioner for Environment, Maritime Affairs and Fisheries

CC:

Director General João Aguiar Machado

European Commission, DG Maritime Affairs & Fisheries

22 February 2017

**Subject: Request to close the western Baltic flatfish and cod bycatch fishery in order to comply with the Baltic multiannual management plan, Common Fisheries Policy and Control Regulation**

REF:

Dear Commissioner,

In light of the authorisation to open a flatfish fishery with cod bycatches in the western Baltic Sea (ICES subdivision 22-24), despite the scientifically recognised need to protect western Baltic cod during the spawning season, we call on the Commission to suspend all fishing below 20 m with fishing gears that could catch cod for the duration of the cod's spawning season, until the end of March 2017, with immediate effect.

The closure of the western Baltic cod fishery during February and March 2017, provided for in the Council Regulation on fixing fishing opportunities for 2017<sup>1</sup>, was implemented as a remedial measure for a stock that is below the limit spawning stock biomass reference point. The amendment to the

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<sup>1</sup> Council Regulation (EU) 2016/1903

closure introduced in January this year<sup>2</sup> was supposed to ensure that cod would neither be disturbed nor caught when aggregating for spawning in waters deeper than 20 m.

Some Member States decided to allow fishing for flatfish, although bycatch of western Baltic cod is acknowledged and expected. Allowing this fishery during the closed season and at depths where cod is spawning seriously undermines the objective of these remedial measures. Given that the biomass for this stock is outside safe biological limits, and that ICES report that recruitment in 2016 was estimated to be the lowest level in their time series<sup>3</sup>, we believe there is a serious threat to the conservation of the stock.

Increasing the fishing activity on a stock that is below Blim during a key life stage, such as spawning, is also not in line with the objectives of the Baltic Sea multiannual plan<sup>4</sup> (Baltic MAP). The Baltic MAP<sup>5</sup> requires that when a stock is below Blim, remedial measures must be taken to ensure the rapid return of the stock to levels above which they can produce MSY. In order to achieve this, STECF advised for western Baltic cod that a spatial closure would increase spawning stock biomass and lower fishing mortality.<sup>6</sup>

In addition, Article 2.2 of the Common Fisheries Policy Basic Regulation (CFP Basic Regulation) requires that stocks are restored above levels which can produce maximum sustainable yield (MSY) and to apply the precautionary approach to fisheries management.

The western Baltic cod is as mentioned above a vulnerable stock for which the spawning stock biomass has been below the lowest reference point, Blim, for a decade. Despite this the quota for 2017 was already set by Member States at 5597 tonnes, or 352% higher than the 1588 tonnes recommended by the Commission.

For these reasons, the decision of Member States to allow fishing activities that will catch cod during its spawning season is not respecting the legal requirements of the fishing opportunities regulation for 2017 and its amendment, the Baltic MAP and the CFP Basic Regulation.

We believe that this decision also fulfils both conditions for triggering the closure of a fishery under the Control Regulation<sup>7</sup> namely that Member States do not respect their obligations under a multiannual plan and that the Commission has evidence that this failure constitutes a serious threat to the conservation of a stock. Moreover, this measure is also in line with the possibility granted to the Commission in the CFP Basic Regulation<sup>8</sup> to adopt emergency measures in cases of serious threats to marine biological resources.

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<sup>2</sup> Council Regulation (EU) 2017/135

<sup>3</sup> ICES Advice Cod (*Gadus morhua*) in subdivisions 22–24, western Baltic stock (western Baltic Sea) for 2017

<sup>4</sup> Regulation (EU) 2016/1139

<sup>5</sup> Article 5(3) of the Baltic MAP.

<sup>6</sup> STECF Special request for evaluating Baltic cod additional measures. p.7 [https://stecf.jrc.ec.europa.eu/documents/43805/55543/2016-11\\_STECF+16-xx+-+Baltic+cod+-+special+request\\_JRCxxx.pdf](https://stecf.jrc.ec.europa.eu/documents/43805/55543/2016-11_STECF+16-xx+-+Baltic+cod+-+special+request_JRCxxx.pdf)

<sup>7</sup> Article 104 of Council Regulation (EC) 1224/2009.

<sup>8</sup> Article 12 of CFP Basic Regulation.

Based on these provisions, we urge the Commission to intervene and close the flatfish fishery as a safeguard measure to avoid any catch of western Baltic cod during its spawning season and prevent a possible collapse of this stock.

In addition, we would like to take this opportunity to repeat our request to make publically available the Commission calculations for how the agreement made at the October Council for the 2017 Baltic TACs complied with the Baltic MAP.<sup>9</sup>

We look forward to your response.

Kind regards,

Jan Isakson, Director, The Fisheries Secretariat

Lasse Gustavsson, Executive Director, Oceana in Europe

Catherine Weller, Head of Programme, Biodiversity, Client Earth

Ariel Brunner, Senior Head of Policy, BirdLife Europe and Central Asia

Päivi Lundvall, Executive Director, Suomen luonnonsuojeluliitto (Finnish Association for Nature Conservation)

Johanna Sandahl, Chair of the Board, Swedish Society for Nature Conservation

Henning Mørk Jørgensen, Marine Policy Officer, Danish Society for Nature Conservation

Mikhail Durkin, Executive Secretary, Coalition Clean Baltic

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<sup>9</sup> [http://www.fishsec.org/app/uploads/2016/12/20161128\\_Letter\\_Friess\\_Baltic\\_TACs.pdf](http://www.fishsec.org/app/uploads/2016/12/20161128_Letter_Friess_Baltic_TACs.pdf)