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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EU) 2016/1139 as regards fishing mortality ranges and safeguard levels for certain herring stocks in the Baltic Sea

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EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

One of the central objectives of the reform of the current Common Fisheries Policy (CFP)¹ is reaching the maximum sustainable yield (MSY) exploitation rate for all stocks in order to restore and maintain populations of fish stocks at sustainable levels i.e. above biomass levels capable of producing maximum sustainable yield (MSY). The sustainable exploitation of marine biological resources can be better achieved through a multiannual approach to fisheries management by adopting the multiannual fisheries management plans which according to the current CFP should reflect the specificities of the different fisheries and of the stocks. The multiannual management plans should provide the framework for the sustainable exploitation of stocks defining clearly the time frame and safeguard mechanisms for unforeseen development in fish stock status.

In 2013 an Inter-institutional Task Force on multiannual plans was established between the European Parliament, the Council and the European Commission for the purpose of agreeing on a way forward to facilitate the development and introduction of multiannual plans under the terms of the Common Fisheries Policy. It decided that the target which corresponds to the MSY objective, should be expressed as a range of F_{MSY} values provided by scientists, which would then be fixed by the co-legislators and established in the plan. The Council would adopt measures on the fixing and allocation of fishing opportunities on an annual basis, based on scientific advice and in such a way as to achieve the objectives of the plan.²

The first multiannual management plan after the reform of the CFP was adopted for the Baltic Sea region. Regulation (EU) No 2016/1139 established a multiannual plan for the stocks of cod, herring and sprat (stocks concerned) in the Baltic Sea (the plan). The objective of the plan is to ensure that the exploitation of the stocks concerned restores and maintains populations of those stocks above levels which can produce MSY. The plan sets the quantifiable targets, i.e. fishing mortality ranges, as well as, conservation reference points expressed in terms of MSY $B_{trigger}$ and B_{lim} . The numerical values of the mentioned parameters were taken from the scientific advice provided by International Council for the Exploration of the Sea (ICES) in 2015³. The scientific assessment conducted in 2017 shows that the respective MSY values for the stocks of the Bothnian Sea herring and of the Bothnian Bay herring have changed.

Article 5(6) of Regulation (EU) No 2016/1139 provides that where, on the basis of scientific advice, the Commission considers that the conservation reference points set out in Annex II to that Regulation no longer correctly express the objectives of the plan, those points, as a matter of urgency, may be submitted for the revision to the European Parliament and the Council.

It is therefore the intention of the Commission to propose an amendment of the Regulation (EU) No 2016/1139 in light of the most recent and the best scientific advice available.

¹ OJ L 354, 28.12.2013, p. 22

² Task Force on multiannual plans. Final report April 2014 http://www.europarl.europa.eu/meetdocs/2009_2014/documents/pech/dv/taskfor/taskforce.pdf

³ ICES special request advice. ICES advice 2015, Book 6. EU request to ICES to provide F_{MSY} ranges for selected North Sea and Baltic Sea stocks.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

The scientific background for the amendment was provided by ICES. In 2017 ICES conducted an evaluation of the herring stocks in the Bothnian Sea and the Bothnian Bay⁴. A key issue considered by scientists was stock identification, i.e. whether to combine the two areas in one assessment unit, or continue assessing them separately. It was decided to combine the stock based on the following considerations:

- a) there is no strong biological evidence either for combining or separating the stocks;
- b) data availability does not support a good quality assessment for the Bothnian Bay herring and this is unlikely to be possible to improve in the future;
- c) there is no concern for overexploitation of the smaller stock component in the Bothnian Bay when merged together with a larger component of herring in the Bothnian Sea.

As a result of merging the two stocks, the new MSY reference values were estimated by ICES. The resulting F_{MSY} point value is 0.21. The corresponding F_{MSY} ranges were calculated and resulted in F_{MSY} lower equal to 0.15 and F_{MSY} upper to 0.21. Due to the probability of stock biomass falling below the safeguard levels, the F_{MSY} upper is therefore limited to and equal to F_{MSY} point value of 0.21. The corresponding biomass levels of MSY $B_{trigger}$ and B_{lim} were calculated to be 283 180 and 202 272 tonnes respectively.

No specific impact assessment has been carried out as the impacts of applying the MSY concept to fisheries management have already been assessed under the impact assessment supporting the reform of the CFP. As part of that impact assessment⁵, the impacts of reaching MSY were quantified. A further impact assessment would not add to the information already available from the previous assessment carried out. The changes to the existing regulation are in accordance of its Article 5(6) and triggered by a scientific advice . They are essential to set or revise, where appropriate, the annual fishing opportunities for the Baltic Sea and the proper functioning of the new CFP.

3. LEGAL ELEMENTS OF THE PROPOSAL

Summary of the proposed action

The main action is to facilitate achieving sustainable fisheries as envisaged under the Common Fisheries Policy reform by adapting the MSY related values to the best scientific advice available.

Legal basis

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

Subsidiarity principle

The proposal falls under exclusive competence of the European Union.

Proportionality principle

⁴ ICES. 2017. Report of the Benchmark Workshop on Baltic Stocks (WKBALT), 7–10 February 2017, Copenhagen, Denmark. ICES CM 2017/ACOM:30. 108 pp.

⁵ SEC(2011) 891

This proposal is amending measures which already exist; therefore no concern on the proportionality principle arises.

Choice of instrument

Proposed instrument: Regulation of the European Parliament and of the Council.

Other means would not be adequate for the following reason: Regulations must be amended by a Regulation.

4. BUDGETARY IMPLICATION

This measure does not involve any additional Union expenditure

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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,

Having regard to the opinion of the European Economic and Social Committee⁶,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Regulation (EU) No 2016/1139 of the European Parliament and of the Council⁷ establishes a multiannual plan for the stocks of cod, herring and sprat in the Baltic Sea (the plan). The purpose of the plan is to contribute to the achievement of the objectives of the common fisheries policy and, in particular, to ensure that the exploitation of living marine biological resources restores and maintains populations of harvested species above levels which can produce maximum sustainable yield (MSY).
- (2) Article 1 of Regulation (EU) No 2016/1139 defines the Baltic fish stocks concerned, including the Bothnian Sea herring stock and the Bothnian Bay herring stock. In order to safeguard full reproductive capacity of those stocks, Annexes I and II to that Regulation establish certain conservation reference points, including fishing mortality ranges and spawning stock biomass reference points.
- (3) The scientific evaluation of the Bothnian Sea herring stock and the Bothnian Bay herring stock conducted in 2017 by the International Council for the Exploration of the Sea (ICES) showed that those two stocks are similar. As a consequence, ICES combined the two stocks into one, changed the boundaries of its geographic distribution area and re-estimated the MSY fishing mortality ranges, as well as the relevant conservation reference points. This lead to different stock definition and

⁶ OJ C , , p. .

⁷ 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).

numerical values than the ones established in Article 1, Annexes I and II to Regulation (EU) No 2016/1139.

- (4) Article 5(6) of Regulation (EU) No 2016/1139 provides that where, on the basis of scientific advice, the Commission considers that the conservation reference points set out in Annex II to that Regulation no longer correctly express the objectives of the plan, those points, as a matter of urgency, may be submitted for the revision to the European Parliament and the Council.
- (5) It is appropriate to amend urgently Article 1(e) and (f) and Annexes I and II of Regulation (EU) No 2016/1139 in order to ensure that the fishing opportunities for the relevant stocks are fixed in accordance with updated conservation reference points.
- (6) Regulation (EU) 2016/1139 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1
Amendments to Regulation (EU) 2016/1139

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

- (1) Article 1(1) is amended as follows:
 - (a) point (e) is replaced by the following:
'(e) herring (*Clupea harengus*) in ICES subdivisions 30-31 (Gulf of Bothnia herring);';
 - (b) point (f) is deleted.
- (2) In Annex I, the entries concerning the Bothnian Sea herring stock and Bothnian Bay herring stock are replaced by the following entry:

'Gulf of Bothnia herring	0,15-0,21	0,21-0,21'
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- (3) In Annex II, the entries concerning the Bothnian Sea herring stock and the Bothnian Bay herring stock are replaced by the following entry:

'Gulf of Bothnia herring	283 180	202 272'
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Article 2
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 the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President