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EUROPEAN COMMISSION

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2010/0247 (NLE)

Proposal for a

COUNCIL REGULATION

**fixing for 2011 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 2011.

- **General context**

The Communication from the Commission on the consultation on fishing opportunities for 2011 (COM(2010)241final), 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 are fixed by a separate Regulation since 2006: Council Regulation (EC) No 52/2006 of 22 December 2005 fixing the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks in the Baltic Sea for 2006.

The scientific advice on fishing opportunities in the Baltic Sea in 2011 was delivered by the International Council for the Exploration of the Sea (ICES) in May 2010 and by the Scientific, Technical and Economic Committee for Fisheries (STECF) in June 2010.

The proposal contains two sections of importance for the management of the Baltic fisheries in 2011: one section fixing the TACs and quotas and a second limiting the fishing effort.

- **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 (EC) No 1226/2009 of 20 November 2009 fixing the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks applicable in the Baltic Sea for 2010.

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. CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **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 Community 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 except plaice and herring in Subdivision 31 for which no advice is given this year due to the available information being inadequate to evaluate stock trends.

- **Consultation of interested parties**

The Baltic Sea RAC (BSRAC) was consulted at its Joint Demersal, Salmon and Pelagic Working Group meeting in June 2010 on the basis of the Communication from the Commission on the Consultation on fishing opportunities for 2011. The scientific basis for the proposal was provided by ICES and STECF. DG MARE presented the rules it would follow for setting TACs and quotas for 2011 on the basis of the policy statement. The preliminary views expressed during this meeting and the subsequent written recommendations 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 application of the multi-annual plan for cod with regards to the setting of the TACs but disagrees with the gradual adjustment of fishing effort resulting from the application of the plan. In addition it disagrees with the adjustment of TACs towards long-term sustainable levels where from the point of view of the BSRAC the stock status is stable and the scientific advice would be insufficient to justify reductions of a given quota.

- **Impact assessment**

The proposed measures will, if implemented, result in an overall decrease in fishing opportunities in terms of catch volumes for EU vessels in the Baltic Sea of around 17% for all species considered. For several herring stocks and for sprat the reduction is based on fishing mortality being above maximum sustainable yield or precautionary approach levels and lower recruitment to the stocks. The reduction with the most significant economic impact is the TAC for sprat which arises as a result of the stock being fished above precautionary levels. The TACs for Western and Eastern Baltic cod have been increased in accordance with the multi-annual plan.

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 in the long-term. The long-term consequences of the approach are expected to be a reduced impact on the environment as a consequence of 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 and to international fisheries where EU vessels participate, 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 provides for simplification of administrative procedures for public authorities (EU or national), in particular as regards requirements regarding the effort management.

- **Review/revision/sunset clause**

The proposal concerns an annual Regulation for the year 2011 and therefore does not include a revision clause.

- **Detailed Explanation**

The proposal fixes for 2011 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 on the Consultation on fishing opportunities for 2011.

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 limited are laid down in Annex II.

For cod stocks the proposed TACs and effort limitations reflect the gradual approach applied in 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 will ensure recovery of the stocks and provide high and stable yields.

With regard to salmon stocks in the Baltic Sea, additional management measures in marine and inland waters are required in order to facilitate efficient recovery of the stocks where necessary. Respectively, a salmon management plan is under preparation.

Proposal for a

COUNCIL REGULATION

fixing for 2011 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 Commission,

Whereas:

- (1) According to Article 43(3) of the Treaty, the Council, on a proposal from the Commission, shall adopt measures on the fixing and allocation of fishing opportunities.
- (2) Regulation (EC) No 2371/2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy¹ requires the Council to adopt the measures necessary to ensure access to waters and resources and the sustainable pursuit of fishing activities on the basis of the available scientific advice and, in particular, the report prepared by the Scientific, Technical and Economic Committee for Fisheries (STECF).
- (3) It is incumbent upon the Council to establish the total allowable catches (TAC) by fishery or group of fisheries. 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. Moreover, in order for the fishing opportunities to be optimal and applied in an effective way, certain conditions essential to and functionally linked to them should be fixed.
- (4) The TACs should be established on the basis of the available scientific advice and by taking into account the biological and socio-economic aspects whilst ensuring fair treatment between fishing sectors. In this regard, it is necessary to take account of the opinions expressed during the consultation of stakeholders, in particular at the meetings with the Advisory Committee for Fisheries and Aquaculture and the concerned Regional Advisory Councils.

¹ OJ L 358, 31.12.2002, p. 59.

- (5) For stocks subject to specific multiannual plans, the fishing opportunities should be established in accordance with the rules laid down in those plans. Consequently, catch 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 multi-annual 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.
- (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 EU fishermen, it is important to open these fisheries on 1 January 2011.

HAS ADOPTED THIS REGULATION:

CHAPTER I

Scope and definitions

Article 1

Subject matter

This Regulation fixes fishing opportunities for 2011 for certain fish stocks and groups of fish stocks in the Baltic Sea.

Article 2

Scope

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

Article 3

Definitions

In addition to the definitions laid down in Article 3 of Regulation (EC) No 2371/2002, for the purposes of this Regulation 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 Regulation (EC) No 2187/2005;
- (b) “Baltic Sea” means ICES Subdivisions 22-32;
- (c) "EU 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

Catch limits and allocations

The catch limits, the allocation of such limits among Member States, and additional conditions in accordance with Article 2 of Regulation (EC) No 847/96 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 Annex I 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.
2. Except where otherwise specified in Annex I of 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

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 apply to ICES Subdivisions 27, and 28.2 insofar as the Commission has not 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 insofar as the Commission has not 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 2011.

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

Catch limits applicable to EU vessels in areas where catch limits 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 associated conditions for year-to-year management of the quotas.

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>Platichthys flesus</i>	FLE	Flounder
<i>Pleuronectes platessa</i>	PLE	Plaice
<i>Psetta maxima</i>	TUR	Turbot
<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	74 607 (1)	Analytical TAC	
Sweden	16 393 (2)		
EU	91 000 (3)		
TAC	91 000		
(1)	Catches in SD 31 are limited to 2 460t		
(2)	Catches in SD 31 are limited to 540t		
(3)	Catches in SD 31 are limited to 3 000t		

Species:	Herring <i>Clupea harengus</i>	Zone:	Subdivisions 22-24 HER/3B23.; HER/3C22.; HER/3D24.				
Denmark	2 227	Analytical TAC					
Germany	8 763			Article 3 of Regulation (EC) No 847/96 does not apply.			
Finland	1					Article 4 of Regulation (EC) No 847/96 does not apply.	
Poland	2 067						
Sweden	2 826						
EU	15 884						
TAC	15 884						

Species:	Herring <i>Clupea harengus</i>	Zone:	EU waters of Subdivisions 25-27, 28.2, 29 and 32 HER/3D25.; HER/3D26.; HER/3D27.; HER/3D28.; HER/3D29.; HER/3D32.				
Denmark	2 016	Analytical TAC					
Germany	535			Article 3 of Regulation (EC) No 847/96 does not apply.			
Estonia	10 295					Article 4 of Regulation (EC) No 847/96 does not apply.	
Finland	20 097						
Latvia	2 541						
Lithuania	2 675						
Poland	22 831						
Sweden	30 650						
EU	91 640						
TAC	Not relevant						

Species:	Herring <i>Clupea harengus</i>	Zone:	Subdivision 28.1 HER/03D.RG
Estonia	15 082	Analytical TAC	
Latvia	17 578		
EU	32 660		
TAC	32 660		

Species	Cod <i>Gadus morhua</i>	Zone:	EU waters of Subdivisions 25-32 COD/3D25.; COD/3D26.; COD/3D27.; COD/3D28.; COD/3D29.; COD/3D30.; COD/3D31.; COD/3D32.
Denmark	13 544	Analytical TAC	
Germany	5 388		
Estonia	1 320		
Finland	1 036		
Latvia	5 036		
Lithuania	3 318		
Poland	15 595		
Sweden	13 721		
EU	58 957		
TAC	Not relevant		

Species:	Cod <i>Gadus morhua</i>	Zone:	EU waters of Subdivisions 22 –24 COD/3B23.; COD/3C22.; COD/3D24.		
Denmark	8 206	Analytical TAC			
Germany	4 012			Article 3 of Regulation (EC) No 847/96 does not apply.	
Estonia	182			Article 4 of Regulation (EC) No 847/96 does not apply.	
Finland	161				
Latvia	679				
Lithuania	440				
Poland	2 196				
Sweden	2 924				
EU	18 800				
TAC	18 800				

Species:	Plaice <i>Pleuronectes platessa</i>	Zone:	EU 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	2 179	Precautionary TAC	
Germany	242	Article 4 of Regulation (EC) No 847/96 does not apply.	
Poland	456		
Sweden	164		
EU	3 041		
TAC	3 041		

Species:	Atlantic salmon <i>Salmo salar</i>	Zone:	EU 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	51 829 (1)	Analytical TAC	
Germany	5 767 (1)	Article 3 of Regulation (EC) No 847/96 does not apply.	
Estonia	5 267 (1)	Article 4 of Regulation (EC) No 847/96 does not apply.	
Finland	64 627 (1)		
Latvia	32 965 (1)		
Lithuania	3 875 (1)		
Poland	15 723 (1)		
Sweden	70 056 (1)		
EU	250 109 (1)		
TAC	Not relevant		

(1) Expressed by number of individual fish.

Species:	Atlantic salmon <i>Salmo salar</i>	Zone:	EU waters of Subdivision 32 SAL/3D32.
Estonia	1 581 (1)	Analytical TAC	
Finland	13 838 (1)	Article 3 of Regulation (EC) No 847/96 does not apply. Article 4 of Regulation (EC) No 847/96 does not apply.	
EU	15 419 (1)		
TAC	Not relevant		

(1) Expressed by number of individual fish.

Species:	Sprat <i>Sprattus sprattus</i>	Zone: EU 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	26 236	Analytical TAC
Germany	16 621	Article 3 of Regulation (EC) No 847/96 does not apply.
Estonia	30 466	Article 4 of Regulation (EC) No 847/96 does not apply.
Finland	13 734	
Latvia	36 796	
Lithuania	13 310	
Poland	78 087	
Sweden	50 719	
EU	265 969	
TAC	Not relevant	

ANNEX II

Fishing effort limits

1. For vessels flying their flag, Member States shall ensure that 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.