FISH
FISKESEKRETARIATET
THE FISHERIES SECRETARIAT

SEAS AT RISK

2 April, 2015

Re. Baltic Sea multiannual plan for cod, herring and sprat

Dear Fisheries Minister,

On behalf of the Fisheries Secretariat (FISH) and Seas At Risk (SAR), we send you our recommendations regarding the Commission proposal COM (2014) 614 establishing a multiannual plan for the stocks of cod, herring and sprat in the Baltic Sea and the fisheries exploiting those stocks. We ask you to consider our views during your discussions at the upcoming Council meeting.

The proposal by the European Commission needs to be improved to adhere to the objectives of the reformed Common Fisheries Policy (CFP).

You now have a precedent-setting opportunity. The Baltic MAP is the first of several multiannual plans defining the future of fisheries management in EU waters. This plan is a model for future multiannual plans, thus it must be a robust, well-designed and holistic management tool to inform future legislation.

It is your responsibility to ensure that this plan fulfils all objectives and requirements outlined in the CFP. Among these, we call on you to

- Include all mandatory elements for a multiannual plan as outlined in Art 10.1 of the CFP
- Include all objectives of the CFP, in particular wording according to 'above B_{MSY}', Good Environmental Status following the MSFD and the ecosystem-based approach to fisheries management
- Agree on sustainable fishing exploitation rates by setting ranges for mortality rates below F_{MSY} to meet the objectives of the CFP and the UN Fish Stock Agreement
- Include pre-agreed conservation measures that are triggered as soon as stock levels fall below biomass levels capable of producing maximum sustainable yield (B_{MSY})

See Annex for a detailed rationale behind our recommendations.

Yours sincerely,

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Annex: Comments and recommendations for Member States on the

Commission Proposal for a multiannual plan for the stocks of cod, herring and sprat in the Baltic Sea and the fisheries exploiting those stocks

COM (2014) 614

2 April 2015

The Fisheries Secretariat and Seas At Risk welcome the first proposal for a multiannual plan following the reformed Common Fisheries Policy (CFP) and in line with the concept of regionalisation. Nevertheless, we see both the European Commission's proposal and the changes proposed by the Member State group BALTFISH insufficient to meet the structure and content of multiannual plans outlined in the CFP and the Task Force Agreement on multiannual plans between Parliament, the Council and the Commission of April 2014.[1]

On 20 April, the Fisheries Council meets to agree on a general approach for this multiannual plan. We ask Member States to consider our comments and recommendations below, where we show that the Baltic Multiannual Plan (Baltic MAP) proposal lacks many of the required elements necessary for a comprehensive multiannual plan. We also suggest where it needs to be improved to adhere to the objectives of the CFP.

As the Baltic MAP is the first of many multiannual plans that will be developed across the EU, it needs to be robust and consistent with existing EU legislation.

Adherence to the Task Force Agreement

The resistance by certain Member States to the Task Force Agreement is disappointing. In April 2014 this agreement finally resolved an impasse between the Council and the European Parliament which had suspended the development and implementation of previous management plans since 2009. Differences in interpreting the Treaty of Lisbon regarding the legislative power to set, for example, fishing mortality levels (F_{MSY}) were resolved by agreeing to fishing mortality ranges.

General comments on the proposal

The European Commission's proposal does not contain all necessary elements for a multiannual plan as outlined in Art. 10 of the CFP. Specifically,

Art. 10.1 (b) requires that a multiannual plan shall include *"objectives that are consistent with the objectives set out in Article 2*" of the CFP. The proposal fails to meet the requirements in this article because the proposal's objectives do not follow

[1] http://www.europarl.europa.eu/meetdocs/2009_2014/documents/pech/dv/taskfor/taskforce.pdf

the CFP as regards to "*restore and maintain fish stocks above levels capable of producing MSY.*"[2]

Art. 10.1 (f) requires that "*objectives for conservation and technical measures to be taken in order to achieve the targets set out in Article 15, and measures designed to avoid and reduce, as far as possible, unwanted catches.*" The proposal does not contain any such measures, but instead leaves adherence of this article to delegated acts.

Art. 10.1 (g) requires "*safeguards to ensure that quantifiable targets are met, as well as remedial action, where needed, including for situations where the deteriorating quality of data or non-availability put the sustainability of the stock at risk."* The proposal's measures insufficiently fulfil the requirement to reduce quotas below provided fishing mortality ranges in case the stock drops below a biomass capable of producing maximum sustainable yield (B_{MSY}).

Art. 10.2 (a) and 10.2 (b) provide optional content for multiannual plans relating to conservation measures to eliminate discards and minimise the impact of fishing on ecosystems, and progress monitoring toward multiannual plan goals. Given the importance to safeguard ecosystems for future fisheries and the need to measure the plan's efficacy, elements of Art. 10.2 (a) and 10.2 (b) of the CFP should be included.

Specific comments on the proposal

Article 3 – Objectives

The Commission's proposal fails to include one of the CFP's core objectives: "*restoring and maintaining populations of fish stocks above biomass levels capable of producing maximum sustainable yield.*" The importance of this CFP objective in multiannual plans is emphasised in CFP Art. 9.1 where it states that they: "*shall contain conservation measures to restore and maintain fish stocks above levels capable of producing maximum sustainable yield.*" The proposal further lacks the indication that stocks of all harvested species should be restored and maintained above levels capable of producing maximum sustainable yield (MSY).

We are disappointed that BALTFISH has not expressed a position on this important article outlining the Baltic MAP objectives. It is deeply troubling that the Commission and respective Member States are failing to implement this core CFP objective, which itself was ratified in 2013 by the Council and the European Parliament.

Art. 3 of the proposal also fails to implement other CFP objectives. CFP Art. 2.3 requires the implementation of the ecosystem-based approach in fisheries management, and Art. 2.5 (j) requires the plan to be coherent with the Union

[2] http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R1380&qid=1427456173599&from=EN

environmental legislation on achieving Good Environmental Status by 2020 under the Marine Strategy Framework Directive (MSFD).

Recommendation: We urge Member States to incorporate all CFP objectives in the objectives of the Baltic MAP and future multiannual plans, specifically to

(1) restore and maintain populations of all harvested species above biomass levels which can produce the MSY,

(2) achieve Good Environmental Status according to the MSFD, and

(3) implement an ecosystem-based approach to fisheries management.

Article 4 – Targets

In the preparation of the proposal, the Commission requested the International Council for the Exploration of the Sea (ICES) to provide F_{MSY} ranges for Baltic Cod, herring, and sprat stocks. ICES was unable to provide final ranges given time and data constraints in 2014, providing only a preliminary indication of ranges. Although ICES and the wider scientific community urged caution, the Commission and the rapporteur included these preliminary ranges, being aware that updated, more robust results for all stocks will be provided by ICES by 29 May 2015. Furthermore, the ranges represent a margin around F_{MSY} as requested by the Commission, which effectually permits fishing in excess of F_{MSY}. ICES is committed to providing revised F_{MSY} ranges in March and May 2015 based on a recent benchmarking activity. The plan should incorporate the final ICES figures. These figures may need to be adjusted so that F is set below F_{MSY} to conform with CFP Art 2.2.

To be consistent with the CFP and the UN Fish Stock Agreement (Art. 5 and Annex II) of 1995, of which EU Member States are signatories, any ranges agreed to must be below F_{MSY} to have any chance of achieving the objective to rebuild the population above biomass levels that can deliver the maximum sustainable yield (B_{MSY}).

We welcome BALTFISH's commitment to the Task Force Agreement on fishing mortality rates. However, as outlined earlier, we are concerned about the resistance of certain Member States to heed the Task Force Agreement and fear they will block inclusion of such ranges in this and future plans.

Recommendation: We ask Member States to improve Article 4 to ensure fishing mortality ranges are set below F_{MSY} to conform with CFP objectives and the UN Fish Stock Agreement.

Article 5 – Minimum Spawning Biomass

Again, the Commission has failed to provide reference points in line with CFP objectives. The CFP aims to achieve biomass levels above B_{MSY}, including conservation measures to restore and maintain fish stocks above B_{MSY}, (CFP Art. 9.1).

The Commission fails to meet this objective, instead proposing "minimum spawning biomass", using the ICES precautionary reference point B_{PA}, in lieu of B_{MSY} as the

trigger for management action. As B_{PA} is a biomass below B_{MSY} the proposal therefore falls well short of action to keep biomass above B_{MSY}. The Commission further proposes to consider and develop conservation measures only *after* a given stock falls below B_{PA}. According to basic concepts of objective-based fisheries management, the more depressed stock levels become compared to their estimated B_{MSY}, the greater the conservation response to return stocks to levels above B_{MSY}.

Recommendation: We ask Member States to improve Article 5 to include pre-agreed conservation measures that are triggered when a harvested stock falls below biomass levels capable of producing maximum sustainable yield (B_{MSY}), rather than beginning to develop conservation measures only when stock levels fall below B_{PA}.

Article 6 – Measures in case of threat to plaice, flounder, turbot and brill

We welcome that the Commission proposal includes a wide range of scientifically-advised conservation measures to protect certain non-target, or by-catch, stocks. On the other hand, we are worried that the BALTFISH opinion does not support the adaption of fishing capacity as one of these measures. Art. 22 of the CFP clearly obliges Member States to "*put in place measures to adjust the fishing capacity of their fleet to their fishing opportunities"* as well as report annually "*on the balance between the fishing capacity of their fleets and their fishing opportunities*."

Recommendation: We ask Member States to include the adaption of fishing capacity as one of the measures to achieve conservation of stocks under threat, based on scientific advice.

Article 7 – Derogation for trapnets, pots and creels

CFP Art. 15.4 (b) provides an exemption from the landing obligation if a captured species scientifically shows a high survival rate upon release, taking into account how and where the species was caught. The Commission's proposed derogation for cod, herring, sprat, and plaice captured in trapnets, pots, and creels is too broad in scope.

Although well-meaning to lessen the burden on the typically small-scale fisheries deploying these gear types, the exemption of all species noted in Article 7 of the proposal is not supported by scientific evidence summarised in a recent STECF report[3]. Subsequent to this report, BALTFISH identified research supporting cod survivability in Swedish pot fisheries.[4]

We disagree with BALTFISH's comment that Article 7 is redundant because the CFP in Art 15.5 (b) requires that derogations to the landing obligation are specified in multiannual plans. We are disappointed that BALTFISH and the Commission seek to

[3]STECF Working Group Report 2014 http://stecf.jrc.ec.europa.eu/documents/43805/675595/2014-04_STECF+14-06+-+Landing+obligations+in+EU+fisheries_p3_JRC89785.pdf

[4] http://www.fishsec.org/wp-content/uploads/2014/04/BALTFISH-Discard-Plan-Version-Forum.pdf

diminish the adherence of this proposal to the CFP by leaving landing obligation exemptions to delegated acts.

Recommendation: We ask Member States to maintain Article 7 on derogations from the landing obligation and modify it to exempt only cod, based on scientific evidence, and only when captured using trapnets, pots, and creels.