# Council Regulation (EU) 2020/1579 of 29 October 2020 fixing for 2021 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea and amending Regulation (EU) 2020/123 as regards certain fishing opportunities in other waters

## COUNCIL REGULATION (EU) 2020/1579

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## fixing for 2021 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea and amending Regulation (EU) 2020/123 as regards certain fishing opportunities in other waters

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) Regulation (EU) No 1380/2013 of the European Parliament and of the Council[(1)] requires that conservation measures 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 and other advisory bodies, as well as advice received from Advisory Councils established for the relevant geographical areas or fields of competence and joint recommendations made by Member States.

(2) 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.

(3) Regulation (EU) No 1380/2013 provides that the objective of the CFP is to achieve the maximum sustainable yield (MSY) exploitation rate by 2015 where possible and, on a progressive, incremental basis, at the latest by 2020 for all stocks.

(4) The total allowable catches (TACs) should therefore be established, in accordance 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 having regard to the opinions expressed during the consultation with stakeholders.

(5) Regulation (EU) 2016/1139 of the European Parliament and of the Council[(2)] establishes a multiannual plan for the stocks of cod, herring and sprat in the Baltic Sea and for the fisheries exploiting those stocks (‘the plan’). The plan aims to ensure that exploitation

of living marine biological resources restores and maintains populations of harvested species above levels which can produce the MSY. To that end, the target fishing mortality for the stocks concerned, expressed in ranges, is to be achieved as soon as possible and, on a progressive, incremental basis, by 2020. It is appropriate that the catch limits applicable in 2021 for the cod, herring and sprat stocks in the Baltic Sea are established in line with the objectives of the plan.

(6) The International Council for the Exploration of the Sea (ICES) has indicated that the biomass of western Baltic herring in ICES subdivisions 20-24 is only 48 % of the limit reference point for spawning stock biomass($B_{lim}$), below which it is possible that reproductive capacity might be reduced. Therefore, the scientific advice issued by ICES on 29 May 2020 in its annual stock advice was for zero catches for western Baltic herring. Under Article 5(2) of Regulation (EU) 2016/1139, all appropriate remedial measures should therefore to be adopted to ensure a rapid return of the stock concerned to levels above the level capable of producing MSY. Moreover, that provision requires further remedial measures to be adopted. To that end, it is necessary to take into account the timeline for the achievement of the objectives of the CFP in general, and of the plan in particular, in view of the expected effect of the remedial measures adopted, whilst at the same time adhering to the objectives of achieving economic, social and employment benefits as set out in Article 2 of Regulation (EU) No 1380/2013. Therefore and in accordance with Article 4(4) of Regulation (EU) 2016/1139, it is appropriate that fishing opportunities for western Baltic herring be set below the fishing mortality ranges, so as to take into account the decrease in the biomass for that stock in ICES subdivisions 20-24.

(7) As regards the eastern Baltic cod stock, since 2019, ICES has been able to base its precautionary advice on a more data-rich assessment than was previously possible. ICES estimates that the biomass of eastern Baltic cod was below $B_{lim}$ in 2019 and has decreased further since then. ICES therefore reiterated its advice for zero catches of eastern Baltic cod for 2021. However, ICES has not been in a position to determine the values of the fishing mortality ranges. Like last year, if the fishing opportunities for eastern Baltic cod were to be set at the level indicated in the scientific advice, the obligation to land all catches in mixed fisheries with by-catches of eastern Baltic cod would lead to the phenomenon of ‘choke species’. In order to strike the right balance between continuing fisheries in view of the potentially severe socioeconomic implications of prohibiting any catches of eastern Baltic cod, and the need to achieve a good biological status for the stock, taking into account the difficulty of fishing all stocks in a mixed fishery at MSY at the same time, it is appropriate to establish a specific TAC for by-catches of eastern Baltic cod. The fishing opportunities are to be set in accordance with Article 5(2) of Regulation (EU) 2016/1139.

(8) In May 2020, ICES provided updated advice on levels of cod by-catches in other fisheries. It is appropriate to set the fishing opportunities in accordance with that advice, with an exemption for fishing operations conducted for the exclusive purpose of scientific investigations and in full compliance with the conditions set out in Article 25 of Regulation (EU) 2019/1241 of the European Parliament and of the Council[3]. Moreover, pursuant to Article 5(2) of Regulation (EU) 2016/1139, additional remedial

measures are to be adopted to ensure the rapid return of the stock to levels above the level capable of producing MSY. Scientific advice indicates that spawning closures in particular can have additional benefits for a stock that cannot be achieved by TAC alone, for example increased recruitment through undisturbed spawning. Therefore it is appropriate to maintain the existing summer spawning closure. Furthermore, scientific advice indicates that the relative importance of recreational fisheries of eastern Baltic cod depends on the TAC level. Given the very reduced TAC, the quantities caught in recreational fisheries are considered substantial and it is therefore appropriate to maintain the prohibition of recreational fishing for cod in ICES subdivisions 25 and 26 where eastern Baltic cod is most abundant.

(9) As regards the western Baltic cod stock, ICES has revised the estimated biomass downwards and estimates that the biomass of the western Baltic cod stock has not recovered to above the spawning stock biomass reference point below which specific and appropriate management action is to be taken ($B_{trigger}$). It is therefore appropriate to maintain the accompanying measures introduced for 2020 and to set the fishing opportunities in accordance with Article 5(1) of Regulation (EU) 2016/1139 while taking into account the levels of cod by-caught in other fisheries in ICES subdivision 24 advised by ICES, in order to be coherent with the approach followed in the eastern Baltic cod management area. Moreover, scientific advice indicates that the western and eastern cod stocks mix in ICES subdivision 24. In order to protect the eastern cod stock and ensure a level playing field with the eastern Baltic cod management area, the use of the TAC in ICES subdivision 24 should continue to be limited to by-catches of cod with an exemption for fishing operations conducted for the exclusive purpose of scientific investigations and in full compliance with the conditions set out in Article 25 of Regulation (EU) 2019/1241, and for small-scale coastal fishermen fishing with passive gears in areas up to six nautical miles from shore where the water depth is less than 20 metres since western cod is predominant in those shallow coastal areas. Moreover, the closure period in ICES subdivision 24 should be aligned with the closure period in ICES subdivisions 25 and 26 in order to ensure equivalent protection consistent with ICES advice.

(10) Accordingly, and in order to ensure a level playing field with ICES subdivisions 25 and 26, recreational fishing for cod in ICES subdivision 24 should continue to be prohibited beyond six nautical miles from shore. Moreover, as the scientific advice indicates that recreational fisheries contribute significantly to the overall fishing mortality of that stock and taking into account the status of that stock and the reduction of the TAC, the daily bag limit per fisherman should be maintained. This is without prejudice to the principle of relative stability applicable to commercial fishing activities. Finally, given the fragile status of the stock and the fact that the scientific advice indicates that spawning closures in particular can have additional benefits for a stock that cannot be achieved by TAC alone, for example an increased recruitment through undisturbed spawning, the winter spawning closure should be maintained, with an exemption for certain small-scale coastal fishermen and for fishing operations conducted for the exclusive purpose of scientific investigations and in full compliance with the conditions set out in Article 25 of Regulation (EU) 2019/1241.

**Changes to legislation:** *There are currently no known outstanding effects for the Council Regulation (EU) 2020/1579. (See end of Document for details)*

(11) ICES estimates that the biomass of central Baltic herring has fallen below the spawning stock biomass reference point below which specific and appropriate management action is to be taken ($B_{trigger}$). It is therefore appropriate to set the fishing opportunities in accordance with Article 5(1) of Regulation (EU) 2016/1139.

(12) According to ICES advice, cod is by-caught in plaice fisheries. Furthermore, sprat is caught in a mixed fishery with herring and is a prey species for cod. It is appropriate to take those inter-species considerations into account in setting the fishing opportunities for plaice and sprat.

(13) In order to ensure full use of coastal fishing opportunities, a limited inter-area flexibility for salmon from ICES subdivisions 22-31 to ICES subdivision 32 was introduced in 2019. Given the changes in fishing opportunities for those two stocks, it is appropriate to increase that flexibility.

(14) The introduction of a prohibition of fishing for sea trout beyond four nautical miles and of a limitation of by-catches of sea trout to 3 % of the combined catch of sea trout and salmon has contributed to a large extent to substantially reducing previously significant misreporting of catches in salmon fishery, in particular as sea trout catches. It is therefore appropriate to maintain that provision in order to reduce misreporting as much as possible.

(15) The use of the fishing opportunities set out in this Regulation is subject to Council Regulation (EC) No 1224/2009[(4)], 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.

(16) Council Regulation (EC) No 847/96[(5)] 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 cause the biological status of the stocks to deteriorate, 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.

(17) Moreover given that the biomass of the stock of eastern Baltic cod is below $B_{lim}$ and that only by-catch and scientific fisheries are permitted in 2021, Member States have undertaken not to apply Article 15(9) of Regulation (EU) No 1380/2013 for this stock for transfers from 2020 to 2021 so that catches in 2021 will not exceed the TAC set for eastern Baltic cod.

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(18) The fishing year for Norway pout in ICES division 3a and Union waters of ICES division 2a and ICES subarea 4 is from 1 November to 31 October. Based on new scientific advice, a preliminary TAC for Norway pout should be established for those areas. The United Kingdom does not hold a quota for Norway pout. However, part of the quota is taken in UK waters. The United Kingdom has been consulted in accordance with Article 130(1) of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community[(6)]. A preliminary TAC for fishing opportunities for the period 1 November 2020 to 31 December 2020 should therefore be set. That TAC will allow for the start of the fishing season. The United Kingdom will be consulted on fishing opportunities for the period 1 January 2021 to 31 October 2021. Despite the fact that the United Kingdom has no quota share in this stock, the resource is shared with the United Kingdom. Therefore consultations concerning the joint management of the stock should take place after the expiration of the transition period on 31 December 2020. The Regulation on fishing opportunities for Norway pout in the ICES division 3a and Union waters of ICES division 2a and ICES subarea 4 should later be amended to include the outcome of those consultations, for the period 1 January 2021 to 31 October 2021, to cover the full fishing year from 1 November 2020 to 31 October 2021.

(19) In order to avoid the interruption of fishing activities and to ensure the livelihoods of Union fishermen, this Regulation should apply from 1 January 2021. However, this Regulation should apply to Norway pout in ICES division 3a and Union waters of ICES division 2a and ICES subarea 4 from 1 November 2020 until 31 October 2021. For reasons of urgency, this Regulation should enter into force immediately after its publication,

HAS ADOPTED THIS REGULATION:

## CHAPTER I

## GENERAL PROVISIONS

### *Article 1*

### Subject matter

This Regulation fixes the fishing opportunities for certain fish stocks and groups of fish stocks in the Baltic Sea for 2021 and amends certain fishing opportunities in other waters fixed by Regulation (EU) 2020/123[(7)].

### *Article 2*

### Scope

1 This Regulation applies to Union fishing vessels operating in the Baltic Sea.