Council Regulation (EU) 2016/1903 of 28 October 2016 fixing for 2017 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea and amending Regulation (EU) 2016/72

COUNCIL REGULATION (EU) 2016/1903

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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) Article 43(3) of the Treaty provides that the Council is to adopt measures on the fixing and allocation of fishing opportunities, on a proposal from the Commission.

(2) 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 in the light of any advice received from Advisory Councils and joint recommendations made by Member States.

(3) 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.

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

(5) 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 in having regard to the opinions expressed during the consultation with stakeholders.

(6) 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

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EU) 2016/1903. (See end of Document for details)*

of living marine biological resources restores and maintains populations of harvested species above levels which can produce the maximum sustainable yield. 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 2017 for the cod, herring and sprat stocks in the Baltic Sea are established with a view to achieving the objectives of the plan.

(7) According to the Plan, when scientific advice indicates that the spawning stock biomass of any of the stocks concerned is below the reference points for spawning stock biomass set out in Annex II to Regulation (EU) 2016/1139, all apropriate remedial measures are to be adopted in order to ensure the rapid return of the stock concerned to levels above the level capable of producing the maximum sustainable yield. The International Council for the Exploration of the Sea (ICES) has indicated the biomass of Western stock of Baltic cod to be below the conservation reference points set out in Annex II to that Regulation. Consequently, it is appropriate that fishing opportunities for Western Baltic cod are set below the fishing mortality range in Annex I, column B to Regulation (EU) 2016/1139, at such a level that takes into account the decrease in the biomass. 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, the expected effect of remedial measures taken and the need to ensure economic, social and employment benefits, as set out in Article 2 of Regulation (EU) No 1380/2013.

(8) Further remedial measures should be taken. An extension of the currently applicable six-week closure period by additional two weeks would increase protection for spawning aggregations of cod. According to scientific advice, recreational fisheries for the Western Baltic cod contributes significantly to the overall fishing mortality of that stock. Taking into account the current status of that stock, it is appropriate to adopt certain measures on recreational fisheries. More particularly, a daily bag limit per fisherman should apply that should be more restrictive during the spawning period. This is without prejudice to the principle of relative stability applicable to commercial fishing activities.

(9) As regards the Eastern stock of Baltic cod, due to changes in its biology, the ICES has not been able to establish biological reference points and has instead advised that the TAC for that cod stock be based on a data limited approach. It is therefore appropriate, in order to contribute to the achievement of the objectives of the plan, to fix the TAC for Eastern Baltic cod in accordance with the precautionary approach.

(10) As regards the in the Gulf of Riga herring, available scientific advice indicates a presence of a very strong 2015 year-class. Fixing of a TAC in accordance with the fishing mortality range set out in Annex I, column A to Regulation (EU) 2016/1139, would lead to a considerable increase of the spawning stock biomass that would in turn lead to a high competiton for food, slower growth, a lower condition factor and overall lower quality of the fish. Given that the spawning stock biomass of this stock is above the biomass reference point set out in Annex II, column A to that Regulation, it is appropriate to fix the TAC in accordance with the fishing mortality ranges set out in Annex I, column B to that Regulation, as this is necessary to avoid serious harm to

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this stock caused by intra-species stock dynamics within the meaning of point (b) of Article 4(4) of that Regulation.

(11) The use of the fishing opportunities set out in this Regulation should be subject to Council Regulation (EC) No 1224/2009[(3)], 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.

(12) Council Regulation (EC) No 847/96[(4)] 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 deteriorate the biological status of the stocks, 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.

(13) Based on new scientific advice, a preliminary TAC for Norway pout in ICES area IIIa and Union waters of ICES areas IIa and IV should be set for the period of 1 November 2016 to 31 October 2017. Therefore, Regulation (EU) 2016/72 should be amended accordingly. In order to avoid interruption of fishing activities, the provisions concerning Norway pout should apply from 1 November 2016.

(14) In order to avoid interruption of fishing activities and to ensure the livelihoods of Union fishermen, this Regulation should apply from 1 January 2017. 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 2017.

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EU) 2016/1903. (See end of Document for details)*

Article 2

Scope

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

2 This Regulation shall also apply to recreational fisheries where they are expressly referred to in the relevant provisions.

Article 3

Definitions

For the purposes of this Regulation, the defintions referred to in Article 4 of Regulation (EU) No 1380/2013 apply. In addition, the following definitions apply:

(1) ‘subdivision’ means an ICES subdivision of the Baltic Sea as defined in Annex I to Council Regulation (EC) No 2187/2005[(5)];

(2) ‘total allowable catch’ (TAC) means the quantity of each stock that can be caught over the period of a year;

(3) ‘quota’ means a proportion of the TAC allocated to the Union, a Member State or a third country;

(4) ‘recreational fisheries’ means non-commercial fishing activities exploiting marine biological resources such as for recreation, tourism or sport.

CHAPTER II

FISHING OPPORTUNITIES

Article 4

TACs and allocations

The TACs, the quotas and the conditions functionally linked thereto, where appropriate, are set out in the Annex.

Article 5

Special provisions on allocations of fishing opportunities

The allocation of fishing opportunities among Member States, as set out in this Regulation, shall be without prejudice to:

(a) exchanges made pursuant to Article 16(8) of Regulation (EU) No 1380/2013;

(b) deductions and reallocations made pursuant to Article 37 of Regulation (EC) No 1224/2009;

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(c) additional landings allowed under Article 3 of Regulation (EC) No 847/96 or under Article 15(9) of Regulation (EU) No 1380/2013;

(d) quantities withheld in accordance with Article 4 of Regulation (EC) No 847/96 or transferred under Article 15(9) of Regulation (EU) No 1380/2013;

(e) deductions made pursuant to Articles 105 and 107 of Regulation (EC) No 1224/2009.

Article 6

Conditions for landing catches and by-catches

1 Catches of species which are subject to catch limits and which have been caught in fisheries specified in Article 15(1) of Regulation (EU) No 1380/2013 are subject to the landing obligation, as established in that Article.

2 The stocks of non-target species within the safe biological limits referred to in Article 15(8) of Regulation (EU) No 1380/2013 are identified in the Annex of this Regulation for the purpose of the derogation from the obligation to count catches against the relevant quota provided for in that Article.

Article 7

Measures on recreational fisheries for cod in subdivisions 22-24

1 In recreational fisheries, no more than five specimens of cod may be retained per fisherman per day in subdivisions 22-24.

2 By derogation from paragraph 1, no more than three specimens of cod may be retained per fisherman per day in subdivisions 22-24 in the period from 1 February 2017 to 31 March 2017.

3 Paragraphs 1 and 2 are without prejudice to more stringent national measures.

CHAPTER III

FINAL PROVISIONS

Article 8

Data transmission

When, pursuant to Articles 33 and 34 of Regulation (EC) No 1224/2009, Member States send data relating to quantities of stocks caught or landed to the Commission, they shall use the stock codes set out in the Annex to this Regulation.