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

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

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 Committee[(1)],

Acting in accordance with the ordinary legislative procedure[(2)],

Whereas:

(1) The United Nations Convention of 10 December 1982 on the Law of the Sea[(3)], to which the Union is a contracting party, provides for conservation obligations, including the maintaining or restoring of populations of harvested species at levels which can produce the maximum sustainable yield (MSY).

(2) At the World Summit on Sustainable Development at Johannesburg in 2002, the Union and its Member States committed themselves to act against the continued decline of many fish stocks. Therefore, it is necessary to adapt the exploitation rates of cod, herring and sprat in the Baltic Sea so as to ensure that the exploitation of those stocks restores and maintains them above levels that can produce MSY.

(3) The common fisheries policy (CFP) is to contribute to the protection of the marine environment, to the sustainable management of all commercially exploited species, and in particular to the achievement of good environmental status by 2020, as set out in Article 1(1) of Directive 2008/56/EC of the European Parliament and of the Council[(4)].

(4) Regulation (EU) No 1380/2013 of the European Parliament and of the Council[(5)] establishes the rules of the CFP in line with the international obligations of the Union. The objectives of the CFP are, inter alia, to ensure that fishing and aquaculture are environmentally sustainable in the long term, to apply the precautionary approach to fisheries management, and to implement the ecosystem-based approach to fisheries management.

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(5) Scientific advice from the International Council for the Exploration of the Sea (ICES) and the Scientific, Technical and Economic Committee for Fisheries (STECF) has indicated that the exploitation of some of the stocks of cod, sprat and herring are in excess of that required to achieve MSY.

(6) A management plan for the cod stocks has been in place since the entry into force in 2007 of Council Regulation (EC) No 1098/2007[6] but the stocks of herring and sprat are not yet subject to similar plans. Since strong biological interactions exist between the cod and pelagic stocks, the size of the cod stock can affect that of the herring and sprat stocks and vice versa. In addition, Member States and stakeholders have expressed support for the development and implementation of management plans for the key Baltic stocks.

(7) The multiannual plan established by this Regulation ('the plan') should, in accordance with Articles 9 and 10 of Regulation (EU) No 1380/2013, be based on scientific, technical and economic advice and contain objectives, quantifiable targets with clear time frames, conservation reference points and safeguards.

(8) It is appropriate to establish a multi-species fisheries plan taking into account the dynamics between the stocks of cod, herring and sprat, and also taking into consideration the by-catch species of the fisheries for those stocks, namely the Baltic stocks of plaice, flounder, turbot and brill.

(9) The objective of the plan should be to contribute to the achievement of the objectives of the CFP, especially reaching and maintaining MSY for the stocks concerned.

(10) Moreover, as Article 15 of Regulation (EU) No 1380/2013 introduced a landing obligation, including for all catches of species which are subject to catch limits, the plan should also contribute to the implementation of the landing obligation for cod, herring, sprat and plaice.

(11) In line with the ecosystem-based approach and in addition to the fisheries-related descriptor of Directive 2008/56/EC, descriptors 1, 4 and 6 are relevant for fisheries management.

(12) Article 16(4) of Regulation (EU) No 1380/2013 requires that fishing opportunities be fixed in accordance with the targets set out in the multiannual plans.

(13) It is appropriate to establish the target fishing mortality (F) that corresponds to the objective of reaching and maintaining MSY as ranges of values which are consistent with achieving maximum sustainable yield (F_{MSY}). Those ranges, based on scientific advice, are necessary in order to provide flexibility to take account of developments in the scientific advice, to contribute to the implementation of the landing obligation and to take into account the characteristics of mixed fisheries. The F_{MSY} ranges have been calculated by ICES on the basis of a number of considerations. The ranges are derived to deliver no more than a 5 % reduction in long-term yield compared to MSY. The upper limit of the range is capped, so that the probability of the stock falling below the limit spawning stock biomass reference point (B_{lim}) is no more than 5 %. That upper limit also conforms to the so-called ICES advice rule, which indicates that when the

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spawning stock biomass is below the minimum spawning stock biomass reference point (MSY $B_{trigger}$), F is to be reduced to a value that does not exceed an upper limit equal to the F_{MSY} point value multiplied by the spawning stock biomass in the TAC year, divided by MSY $B_{trigger}$. ICES uses those considerations and the advice rule in its provision of scientific advice on fishing mortality and catch options.

(14) For the purposes of fixing fishing opportunities, there should be an upper threshold for F_{MSY} ranges in normal use and, provided that the stock concerned is considered to be in a good state (above MSY $B_{trigger}$), an upper limit for certain cases. It should only be possible to fix fishing opportunities to the upper limit if, on the basis of scientific advice or evidence, it is necessary for the achievement of the objectives laid down in this Regulation in mixed fisheries or necessary to avoid harm to a stock caused by intra- or inter-species stock dynamics, or in order to limit the year-to-year variations in fishing opportunities. For the purpose of applying the upper limit, it is necessary to recall the objectives set out in Regulation (EU) No 1380/2013 that the MSY exploitation rate is to be achieved in any event by 2020.

(15) For stocks for which they are available, and for the purpose of the application of safeguard measures, it is necessary to establish conservation reference points expressed as MSY $B_{trigger}$ and B_{lim}. Appropriate safeguard measures should be envisaged in case the stock size falls below such critical spawning stock biomass levels.

(16) Safeguard measures should include the reduction of fishing opportunities and specific conservation measures when scientific advice indicates that a stock is under threat. Those measures should be supplemented by all other appropriate measures.

(17) For stocks for which the reference points are not available, the precautionary approach should apply.

(18) When the Commission submits a proposal for the amendment of the Annexes to this Regulation, it is important for the European Parliament and the Council to strive to ensure the swift adoption thereof.

(19) In the case of stocks taken as by-catches, in the absence of scientific advice on the levels of minimum spawning biomass of such stocks, specific conservation measures should be adopted when scientific advice indicates that remedial measures are needed.

(20) In order to implement the landing obligation established by Article 15(1) of Regulation (EU) No 1380/2013, the plan should provide for additional management measures. Such measures should be laid down by means of delegated acts.

(21) The plan should also provide for certain accompanying technical measures to be adopted, by means of delegated acts, in order to contribute to the achievement of the objectives of the plan, in particular as regards the protection of spawning and juvenile fish or to improve selectivity.

(22) In order to adapt to technical and scientific progress in a timely and proportionate fashion and to ensure flexibility and allow evolution of certain measures, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of supplementing

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this Regulation as regards remedial measures concerning plaice, flounder, turbot and brill, implementation of the landing obligation and technical measures. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making[(7)]. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(23) The deadline for submitting joint recommendations from Member States concerned should be established, as required by Regulation (EU) No 1380/2013.

(24) With a view to ensuring compliance with the measures laid down in this Regulation, specific control measures should be adopted to complement those provided for in Council Regulation (EC) No 1224/2009[(8)].

(25) Recognising that the Baltic Sea is a relatively small fishing area where mainly small vessels carry out short fishing trips, the use of prior notification as required under Article 17 of Regulation (EC) No 1224/2009 should be extended to cover all fishing vessels of an overall length of 8 metres or more, and the prior notifications should be submitted at least one hour before the estimated time of arrival at port. However, considering the limited effect of fishing trips involving very small quantities of fish on the stocks concerned and the administrative burden of prior notifications related to such fishing trips, it is appropriate to establish a threshold for such prior notifications, when those vessels retain on board at least 300 kg of cod or 2 tonnes of pelagic species.

(26) Similarly, the use of fishing logbooks as required under Article 14 of Regulation (EC) No 1224/2009 should be extended to fishing vessels of an overall length of 8 metres or more.

(27) It is also appropriate, as regards vessels which land their catches unsorted, to adapt the margin of tolerance in estimates recorded in the fishing logbook of the quantities retained on board.

(28) Thresholds should be established for catches of cod, herring and sprat which a fishing vessel is required to land in a designated port or a place close to the shore, in accordance with Article 43 of Regulation (EC) No 1224/2009. Moreover, when designating those ports or places close to the shore, Member States should apply the criteria provided for in Article 43(5) of that Regulation in such a way as to ensure effective control of landings of the stocks to which this Regulation applies.

(29) In accordance with Article 10(3) of Regulation (EU) No 1380/2013, provisions should be established for the periodical assessment by the Commission of the adequacy and effectiveness of the plan. Such assessment should follow and be based on benchmarking evaluation of the stocks concerned carried out by ICES.

(30) In order to provide legal certainty, it is appropriate to clarify that temporary cessation measures that have been adopted in order to attain the objectives of the plan can be

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deemed eligible for support under Regulation (EU) No 508/2014 of the European Parliament and of the Council[9].

(31) In the light of the measures adopted by this Regulation, Council Regulation (EC) No 2187/2005[10] should be amended. It is necessary to maintain the area restrictions on fishing established by Regulation (EC) No 1098/2007 in order to protect spawning and juvenile fish. It is also necessary to clarify the relationship between the plan and Regulation (EC) No 2187/2005 as regards technical measures and to establish appropriate procedures for the adoption of technical measures in the context of multiannual plans. In addition, the specific rules on gear kept on board by vessels targeting cod should be deleted.

(32) Regulation (EC) No 1098/2007 should be repealed.

(33) The application of Commission Delegated Regulation (EU) No 1396/2014[11] is not affected as a result of the adoption of the plan,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

SUBJECT MATTER, SCOPE AND DEFINITIONS

Article 1

Subject-matter and scope

1 This Regulation establishes a multiannual plan ('the plan') for the following stocks ('the stocks concerned') in the Union waters of the Baltic Sea and for the fisheries exploiting the stocks concerned:

a cod (*Gadus morhua*) in ICES Subdivisions 22-24 (Western Baltic cod);

b cod (*Gadus morhua*) in ICES Subdivisions 25-32 (Eastern Baltic cod);

c herring (*Clupea harengus*) in ICES Subdivisions 25, 26, 27, 28.2, 29 and 32 (Central Baltic herring);

d herring (*Clupea harengus*) in ICES Subdivision 28.1 (Gulf of Riga herring);

[F1 e herring (*Clupea harengus*) in ICES subdivisions 30-31 (Gulf of Bothnia herring);**]**

[F2 (f)**]** F2 . . . . . .

g herring (*Clupea harengus*) in ICES Subdivisions 22-24 (Western Baltic herring);

h sprat (*Sprattus sprattus*) in ICES Subdivisions 22-32 (Baltic sprat).

2 This Regulation also applies to by-catches of plaice (*Pleuronectes platessa*), flounder (*Platichthys flesus*), turbot (*Scophthalmus maximus*) and brill (*Scophthalmus rhombus*) in ICES Subdivisions 22-32 caught when fishing for the stocks concerned.

[F3 3 This Regulation also specifies details for the implementation of the landing obligation in the Union waters of the Baltic Sea for Atlantic salmon (*Salmo salar*) in ICES Subdivisions 22-32.**]**