Council Regulation (EU) 2015/2072 of 17 November 2015 fixing for 2016 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea and amending Regulations (EU) No 1221/2014 and (EU) 2015/104

COUNCIL REGULATION (EU) 2015/2072

of 17 November 2015

fixing for 2016 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea and amending Regulations (EU) No 1221/2014 and (EU) 2015/104

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 ('STECF') and other advisory bodies, as well as in the light of any advice received from Advisory Councils.

(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) The total allowable catches (TACs) should therefore be established, in line 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 the light of the opinions expressed during the consultation with stakeholders.

(5) The fishing opportunities for stocks subject to specific multiannual plans should be established in accordance with the rules laid down in those plans. Consequently, catch 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[(2)].

(6) Due to changes in the biology of the eastern cod stock, the International Council for the Exploration of the Sea ('ICES') has not been able to establish the biological reference

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points for cod stocks in ICES subdivisions 25-32, and instead advised that the TAC for that cod stock be based on the data limited approach. The absence of biological reference points made it impossible to follow the rules for fixing and allocating the fishing opportunities for cod stock in those subdivisions set out in Regulation (EC) No 1098/2007. As no fixing and allocating fishing opportunities could seriously threaten the sustainability of the cod stock, it is appropriate, in order to contribute to the achievement of the objectives of the CFP as defined in Regulation (EU) No 1380/2013, to fix the TAC on the basis of the data limited approach, at a level corresponding to the approach developed and advised by ICES.

(7) Due to a new approach by ICES to scientific advice for the purpose of fixing of fishing opportunities for cod in subdivisions 22-24, it is appropriate to apply a step-wise approach to reducing fishing opportunities.

(8) In the light of the latest scientific advice, in order to protect the spawning grounds of western cod, it is appropriate to fix fishing opportunities outside the spawning periods (15 February-31 March 2016, and thus not in the month of April, as previously applicable). Such fixing of fishing opportunities will contribute to the positive development of the stock and thus to the achievements of the objectives of the CFP as defined in Regulation (EU) No 1380/2013.

(9) Regulation (EU) No 1380/2013 sets the objective of the CFP 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. Since achieving that exploitation rate by 2016 would have serious consequences for the social and economic sustainability of the fleets fishing on the stocks of sprat and herring, it is acceptable to reach that exploitation rate not later than, 2017. The fishing opportunities for 2016 for those stocks should be set in such a way so as to ensure that the maximum sustainable yield exploitation rate is achieved on an incremental basis by that date.

(10) The use of fishing opportunities set out in this Regulation is 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.

(11) 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

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TACs only where the year-to-year flexibility provided for in Article 15(9) of Regulation (EU) No 1380/2013 is not used.

(12) In 2015, in view of the embargo imposed by the Russian Federation on the importation of certain agricultural and fisheries products from the Union, a 25 % flexibility in terms of carrying forward unused fishing opportunities was introduced for the stocks that were most severely or directly affected by the Russian embargo. In view of exceptional circumstances consisting of a prolongation and extension of that embargo as regards the Union, as well as the unavailability of certain traditional markets, and in view of scientific advice, it is appropriate to allow fishing opportunities in respect of certain stocks that have not been used in 2015 to be carried over to 2016 up to a level of 25 %, and in respect of Northeast Atlantic mackerel, up to a level of 17,5 % of the initial 2015 quota. It is, therefore, appropriate to introduce such flexibility both in Council Regulations (EU) No 1221/2014[(5)] and (EU) 2015/104[(6)]. No other flexibility as regards a carry-over of unused fishing opportunities should apply in respect of the stocks concerned.

(13) In order to avoid interruption of fishing activities and to ensure the livelihoods of Union fishermen, this Regulation should apply from 1 January 2016. For reasons of urgency, this Regulation should enter into force immediately after its publication. For the reasons set out in recital 12, the provisions concerning the possibility to transfer fishing opportunities unused in 2015 should apply with effect from 1 January 2015,

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 2016.

Article 2

Scope

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

Article 3

Definitions

For the purposes of this Regulation the following definitions shall apply:

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(1) 'ICES' means International Council for the Exploration of the Sea;

(2) 'Baltic Sea' means ICES zones IIIb, IIIc and IIId;

(3) 'subdivision' means an ICES subdivision of the Baltic Sea as defined in Annex I to Council Regulation (EC) No 2187/2005[7];

(4) 'fishing vessel' means any vessel equipped for commercial exploitation of marine biological resources;

(5) 'Union fishing vessel' means a fishing vessel flying the flag of a Member State and registered in the Union;

(6) 'stock' means a marine biological resource that occurs in a given management area;

(7) 'total allowable catch' (TAC) means the quantity of each stock that can be:

(i) caught over the period of a year, for fisheries that are subject to a landing obligation pursuant to Article 15 of Regulation (EU) No 1380/2013; or

(ii) landed over the period of a year, for fisheries that are not subject to a landing obligation pursuant to Article 15 of Regulation (EU) No 1380/2013;

(8) 'quota' means a proportion of the TAC allocated to the Union, a Member State or a third country.

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;

(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;

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(e) deductions made pursuant to Articles 105, 106 and 107 of Regulation (EC) No 1224/2009.

Article 6

Conditions for landing catches and by-catches not subject to the landing obligation

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 Article 15 of that Regulation.

2 Catches and by-catches of plaice shall be retained on board or landed only where they have been taken by Union fishing vessels flying the flag of a Member State that has a quota provided that that quota is not exhausted.

3 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 for the purpose of the derogation from the obligation to count catches against the relevant quota provided for in that Article.

CHAPTER III

FLEXIBILITY IN THE FIXING OF FISHING OPPORTUNITIES OF CERTAIN STOCKS

Article 7

Amendment to Regulation (EU) 2015/104

In Regulation (EU) 2015/104, the following Article is inserted:

Article 18a

Flexibility in the fixing of fishing opportunities of certain stocks

1 This Article shall apply to the following stocks:

a mackerel in zones IIIa and IV; Union waters of IIa, IIIb, IIIc and IIId;

b mackerel in areas VI, VII, VIIIa, VIIIb, VIIId and VIIIe; Union and international waters of Vb; international waters of IIa, XII and XIV;

c mackerel in Norwegian waters of IIa and IVa;

d herring in Union, Norwegian and international waters of I and II;

e herring in the North Sea north of 53° N;

f herring in areas IVc and VIId;

g herring in zones VIIa, VIIg, VIIh, VIIj and VIIk;

h horse mackerel in Union waters of IIa, IVa, VI, VIIa-c, VIIe-k, VIIIa, VIIIb, VIIId and VIIIe; in Union and international waters of Vb; in international waters of XII and XIV.

2 Any quantities up to 25 % of a Member State's initial quota of the stocks identified in points (d) to (h) of paragraph 1 that have not been used in 2015 shall be added for the purpose of calculating the quota of the Member State concerned for the relevant stock for 2016.