Council Regulation (EU) No 1221/2014 of 10 November 2014 fixing for 2015 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea and amending Regulations (EU) No 43/2014 and (EU) No 1180/2013

COUNCIL REGULATION (EU) No 1221/2014

of 10 November 2014

fixing for 2015 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea and amending Regulations (EU) No 43/2014 and (EU) No 1180/2013

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 are 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 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) established in Regulation (EU) No 1380/2013.

(4) The total allowable catches (TACs) should therefore be established, in line with Regulation (EU) No 1380/2013 and taking into account the principles mentioned in recital 2.

(5) For small pelagic (herring and sprat), cod and salmon fisheries in the Baltic Sea the landing obligation provided for in Article 15(1) of Regulation (EU) No 1380/2013 applies from 1 January 2015. Article 16(2) of that Regulation provides that, when the landing obligation is introduced in respect of a fish stock, fishing opportunities are to be fixed taking into account the change from fixing fishing opportunities that reflect landings to fixing fishing opportunities that reflect catches.

(6) For stocks subject to specific multiannual plans, the fishing opportunities should be established in accordance with the rules laid down in those plans. Consequently, the

Changes to legislation: *There are outstanding changes not yet made to Council Regulation (EU) No 1221/2014. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

catch limits should be established in accordance with the rules laid down in Council Regulation (EC) No 1098/2007[(2)] (the 'Baltic Sea Cod Plan').

(7) The scientific advice provided in respect of fishing effort for Baltic cod by the International Council for the Exploration of the Sea (ICES) indicated that where a landing obligation applies to a specific stock, fixing of lower effort limitations would not contribute to the achievement of the objectives of the reformed CFP. It is, therefore, appropriate to fix the effort limits for cod stocks in ICES subdivisions 22-24 at the level of 2014. Fixing the fishing effort limits at the level of 2014 will facilitate the introduction of the landing obligation and will contribute to the achievement of the objectives of the CFP as defined in Regulation (EU) No 1380/2013.

(8) In the light of the scientific advice provided, flexibility in the management of the fishing effort for cod stock in ICES subdivisions 22-24 in the Baltic Sea can be introduced without jeopardising the objectives of the Baltic Sea Cod Plan and without causing an increase in fishing mortality. Such flexibility would allow for a more efficient management of the fishing effort where quotas are not allocated equally among the fleet of a Member State and would facilitate swift reactions to quota exchanges. A Member State should, therefore, be allowed to allocate additional days absent from port to fishing vessels flying its flag where an equal amount of days absent from port is withdrawn from other fishing vessels flying its flag.

(9) Recent scientific advice shows that ICES could not establish the biological reference points for cod stocks in ICES subdivisions 25-32 and instead it advised that the TAC for that cod stock be based on the data limited approach. The absence of biological reference points makes it impossible to follow the rules for setting the fishing opportunities for cod stocks in ICES subdivisions 25-32. As not fixing fishing opportunities could constitute a serious threat to the sustainability of that stock, it is appropriate to fix the TAC for those cod stocks at a level corresponding to the approach developed and advised by ICES and to fix fishing effort limits at the level of 2014. Fixing the fishing effort limits at the level of 2014 will facilitate the introduction of the landing obligation, will provide for more selective fishing and will contribute to the achievement of the objectives of the CFP as defined in Regulation (EU) No 1380/2013.

(10) The use of fishing opportunities set out in this Regulation is subject to Council Regulation (EC) No 1224/2009[(3)], and in particular Articles 33 and 34 of that Regulation, concerning the recording of catches and fishing effort and the information on data on the exhaustion of fishing opportunities respectively. It is therefore necessary to specify the codes relating to landings of stocks subject to this Regulation which are to be used by the 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 flexibility provisions under Articles 3 and 4 for precautionary and analytical TACs respectively. 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,

***Changes to legislation:** There are outstanding changes not yet made to Council Regulation (EU) No 1221/2014. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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 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.

(12) The scientific advice on sprat in the North Sea covers the period from July to June the following year, even though the TAC is set for the period from January to December. The latest scientific advice for the period from July 2014 to June 2015 indicates that the TAC can be significantly increased. There is therefore a greater availability of sprat in the second half of 2014 than was foreseen. Since that stock is subject to an analytical assessment and is within safe biological limits, the conditions for the application of Articles 3 and 4 of Regulation (EC) No 847/96 allowing inter-annual quota flexibility are fulfilled, and should be permitted in order to allow the fisheries to utilise the increased availability of sprat in the most efficient way. Regulation (EU) No 43/2014 should therefore be amended accordingly.

(13) Regulation (EU) No 43/2014 currently allows that a Member State use any unused quantities in 2015, up to 10 % of the quota available to it in 2014, in respect of certain stocks. On 6 August 2014, the Russian Federation imposed an embargo on the importation of certain agricultural and fisheries products from the Union. As a consequence, some of the exports that producers had envisaged to make to Russia in the autumn of 2014 have become impossible and in some cases alternative markets cannot be found at short notice. In view of those exceptional circumstances and the urgency of the matter, it is necessary to allow certain adjustments for the 2014 fishing season. In view of positive scientific advice as well as a positive approach of the relevant coastal states, it is appropriate to allow, exceptionally and only in respect of the stocks that are the most severely or directly affected by the Russian embargo, an increase in the percentage of the quantities unused in 2014 that can be carried over to 2015. That exceptional measure is limited to the 2014 fishing season. It is expected that this measure would allow new markets to be found or catches to be adapted should the embargo continue to apply in 2015. For the same reasons, a corresponding possibility to transfer unused fishing opportunities should be introduced in Council Regulation (EU) No 1180/2013[(5)]. Regulations (EU) No 43/2014 and (EU) No 1180/2013 should therefore be amended accordingly.

(14) In order to avoid interruption of fishing activities and to ensure the livelihoods of Union fishermen, this Regulation should apply from 1 January 2015. For reasons of urgency, this Regulation should enter into force immediately after its publication. For reasons set out in recital 13, the provisions concerning the possibility to transfer fishing opportunities unused in 2014 should apply with effect from 1 January 2014,

HAS ADOPTED THIS REGULATION:

Changes to legislation: *There are outstanding changes not yet made to Council Regulation (EU) No 1221/2014. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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 2015.

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:

(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[(6)];

(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) 'fishing effort' means the product of the capacity and the activity of a fishing vessel; for a group of fishing vessels it is the sum of the fishing effort of all fishing vessels in the group;

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

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

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

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

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

(10) 'days absent from port' means any continuous period of 24 hours or part thereof during which a fishing vessel is not present in a port.

***Changes to legislation:** There are outstanding changes not yet made to Council Regulation (EU) No 1221/2014. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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 Annex I.

Article 5

Special provisions on allocations of fishing opportunities

The allocation of fishing opportunities to 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;

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

***[F1** Article 5a*

Flexibility in the fixing of fishing opportunities of certain stocks

1 This Article shall apply to the following stocks:

a herring in ICES subdivision 30-31;

b herring in Union waters of ICES subdivisions 25-27, 28.2, 29 and 32;

c herring in ICES subdivision 28.1;

d sprat in Union waters of ICES subdivision 22-32.

2 Any quantities up to 25 % of a Member State's initial quota of the stocks identified in 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. Any quantities transferred to other Member States pursuant to Article 16(8) of Regulation (EU) No 1380/2013 and any quantities deducted pursuant to Articles 37, 105 and 107 of Regulation (EC) No 1224/2009 shall be taken into account for the purpose of establishing quantities used and quantities not used under this paragraph.

3 Where a Member State has used the option provided for in paragraph 2 of this Article in respect of a particular stock, no other flexibility as regards a carry-over of unused fishing opportunities shall apply in respect of that stock.**]**