



Brussels,  
MARE-C1/AK/Ares(2021)

**Subject: BSAC's recommendations for the fishery in the Baltic Sea for 2022**

Dear Mr Sverdrup-Jensen,

Thank you for your letter of 1 July 2021 by which you informed me about the recommendations of the Baltic Sea Advisory Council (BSAC) for the fisheries in the Baltic Sea in 2022. Your letter has retained our full attention, and we are grateful that the BSAC provided the Commission with its input on this important matter in time.

The Commission is currently preparing its proposal for the Fishing Opportunities for the Baltic Sea in 2022. The various positions and ideas expressed by the different interest groups represented in the BSAC will be taken into due consideration to the extent that they are in line with the legislative framework. I would like to point out that this is not the case for the minority positions on central herring<sup>1</sup> and sprat<sup>2</sup>. Let me also point out that in the Commission's view the recommended by-catch TAC for eastern Baltic cod, which would represent a 236% increase compared to the 2021 TAC, is not in line with the special ICES advice on unavoidable by-catches.<sup>3</sup>

The Commission shares BSAC's view that the rapid introduction of more selective flatfish gear, which substantially reduces cod by-catches, is of utmost importance given the status of the eastern cod stock, and possibly also the western one. To that effect, I wrote to BaltFish end of June encouraging it to speed up its work. I also agree that those gears should be tested as soon as possible under normal commercial circumstance. While

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<sup>1</sup> According to Article 5(1) of the Baltic MAP (EU) 2016/1139 the TAC must be set below the upper  $F_{MSY}$  range since the biomass is below  $B_{trigger}$ .

<sup>2</sup> According to Article 4(5) of the Baltic MAP, the TAC may be set in the upper  $F_{MSY}$  range if the stock's biomass is above  $B_{trigger}$  and if, notably, "on the basis of scientific advice or evidence, it is necessary to avoid serious harm to a stock caused by intra- or inter-species stock dynamics." However, to our knowledge there is no peer-reviewed scientific advice indicating that it is necessary to set the sprat TAC in the upper  $F_{MSY}$  range to avoid serious harm to a stock. BSAC does also not mention any.

<sup>3</sup> While there is no legal definition of "by-catch", any catch ratio above 50% seems very difficult to qualify as by-catch. According to the special ICES advice, the TAC level corresponding to a 50% by-catch ratio would be 1.306 tonnes. For 2021 the Council decided to use the 20% by-catch ratio.

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fishing with those new gears would be considered as directed flatfish fishing, the cod by-catches would of course have to be counted against the cod quota. I do however not agree that fishing with those gears should be exempted from the spawning closures. The objective of the spawning closures is to ensure undisturbed spawning and to avoid catching the last larger cod on their spawning migration. This would obviously no longer be possible if demersal fishing activities were taking place. The question of the compulsory nature of that new gear will probably be an important point in our upcoming discussions. Finally, under the legislation in place derogations from the technical measures set out in the Technical Measures Regulation (EU) 2019/1241 can only be adopted by either modifying that Regulation, or by adopting delegated acts under the regionalisation framework. This matter also involves questions of principle regarding the distribution of competences between the European Parliament, the Council and the Commission. I would also like to recall that regionalisation has been the legislator's answer to the demand expressed by stakeholders to set up a more inclusive and bottom-up approach, which ensures tailor-made solutions to sea basin specific needs and circumstances.

Finally, I would like to commend you on the efforts of the fishing sector who cooperated with the authorities to eliminate misreporting. This is crucial at least because misreporting is likely to eventually lead to a distorted data basis for the scientific advice. We therefore welcome your efforts and will support you in your endeavour.

I look forward to BSAC's recommendations on the three outstanding TACs<sup>4</sup>, our meeting in September and our continued fruitful cooperation. Should you have any further questions on this reply, please contact Ms Pascale COLSON, coordinator of the Advisory Councils ([Pascale.COLSON@ec.europa.eu](mailto:Pascale.COLSON@ec.europa.eu); +32.2.295.62.73), who will forward it to relevant colleagues.

Yours sincerely,

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<sup>4</sup> One on western cod and two on salmon